

## Personnel Complaints Procedure

### 1005.1 PERSONNEL COMPLAINTS PROCEDURE PERSONNEL COMPLAINTS PROCEDURE

- (a) The Internal Affairs Unit shall consist of the Internal Affairs Sergeant and Administration Support Lieutenant.
- (b) Reporting Relationship
  1. Unless otherwise directed by the Chief of Police, the Internal Affairs Sergeant shall report to the Administration Support Lieutenant, who shall report to the Chief of Police.
- (c) General Responsibilities for Activities in Internal Affairs
  1. Recording, registering and controlling the investigation of complaints regarding either policy or personnel (both sworn and non-sworn).
  2. Posting and submission of complaint statistics to the DOJ, Bureau of Criminal Statistics, (pursuant to CPC 13012(d)), annually in January.
  3. Supervising, controlling and/or conducting the investigation of alleged or suspected misconduct within the agency.
  4. Maintaining the confidentiality of all Internal Affairs and background investigations records.
  5. Function as a liaison to the Community and Police Relations Commission's (CPRC) Complaint Review Subcommittee (CRS).

### REPORT INTEGRITY AND TRACKING

- (a) All reports resulting from an Internal Affairs investigation are confidential and should only be disseminated on a "need to know" basis, through the proper chain of command.
- (b) Internal Affairs will maintain the original reports and documents of all completed cases. Review of completed reports will be authorized only for supervisors and others that fall into the "need to know" category.
  1. Internal Affairs will maintain a tracking form, Attachment 1 that tracks the dispositive dates of the investigation.
  2. During the course of an Internal Affairs investigation, all original reports and documents will be in the custody and control of the supervisor assigned to that stage of the investigation. The Internal Affairs Sergeant will electronically track the custody of the original documents.
    - (a) Copies of Internal Affairs reports and documents will not be made without the expressed permission of the Internal Affairs Sergeant.
- (c) Photographs and computer disk recordings will remain with the original Internal Affairs investigation. All other evidence will remain in Internal Affairs files.
  1. Supervisors needing to examine such evidence will contact the Internal Affairs Sergeant for access.

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#### **REPORTS**

- (a) The Internal Affairs Sergeant will submit a monthly report of the tracking form to the Chief of Police on the status of ALL open files, as well as the dispositions of investigations which have closed during the reporting period and the date of completion.
- (b) The Internal Affairs Sergeant will submit a monthly report to the Chief of Police on the status of cases for the review by the Community and Police Relations Commission (CPRC). This report will include all citizen complaints ("C" case designator) and all department initiated complaint ("D" case designator). Miscellaneous cases ("M" case designator) will not be included in this report.
  - 1. The Internal Affairs Sergeant will provide a report to the CPRC at each CPRC meeting. The CPRC report will only include the following information;
    - (a) Internal Affairs tracking number (or other means of numerical tracking).
    - (b) The statute date.
    - (c) The allegation (conduct, performance of duty, use of force, officer involved shooting, death in custody).
    - (d) The stage of the investigation. Stages may include investigation, Findings, adjudication, chief's review.
    - (e) The Findings, if applicable, and the date there of
    - (f) Findings may include sustained, not sustained, unfounded or exonerated.
    - (g) The category of the investigation (I, II).

#### **RECEIVING CITIZEN COMPLAINTS**

A citizen complainant shall be referred to the on-duty supervisor or an employee designated as responsible for receipt of the preliminary complaint. A citizen must not be told to call back at another time or to contact another supervisor before a complaint is taken.

Complaints are received in two basic forms:

- (a) Written complaints delivered in person or by mail.
  - 1. When a complaint is received in person, the on-duty supervisor or employee representative receiving the complaint must complete a Complaint and Tracking Form PD 600. A complaint received in the mail will be forwarded to the Internal Affairs Unit. A representative of the Internal Affairs Unit will make personal contact with the mail-in complainant and initiate the Complaint and Tracking Form PD 600.
  - 2. If the initial employee representative is a supervisor; that supervisor should attempt to obtain a preliminary written statement from the complainant and take any relevant photographs. The supervisor should conduct a preliminary investigation by interviewing the complainant to clarify all of the facts contained in their written statement. The complainant should be recorded and shall be advised of that fact.

