

<b>Anchorage Police Department</b> Regulations and Procedures Manual	<b>Operational Procedures</b> <b>2.04.010</b>	
<b>Policy and Procedure Title</b> Internal Investigation/Discipline	<b>Effective Date</b> May 22, 2023	Page 1 of 6
<b>Replaces Prior Policy:</b> September 12, 2016	<b>Approved by:</b> Chief Michael Kerle	

**This Policy is for departmental use only and does not apply in any criminal or civil proceeding. This Policy should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this Policy will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.**

## **2.04.010 Internal Investigation/Discipline**

### **PURPOSE**

The purpose of this policy is to inform all employees of procedures governing disciplinary and corrective action.

### **POLICY**

This policy is designed to provide a fair and just means for appropriate action when an employee's conduct does not conform with the department's policies. It is the department's policy to impose corrective and disciplinary action fairly and impartially and to offer adequate appeal procedures to ensure that the rights of employees are protected.

### **DEFINITIONS**

**Administrative Review Board:** A panel that reviews, assesses, and recommends action on events assigned to it. The Board shall normally hear matters of alleged regulation violations that could result in discipline of suspension or greater. (See Administrative Policy: Administrative Review Board Policy)

**Collective Bargaining Agreement (CBA):** Refers to the current contract in effect between the Municipality of Anchorage (MOA) and the Anchorage Police Department Employees Association (APDEA).

**Corrective Action:** Any remedial action taken by the Department in regard to an employee. Corrective action is not discipline. Corrective action includes:

- A. **Formal Counseling.**
- B. **Education/Training.**
- C. **Medical Evaluation/Screening.**
- D. **Psychological Evaluation/Screening.**

E. **Transfer** (involuntary and non-disciplinary for the good of the employee or the Department).

F. **Special Evaluation.**

**Disciplinary Action:** An action taken against any employee of the Department for a violation of policy, procedure, or law where formal discipline is imposed. With the exception of an oral reprimand, disciplinary action is documented on a Disciplinary Action Report (DAR) signed by both, the Chief of Police and the Director of Labor Relations and entered in the employee's personnel file.

Disciplinary actions include:

A. **Oral Reprimands:** An oral admonishment given to an employee by a Supervisor which meets both the following standards:

1. The admonishment must be identified to the employee as an oral reprimand.
2. The reprimand will be documented in IA Pro.

B. **Written Reprimands:** A written admonishment given to an employee by a commander which meets the following standards:

1. The admonishment must be identified to the employee as a written reprimand.

C. **Suspension from Duty** (without pay).

D. **Suspension of Privileges** (e.g., home car, building access, use of facilities, etc.).

E. **Transfer** (disciplinary- either from shift or job assignment).

F. **Demotion in Rank.**

G. **Termination of Employment.**

**Findings:** Findings are the results of the investigation. There are four possible findings:

1. **Sustained:** where the investigation determines, by preponderance of the evidence, the complainant's allegation is supported by sufficient evidence to determine the incident occurred and the actions of the Officer were improper.
2. **Not sustained:** where the investigation determines, by preponderance of the evidence, there are insufficient facts to decide whether the alleged misconduct occurred.
3. **Exonerated:** where the investigation determines, by preponderance of the evidence, the alleged conduct did occur but did not violate APD policies, procedures, or training; or the conduct was outside of policy, but no misconduct occurred.

4. **Unfounded:** where the investigation determines, by preponderance of the evidence, there are no facts to support the incident complained of actually occurred.

**Progressive Discipline:** Under normal circumstances, discipline should be imposed in a progressive manner in an attempt to influence the employee to correct behavior. Discipline can progress incrementally from the lowest to the highest level; be reversed if infractions show improvement over previous infractions; and, depending on circumstances, steps can be skipped, depending on the facts and circumstances of the violation. Each case will be reviewed on a case-by-case analysis. The steps of the progressive discipline system consist of oral reprimand, written reprimand, suspension and termination. All steps related to progressive discipline must be documented.

**Violation:** A sustained complaint of an act or omission contrary to any regulation, policy, or procedure. A violation can subject the employee to any disciplinary or corrective action identified in this procedure.