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3. Per Penal Code Section 832.7, at the conclusion of the interviews, the supervisor conducting this preliminary investigation shall provide a copy of the Complaint and Tracking Form PD-600 to the complainant. The supervisor shall provide a copy of the written statement made by complainant. Do not include any statements by the witnesses.
  4. The supervisor receiving the complaint will complete a written synopsis of the complaint and forward it to the Internal Affairs Unit in a confidential manner.
  5. Upon receipt of the complaint, the Internal Affairs Unit will log, track and initiate the administrative investigation process on the complaint, in accordance with this policy.
  6. The Internal Affairs Unit will either begin the investigation or assign the investigation to the appropriate command. The Lieutenant of that command will assign the complaint to the appropriate supervisor for investigation. The supervisor receiving the complaint will then conduct an investigation by interviewing all witnesses. All interviews will be digitally recorded and the witness shall be informed of that fact.
- (b) Verbal complaints received in person or by telephone.
1. Verbal complaints shall be reduced to writing. Follow the steps outlined in "a" 1-6 above.
  2. All complaints, including those not of a serious nature and/or those complaints which are not resolved to the complete satisfaction of the complainant, will be received. The supervisor shall complete a Complaint and Tracking Form PD 600 and allow the investigation to determine the proper disposition. If the complaint is resolved during the initial contact, the complainant shall complete and sign the complaint withdrawal section on the reverse side of the Complaint and Tracking Form PD-600.
  3. Generally, complaints received over the telephone will not be taken. Most complainants will be asked to come to the station to file their complaint(s). In extreme cases, however, a citizen's complaint received over the phone will be responded to by an on-duty supervisor if the following criteria are met.
    - (a) The complaint allegation(s) falls under Section VI (A) or (B) of this procedure and;
    - (b) The complainant is unable to come to the station due to a disability and lives within San Diego County, or;
    - (c) At the direction of the Chief of Police or the authorized designee.

#### **CRITERIA FOR FILING OF COMPLAINTS**

Citizen Complaint packages shall be completed on:

- (a) Any alleged complaint of misconduct by any member, sworn or civilian, of the National City Police Department.
- (b) A complaint alleging a violation of policy or procedure or violation of civil rights.

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- (c) Any complaint alleging poor service from any employee of the National City Police Department. It is not necessary to complete the PD 600 Complaint and Tracking Form on a dispute of guilt or innocence emanating from a traffic citation. The complainant in these situations will be referred to the courts for dispute resolution.

#### **COMPLAINT AND TRACKING FORM PD 600**

The Complaint and Tracking Form PD 600 is designed to document the complaint and to track the complaint from the initial contact with the complainant until the completion of the investigation.

- (a) Documentation

- 1. The Complaint and Tracking Form PD 600 shall be used to start the citizen's complaint process. The form is designed to document the personal information of the complainant (s) and any witnesses, the name of the involved employee (s), and the details of the alleged incident. The form should be filled out by the complainant. The complainant is to fill out the complainant, witness(s), involved employees, and synopsis sections. If necessary, supervisors may fill out these sections for the complainant. However, it is preferable that the complainant fills out the form him/herself. The complainant voluntarily signs the form, which is witnessed by the receiving supervisor. The complainant signature is not mandatory. Supervisors will take the citizen complaint regardless of whether the complainant signs the form. The form also allows a complainant to withdraw a complaint after information has been provided which convinces him/her that the conduct was justified, legal and/or necessary.

- (b) Tracking

- 1. The Complaint and Tracking Form PD 600 is used to track and record the complaint from start, through the various stages of investigation and levels of review, to completion. The shaded areas bordering the form are designed for the purpose of tracking and for department use only.

- (c) Vehicle Damage Report

- 1. The Complaint and Tracking Form PD 600 is also used as the Vehicle Damage Report (VDR). Supervisors must complete the appropriate sections of the form to document damage to department vehicles, and document all traffic collisions, preventable and non-preventable, involving department vehicles. Forms describing only damage to department vehicles will be forwarded to the Administration Support Lieutenant. Forms documenting all traffic collisions involving department vehicles will be forwarded to the Internal Affairs Unit for tracking and further processing if necessary.

#### **COMMUNITY AND POLICE RELATIONS COMMISSION (CPRC)**

The Internal Affairs Sergeant will maintain a conference room in the Internal Affairs' office to facilitate the case review procedure of the Complaint Review Subcommittee (CRS) of the CPRC. The CRS will maintain a locked cabinet in the Internal Affairs' office for their use. Only the CRS will have access to this cabinet. The Internal Affairs Sergeant will strictly adhere to the

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guidelines set forth in the Community and Police Relations Commission, Internal Affairs Files-Review Procedures, as it relates to the review of Internal Affairs reports, documents and files.

(a) Process

1. If after review of thereports by the Complaint Review Subcommittee, further review and investigation ofa particular Department determination is desired by such subcommittee, the Complaint Review Subcommittee will submit a request to the Police Department CPRC Liaison, through City Administrative CPRC Staff, to further review and investigate a matter.
2. The Police Department Liaison will respond to the Complaint Review Subcommittee's request within seven working days, by providing them with a date for the further review to occur. The Police Department Liaison's response will be submitted to City Administrative CPRC Staff who will distribute a copy to the Complaint Review Subcommittee.
3. Within seven working days, the Complaint Review Subcommittee through City Administrative CPRC Staff will confirm or request that the further review be rescheduled. Step 1 and 2 may be repeated until a date and time certain is established for the review.
4. Pursuant to CPRC Operating Procedure 10.02(c), further review will occur at the Police Department in a designated conference room. The material to be provided will be that set forth inthe Operating Procedures, including Procedure 10.02(c). Any data that cannot be disclosed by the City will be indicated as non-disclosable. The designated IA Sergeant and/or the Police Department's Liaison will be present at all times during the Complaint Review Subcommittee's review and investigation of the matter. The City Attorney or its designee may also be present.
5. The Complaint Review Subcommittee will sign a log and a non-disclosure agreement on each occasion of their review and investigation of the Department's determinations of a matter. The Complaint Review Subcommittee's notes and any summary or report will remain locked in file cabinet at the Police Department. No written material concerning the facts of the matter or the Complaint Review Subcommittee's work product generated in the review may be removed from the Police Department's Internal Affairs Office, except as permitted in paragraph eight herein. The City may provide a computer for the Complaint Review Subcommittee's use, which must also remain locked in the file cabinet at the Police Department and/or have a security code for entrance.
6. Examinations or interviews of Police Department officers or supervisors requested by the Complaint Review Subcommittee or CPRC pursuant to Operating Procedure 10.02(c)(iii)-(v) will be given in writing to City Administrative CPRC Staff, who will give the request to the Police Chief for scheduling.
7. Subpoenas for members of the public pursuant to Operating Procedure 10.02(c)(vi), requested by Complaint Review Subcommittee will be issued by the Chair of the CPRC, and shall follow the format provided in the attached sample

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subpoena. The City Attorney may provide assistance in preparing the subpoena, if requested by the Chair. The cost for service of the subpoena by the Sheriff's Office or other related subpoena service company shall be born by the CPRC operating budget. Prior to a subpoena being issued by the CPRC Chair, a written voluntary request to appear to such member of the public shall first be sent by City Administrative CPRC Staff, inviting them to appear voluntarily without the need for subpoena issuance.

8. The Complaint Review Subcommittee may present a summation of each matter during a closed session at a CPRC monthly meeting, which will include the subcommittee's recommendations, if any. All CPRC members will sign a non-disclosure agreement for each matter before them. Any written summary or computer data may be transported by the Complaint Review Subcommittee members to the closed session and shall remain in the Complaint Review Subcommittee member's possession for returning to the secured file cabinet at the Police Department.
9. The CPRC in closed session may take a vote of the CPRC's ultimate recommendations and determinations, pursuant to Operating Procedure Article IX, 9.01 (h). City Administrative Staff and the City Attorney will only attend if requested by the Chair. The CPRC may adopt the Complaint Review Subcommittee's recommendation or request further review be performed by the Complaint Review Subcommittee. A report out of closed session may occur, consistent with the confidentiality provisions outlined in the Operating Procedures and as otherwise set forth by law.
10. Notification of the CPRC's recommendations and determinations, whether in agreement or disagreement with the Police Department, will be provided by City administrative staff to the City Manager and Police Chief pursuant to Operating Procedure 10.02(c) (vii).
11. If the CPRC's determinations differ from the Department's, pursuant to the Operating Procedure 10.02(c)(x) the Police Chief will respond to the CPRC in another closed session with the entire CPRC present to discuss reconsideration of the Police Department's or the CPRC's position.
12. City Administrative CPRC Staff will send notice to the Police Chief and the City Manager of the CPRC and Police Chief's agreement or disagreement. The City Manager will initial his/her having reviewed the notice and will return the notice to the Police Chief for the IA file.
13. The Complainant and the subject officer will be notified of the determinations, according to the procedures and requirements set forth in the Operating Procedures.
14. The Officer's right to appeal the position of the CPRC will be consistent with *Caloca v. County of San Diego* (1999), 72 Cal.App.41b, 1209 and *Caloca v. County of San Diego* (2002), 102 Cal.App.41b 433, which held that under the Public Safety Officers Procedural Bill of Rights Act (Government Code Section 3300 ets eq.), police officers must be afforded an administrative appeal of sustained findings of misconduct even though no disciplinary matters are

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considered. Such administrative appeal proceeding will be conducted by a neutral, unbiased adjudicator(s) who will examine the finding de novo. All further terms of the reexamine will be consistent with the guidelines set forth in the *Caloca v. County of San Diego* (2002), 102 Cal.App.41b.

#### **PROCESSING OF DEPARTMENT INITIATED AND CITIZEN COMPLAINTS**

##### Complaints

(a) Initiation of Complaints

1. Category I and II Complaints will be forwarded to the Internal Affairs Unit. The complaint will be logged and assigned a tracking number. At the discretion of the Chief of Police or their designee, the case will either be retained by the Internal Affairs Unit for investigation or routed to the command of the affected employee(s) for investigation.

(b) Investigations of Complaints

1. The Investigating Employee may interview pertinent witnesses relevant to the alleged facts. However, the specific allegations of the complaint shall not be disclosed to non-focus employee witnesses.
2. The investigation shall be completed and Findings made by the Investigating Employee within 60 days of assignment to the Investigating Employee, unless permission for an extension is granted by the Investigating Employee's Lieutenant.

(c) Completion of Investigation

1. Once the investigation and Findings are completed, the following procedure will occur, depending upon which command did the investigation.

(a) Investigation and Findings

1. The Investigating Employee's Lieutenant or Support Operations Lieutenant will review the investigation and Findings for content and completion within 30 days of receipt from the Investigating Employee.

(b) Recommendations

1. The Investigating Employee's Lieutenant or Support Operations Lieutenant (The Chief will have the discretion to determine the appropriate Lieutenant), will make recommendations for discipline within 30 days, which will be documented in a separate report. The entire investigation package and the recommendations report will then be forwarded to the IA Sergeant.

#### **PROCESSING OF VEHICLE DAMAGE REPORTING**

- (a) When an employee is involved in a traffic collision or causes damage to a Department/City vehicle, or discovers unreported damage to a Department/City vehicle; the involved employee shall notify an on-duty supervisor.

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1. The notification to an on-duty supervisor should be made immediately, or as soon as practical if unusual circumstances exist that would prevent the involved employee from making such notification.
2. Regardless, the employee who caused or discovered the damage shall notify an on-duty supervisor no later than the end of the employee's shift.
- (b) Upon being notified of damage to a Department/City vehicle, the on-duty supervisor will ensure that:
  1. A Vehicle Damage Report (VDR)(PD-600) and a Traffic Collision Report (if necessary) are completed prior to the end of shift.
  2. The damage information is logged into the electronic "VDR" database located on the NCPD website and,
  3. The collision is noted on the Watch Commander's Log.
    - (a) If the damage is very minor (e.g., 1/2" tear in the seat, superficial surface scratches in the paint, etc.), the supervisor may elect not to complete a PD-600 form and instead log the damage into the "VDR" database.
  4. Send PD-600 form and all reports, including any evidence or photos, to the Internal Affairs Unit.
  5. The Internal Affairs Unit shall:
    - (a) Assign an internal affairs case number to the Vehicle Damage/Collision Investigation. Log case into IA case log. File (original or copies) of all reports. File any original evidence or photos attached to case.
    - (b) Review internal affairs records to determine the total number of preventable collisions or Vehicle Damage Reports logged against the focus officer in the last five years.
    - (c) Make a total of three (3) copies of all reports. Make the best available photocopy of original photos. Complete the second portion of the PD-600 Tracking Form. Distribute the report copies as follows:
      1. One copy of the collision report to City Risk Manager.
      2. One copy of the investigation to the appropriate Commander (usually a Lieutenant) in the chain of command of the focus officer.
      3. Upon completion of command review, the Internal Affairs Unit shall file the completed investigation signed by the Chief of Police. The completed investigation shall be reviewed and initialed by the focus officer, shall be retained for a period of five years. After the five years and with the approval of the City Attorney, the investigation and all supporting documentation shall be destroyed.
  6. The Commander in the Focus Officer's Chain of Command shall:
    - (a) Complete the third section of the PD-600 tracking form as appropriate. Obtain and review all relevant reports. Determine if collision or damage was preventable.



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- (b) If collision or damage is deemed not preventable; complete the PD-600 tracking form and send all documents to the Chief of Police for final review and signature.
  - (c) If collision or damage is deemed preventable, the following applies:
    - 1. Personally conduct a thorough administrative investigation. Upon completion of the investigation, send the tracking form and all reports, including the investigation, disposition and/or recommendations to the Captain or the Chief of Police's designee. Or, in the alternative, assign administrative investigation to the supervisor of the focus officer. Send the PD-600 tracking form and all reports to that supervisor.
  - (d) Once the administrative investigation is completed and returned; review it for completeness, thoroughness, and compliance with procedure and state law. Accept or reject the supervisor's disposition and/or findings and conclusions. Proceed as appropriate depending upon the level of discipline.
  - (e) Ensure a complete and thorough administrative investigation including taped interview(s) with focus officer and ensure the officer was afforded the protections of the Peace Officer Bill of Rights Act.
  - (f) Ensure the focus officer reviews and initials the completed administrative investigation (every page); including any disciplinary findings or adverse actions. Ensure the PD-600 tracking form is completely and thoroughly filled out.
7. If assigned the Administrative Investigation, the Sergeant of the focus officer shall:
- (a) Conduct a thorough administrative investigation into the allegation of the preventable collision or damage.
  - (b) Audio record any administrative interview with focus officer.
  - (c) Consider and apply the provisions of the Peace Officer Bill of Rights Act when any form of discipline could possibly result from an interview with any police officer.
  - (d) Determine if the collision was "preventable" or "not preventable." If deemed "not preventable;" make an appropriate recommendation to the appropriate Commander in the chain of command.
  - (e) Return completed investigation, reports and PD-600 tracking form to the appropriate Commander.

### **DISCIPLINARY DETERMINATION**

The investigation, Findings and the recommendations file will be forwarded to the Captain or Assistant Chief, via the Internal Affairs Unit, for adjudication in accordance with this operating procedure. Any disciplinary conclusions made at this level shall likewise not be included in the

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IA investigation file. If the investigation is complete and no further work is needed, the disciplinary determination will then be forwarded to the Internal Affairs Unit. The officer's command will provide a notice of proposed discipline to the focus employee when it is above a written reprimand.

If the Captain or Assistant Chief decides that an appropriate level of discipline extends beyond their limits, they may forward their recommendations for discipline to the Chief of Police. The Chief of Police will then be responsible for adjudication in accordance with this operating procedure or other.

(a) Skelly

1. It is the policy of this Department to adhere to the requirements of the Skelly decision and notify the employee of pending disciplinary action within one year of the time when the department was made aware of the complaint. This includes discipline in the form of termination, suspension, demotion, or punitive transfer if a pay decrease is involved. The Skelly process is not available for reprimands or written notices of deficiency. The employee shall be formally notified of the pending disciplinary action in the form of a standardized written memorandum, and a copy of the investigation package, including copies of any tape recordings and any investigator's rough notes or recordings of interviews, shall be given to the employee.
2. If the focus officer requests, the proposed disciplinary determinations may be appealed through Skelly rights. The Chief or the Chief's designee will normally serve as the Skelly Hearing Officer. However, the Chief of Police will serve as the Skelly Hearing Officer in cases of a severe nature in which discipline is considered significant, at the Chief's discretion.
3. The focus employee has the right to prepare an oral or written response to the proposed discipline. The employee also has the right to be accompanied or represented by an individual of the employee's choice, as long as that person is not associated with the investigation or the disciplinary action and scheduling the matter is not unduly delayed by the representative.
4. At the conclusion of the Skelly hearing, the hearing officer shall prepare and issue a final written notice of discipline regarding the appropriate charges and level of discipline to be imposed. If the Skelly Officer determines that no discipline is appropriate, a written notation shall be given to the employee, and all copies of the disciplinary package shall be purged from Department files, subject only to the right of the employee to submit a written statement for inclusion in any Internal Affairs investigation report that may apply to the incident.

(b) Completion of Investigation

1. The completed investigation will then be returned to the Internal Affairs Unit. The Internal Affairs Sergeant will send a disposition letter to the complainant and the investigation and disposition in the IA file. The discipline determination will be kept in a separate file. The completion of the investigation will be documented in the IA log for CPRC review. In CPRC initiated complaints, the IA Sergeant will send a disposition letter to the CPRC Complaint Review Subcommittee notifying them of its completion.

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(c) CPRC

1. CPRC may thereafter review the matter. The officer shall be notified of the CPRC's initiation of their review.

(d) Appeals

1. If applicable, appeals for discipline as to reprimands or less are to be in accordance with Attachment 2 of this procedure. All other discipline may be appealed to the Civil Service Commission.

### **AUTHORIZED FORMS OF DISCIPLINE AND OTHER**

(a) Informal Actions and Counseling:

1. There is no specific appeal procedure provided for informal action and counseling. The employee concerned may discuss the matter with his or her supervisors within the chain of command.

(a) Certification for Retraining

1. Certification for retraining is when a violation was caused primarily by the employee being substandard or inadequately prepared for his/her responsibilities and it is in the best interest of the Department that the employee undergoes additional training. The specific nature and procedure for a given retraining shall be determined by the Chief of Police or their designee in conjunction with the Department training coordinator. No written notation concerning the reason for the training shall be made or separately filed in the employee's personnel record.

(b) Verbal Counseling

1. Counseling is a process whereby an employee is made aware of performance issues or violations verbally by their supervisor, or there are circumstances that impair the employee's ability to comply with the provisions contained in departmental instructions and action is taken by the supervisor to work with the employee in an attempt to correct the problem rather than take formal disciplinary measures against the employee.

(b) Formal Discipline:

1. Appeals from formal discipline of a reprimand or written notice of deficiency are provided for in Attachment 2. The Hearing Officer shall be the City Manager, pursuant to Attachment 2. All other formal discipline greater than a reprimand may be appealed only to the Civil Service Commission.

(a) Written Notice of Deficiency

1. A written notice of deficiency is a formal intra-departmental memorandum issued by a Captain or the Chief's designee finding a deficiency in a subordinate's performance or conduct. A written notice of deficiency is used in situations that are deemed inappropriate for an informal verbal counseling, but do not rise to the

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severity level of a written reprimand. A written notice of deficiency shall be maintained in an employee's personnel record for a period of two years from the date of issuance but shall not be used for any personnel purpose after one year.

(b) Written Reprimand

1. A written reprimand is a formal intra-departmental memorandum of reprimand issued by a Captain or the Chief's designee finding a subordinate in violation of a specific section(s) contained in the Operating Procedures or Rules and Regulations, and stating that the violator has been formally or officially reprimanded. It includes any document located anywhere within the City and/or Department that constitutes a criticism of a fault and/or warns of future disciplinary action. The disciplined employee shall be advised of the finding in writing, and may make a written rebuttal or comment within 30 days thereof for inclusion in the personnel record to be filed along with the written reprimand.

(c) Suspension

1. Suspension is the removal of an employee from scheduled work and monetary compensation thereof. The Captain or the Chief's designee have the authority to administer discipline not to exceed 80 hours suspension. The Chief of Police has the authority to suspend an employee, pursuant to the provisions contained herein, for periods exceeding 80 hours.
2. Generally, suspension days shall be served consecutively and shall not include any scheduled days off.
3. The Chief has discretion to allow an employee who is subject to a suspension the alternative of a salary step reduction or loss of accumulated vacation time of an equal monetary value based on the pay scale or rate in effect at the time discipline is imposed.
4. During the time the employee is suspended, the Human Resources Department, and thereafter the Finance Department, will ascertain from the employee whether or not the employee desires to maintain, at the employee's own expense, health insurance coverage for the employee and the employee's dependents during the time the employee is suspended.

(d) Step-decrease or fine

1. A step-decrease is the reduction in pay of an employee within the same pay-range. The step-decrease may be of an indefinite or limited duration. A fine is a step-decrease of limited duration or amount. The Chief of Police shall advise the Human Resources Director in writing of his/her intention to lower the pay-step of the employee prior to taking such action. The memo shall specifically state the cause for the step-decrease. The Chief of Police shall give a

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copy of said order for the step-decrease to the employee and forward a copy to the Human Resources Director and the City Manager.

(e) Demotion

1. Demotion is the reduction of an employee from a position in one class to a position in another class having a lower maximum salary rate. The Chief of Police shall advise the Human Resources Director in writing of his/her intention to demote an employee prior to taking such action. In demoting the employee, the Chief of Police shall make an order in writing, specifically stating the cause for demotion. The Chief of Police shall give a copy of said order for demotion to the employee and forward a copy to the Human Resources Director and the City Manager.

(f) Dismissal

1. Dismissal is the involuntary separation of an employee from City service. The Chief of Police shall advise the Human Resources Director and the City Manager in writing of their intention to dismiss an employee prior to taking such action unless there are reasonable circumstances which prohibit such notification. In dismissing an employee, the Chief of Police shall make an order in writing, stating the specific cause for dismissal and the effective date of the dismissal, which shall automatically terminate the employees pay on such effective date. The Chief of Police shall give a copy of said order to the employee and forward a copy to the Human Resources Director and the City Manager. The Chief of Police may allow the employee to resign in lieu of dismissal if the Chief believes a resignation may be in the best interests of the City or Police Department and/or the employee. Upon dismissal and termination of pay, the employee may elect to thereafter pursue their appeal rights.

(g) Transfers

1. Transfers causing a loss in pay or otherwise disciplinary in nature may be imposed, subject to appeal rights such as in a demotion.

(h) Employee Performance Evaluation:

1. Performance evaluations are designed to improve performance and professionalism and are not disciplinary tools in either nature or intent. Supervisors should be alert to recognize exemplary performance as well as performance which is in need of improvement and should discuss these matters with their subordinates to provide positive counseling and training in a timely manner. Supervisors should neither maintain separate files on their subordinates' performance nor wait until due dates to prepare performance evaluations.
2. Supervisors should maintain ongoing evaluative processes regarding each of their subordinates, keeping in mind the restrictions

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applicable to written reprimands as defined in this policy under Formal Discipline. The employee has the right to review, sign and submit written comments on the finished evaluation in accordance with Civil Service and other regulations.

3. Transfers:

- (a) Transfers where no property entitlements are affected (such as pay) and are not disciplinary may be implemented due to the department's needs as determined by the Chief of Police.

### **DISCIPLINARY PROCEDURES**

(a) Normal Circumstances

1. Any supervisor who discovers that a violation of Department Operating Procedures or Rules and Regulations may have or has been committed by a subordinate shall investigate the matter thoroughly and take immediate action. The supervisor will initiate a PD-600 Complaint and Tracking Form to begin the investigative process. The Internal Affairs Unit must be notified to assign a tracking number and to track the progress/stages of the investigation and shall brief the Chief of Police regarding the initiation of the investigation.
2. Investigations into alleged employee misconduct can be initiated at any level in the chain of command. Whenever an employee believes that misconduct or a violation of Department Operating Procedures or Rules and Regulations has occurred, the employee shall submit a written memorandum to their immediate supervisor. The supervisor has the responsibility to take appropriate action via the chain of command to ensure that the matter is investigated promptly and thoroughly.
3. Any employee who believes that their supervisor or any other supervisor in the Department is in violation of Department Operating Procedures or Rules and Regulations shall submit a memorandum detailing the circumstances relating to the violation to the Chief of Police, unless otherwise allowed by law. When the complaint involves a superior in the employee's chain of command, the complaint shall instead be forwarded to the immediate superior of the alleged violator. The Chief of Police or designee will cause an investigation to be conducted.
4. If an investigation into an alleged violation of Department Operating Procedures or Rules and Regulations results in a conclusion that some form of misconduct has been committed by an employee, then a recommendation for disciplinary action shall be initiated from the Division where the employee is assigned, in accordance with this operating procedure.
5. For all investigations, the supervisor shall prepare all memorandums and reports pertinent to the investigation. The investigating supervisor will also evaluate the totality of the completed investigation and make a Finding determination. All pertinent reports and memorandums will be reviewed by the supervisor's Lieutenant or immediate supervisor for content. The completed investigation and Findings will be forwarded to the Internal Affairs Unit. The Internal Affairs

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Sergeant will forward the completed investigation and Findings to the Lieutenant inside the employee's command for a recommendations report.

6. If an investigation into an alleged violation of Department Operating Procedures or Rules and Regulations results in a conclusion that some form of misconduct has been committed by an employee, then a recommendation for disciplinary action shall be completed. Such recommendations shall not be included in the IA investigation file.
7. All forms of informal discipline may be carried out by a supervisor with the approval of the appropriate Lieutenant.

(b) Interviews

1. If at any time during an investigation into misconduct it becomes necessary to interview a sworn employee of the Department, the person conducting the interview shall adhere to all of the procedural rights afforded a sworn employee under the Public Safety Officers Procedural Bill of Rights Act. (Government Code Sections 3300-3311)

(c) Special Circumstances

1. When conducting Internal Affairs investigations into allegations of misconduct, it may become necessary to require an employee to:
  - (a) Undergo a medical or laboratory examination, at the Department's expense, when the examination is specifically directed and narrowly related to a particular Internal Affairs investigation being conducted by the Department;
  - (b) Be photographed, if no current photo is available in the Department files;
  - (c) Participate in a lineup; and/or
  - (d) Submit financial disclosure statements.
  - (e) All of the procedures outlined above will be completed in accordance with current state law, the Public Safety Officers Procedural Bill of Rights Act (California Government Code Sections 3300-3311), and any other applicable laws or current Memorandum of Understanding

(d) Emergency Suspension

1. A Watch Commander or any command staff officer or their designee has the authority to impose an emergency suspension on any employee until the next business day, when it appears that such action is necessary and in the best interest of the Department. The person issuing the suspension will notify the Chief of Police, or their designee, of the action taken and prepare a written memorandum to the Chief of Police. The employee will be placed on administrative leave with pay pending an investigation into the matter or notification by the employee's commanding officer.
2. An employee receiving an emergency suspension shall be required to report to his/her commanding officer on the next business day. The commanding officer

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imposing the suspension shall also report to the Chief or Police or designee at the same time.

(e) Criminal Investigation Against an Officer

1. When a criminal investigation has been initiated by an entity charged with such duties, the Chief of Police or their designee may suspend or transfer the officer(s) during the time such investigation is pending, depending on the type of charges made. The Chief of Police or their designee has discretion on whether to continue or partially provide pay and/or benefits for such officer during the pending investigation, based upon the totality of the circumstances and if pay is suspended, the employee may then pursue his procedural remedies afforded by law. The employee has the option to appeal to the civil service commission for a good cause determination for the loss of pay.
2. The IA Unit may open an internal affairs investigation simultaneously. Adjudication of the IA may occur prior to the outcome of the criminal proceedings.
3. However, the department reserves the right to reopen the disciplinary matter if a criminal prosecution conviction occurs.

### **DISCIPLINARY RECORDS**

(a) Informal Discipline

1. Informal disciplinary actions, as authorized in this Operating Procedure, will not be documented, nor shall separate notation be filed in the employee's departmental or personnel record.

(b) Formal Discipline

1. Formal discipline will be documented on a memorandum, reviewed, and signed by the employee, and placed in the employee personnel record. This documentation will be purged at no less than five (5) years from when the disposition has been made in the case of a sworn employee or sooner upon the direction of the Chief of Police. The Tracking form will designate the five year mark. The employee may submit a rebuttal memorandum for inclusion in the personnel record. A Written Notice of Deficiency shall be purged two years from the date of issuance.

(c) Personnel File

1. A sworn employee may submit a written request, through the chain of command, that a disciplinary action be purged from their employee personnel record. The Chief of Police or designee will make a final decision on the request.

### **CHIEF OF POLICE'S DISCIPLINARY AUTHORITY**

The following types of discipline may be imposed by the Chief of Police, subject to appeal as set forth below.

(a) Suspension from duty without pay



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1. The Chief of Police may suspend an employee from duty without pay. Any suspension invoked under this rule against any one person shall not exceed thirty (30) days for any one disciplinary action or aggregate more than ninety (90) days in any one calendar year without the approval of the City Manager. Suspension without pay may be appealed to the Civil Service Commission.
- (b) Reduction in Salary (Step-decrease) or fine
  1. The Chief of Police may administer discipline by decreasing the employee's pay-step level within the same range. Any reduction, fine or loss in pay may be appealed to the Civil Service Commission.
- (c) Demotion
  1. The Chief of Police may demote an employee whose ability to perform the required duties falls below standard, or for disciplinary purposes. Any permanent employee so demoted shall have the right to a hearing before the Civil Service Commission in the manner set forth in the Civil Service Rules.
- (d) Discharge
  1. An employee may be discharged at any time by the Chief of Police. If the initial probationary period has been completed, any employee so discharged shall have the right to a hearing before the Civil Service Commission, in the manner set forth in the Civil Service Rules.

#### **APPEALS FROM OR REVIEW OF PUNITIVE ACTION**

All appeals or reviews of punitive action will be handled in accordance with Public Safety Officer Procedural Bill of Rights Act (Government Code sec. 3304(b)), the current Memorandum of Understanding between the City and the respective employee organization, and, when applicable, the City Civil Service Rules. Procedures for review of punitive actions of sworn officers are outlined in Attachment 2 of this Operating Procedure.

#### **CONFIDENTIALITY OF DISCIPLINARY REPORTS AND INTERNAL AFFAIRS INVESTIGATIONS**

When writing and distributing reports and investigations involving disciplinary action, confidentiality shall be maintained. Such reports will either be delivered in a sealed envelope or given in person to the concerned member.

Copies of Internal Affairs investigations shall be furnished to each focus officer and to any other officer for whom discipline or administrative action is recommended upon request. Investigations that concern more than one focus officer shall be redacted to delete all personal information regarding each employee prior to delivery to each focus officer. Recommendations for discipline affecting two or more focus officers shall be redacted to delete the names of the respective focus officer(s) from the copies furnished to the other focus officer(s). The facts of the investigation shall not be redacted. Personal information and information that is required by law to be kept confidential

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shall be redacted from copies furnished to focus officers. The notation “[redacted]” shall appear in the portion where the redaction is made.

All recipients of Internal Affairs investigations or those who have knowledge of them shall maintain the investigation report in a confidential manner, and shall not disclose the contents or information to any other source, except upon authorization of the officer concerned or as may be necessary for further investigation or disciplinary proceedings.

Any sworn officer concerned is entitled to submit a statement for inclusion in an Internal Affairs investigation pertaining to his or her conduct.

#### **REPORT RETENTION**

Pursuant to Penal Code Section 832.5(b), Citizen Complaint investigations, all relevant reports, and dispositions shall be kept on file in the Internal Affairs Unit. This material is CONFIDENTIAL and shall be purged according to state law (5 year retention).

INFORMATION REGARDING ANY DISCIPLINARY ACTION TAKEN WILL NOT BE INCLUDED IN THE COMPLAINT FILE.

#### **ANNUAL STATISTICAL SUMMARIES**

By January 15 of each calendar year, the Internal Affairs Unit supervisor shall prepare a report for the Department of Justice, pursuant to Penal Code Section 13012(d). This report, which will not refer to any specific agency but by gross numbers only, shall indicate:

- (a) The total number of citizen complaints received for the calendar year;
- (b) The number of complaints alleging non-criminal or criminal misconduct of either a felony or misdemeanor; and
- (c) The number of complaints sustained in each category.

This report may be posted on a Department bulletin board.

See Policy Manual on Personnel Complaints for further information.