## **PROCEDURE**

### **I. DISPOSITION OF COMPLAINTS**

- A. Non-represented, and executive employees will follow the processes outlined in the municipal personnel rules.
- B. When an internal investigation is completed, the investigating supervisor will submit the investigation to the appropriate commander for review without a finding. The commander will review the investigation in Blue Team. The commander has the option of returning the investigation to the supervisor for additional explanation or follow-up or attach a findings memo.
- C. When an internal investigation is completed and post Garrity interview was unnecessary the supervisor may determine the findings. The commander then can agree or disagree with the findings by attaching a comment in Blue Team.
- D. If the commander sustains the complaint, the commander will then make a recommendation of corrective or disciplinary action, if warranted, up the chain of command.
  1. Commanders should consider the following for corrective action to apply:
    - a) The seriousness of the offense as it relates to the nature and extent of potential or actual damage or liability to the Department.
    - b) To ensure consistency to other employees to prevent similar infractions or to ensure that similar infractions will not occur or be tolerated.

- c) The employee's attitude about acknowledging the violation and making a commitment to improve; this includes the employee's cooperation in the investigation and resolution processes.
  - d) The employee's previous disciplinary and performance records including, but not limited to, time between other offenses, the nature of other offenses, work productivity, attendance rates, cost of supervision, and types of performance errors.
- E. If the commander recommends discipline, then the following procedure will be followed:
  - 1. The recommendation, except an oral reprimand, will be documented on a Disciplinary Action Report (DAR) and shall be forwarded to the Chief of Police through the chain of command for information, review, and comment.
  - 2. The chain of command will review the investigative report and supporting documents and may accept the findings and recommendations, change the findings and/or recommendations, or remand the case for additional investigation, as a whole or in part.
  - 3. The Chief of Police has the final determination if the complaint is sustained, not sustained, exonerated, or unfounded.
  - 4. If the Chief of Police's findings concur with the recommended findings:
    - a) A sustained case would follow the process described below in section "II. DISPOSING OF SUSTAINED COMPLAINTS".
    - b) The findings will be forwarded to The Internal Affairs Unit (IA) for filing of the case.
  - 5. If the Chief of Police does not concur with the recommended finding, the Chief of Police will provide a cover memo outlining the reason for their finding. The findings memo will be forwarded to IA for filing.

## **II. DISPOSING OF SUSTAINED COMPLAINTS**

- A. General. This section details how the Department shall handle sustained complaints. In disposing of complaints, the Department shall be guided by good management practices and fundamental fairness.
- B. After the Chief of Police approves the disposition of the investigation the Department must follow the timelines for the imposition of discipline as outlined in the Collective Bargaining Agreement (CBA).
  - 1. The Unit Commander will fill out a draft DAR and forward it to the Division Captain and Employee Relations for approval.
  - 2. Once the draft DAR is approved, the Unit Commander will notify the employee and APDEA of the recommended discipline and serve the draft DAR.

- a) The employee will initial receipt of the DAR and have up to three days to determine a response.
    - (1) The employee may request an administrative hearing (when the discipline results in a form of property loss for the employee) and/or write a rebuttal.
    - (2) If the employee elects to accept the discipline, the employee can sign the final DAR.
    - (3) If the employee takes advantage of the three days but ultimately accepts the discipline, the Unit Commander will have the employee sign the DAR after the three-day time frame.
  - b) Employees electing or declining a pre-disciplinary hearing (Loudermill) will indicate their intent by completing a Loudermill Memo found on the APD Only Forms page.
    - (1) If the employee requests a pre-disciplinary hearing the DAR will not be signed, and a hearing will be scheduled in a reasonable period of time.
    - (2) If the employee declines a pre-disciplinary hearing the final DAR will be signed.
- 3. All accepted discipline will be signed by the employee, the Division Captain, Employee Relations, and the Chief of Police.
- C. The Administrative Review Board (Loudermill Board) reviews and assesses certain cases on behalf of the Chief of Police per APD Operational Procedure 2.04.015. If the ARB has a recommendation of discipline the following will apply:
  - 1. Command Review. When the Administrative Review Board recommends discipline of unpaid suspension from duty or greater, including termination, the Chief of Police will meet with senior command staff, a member of City Employee Relations, and the Administrative Review Board to discuss the Board's recommendation prior to the Chief's determination of discipline.
  - 2. Concluding the Disposition. Once an action is decided upon, the matter is concluded by:
    - a) Completing a memo for the IA file, setting out the reasoning and describing the action to be taken.
    - b) Serving the DAR on the employee.
    - c) Ensuring and recording with IA an expeditious implementation of the prescribed sanction.
    - d) Returning the investigation documentation to IA for notification to the complainant and filing of the investigative report.

- D. All anticipated discipline shall be meted out within the timelines outlines in the collective bargaining agreement.
- E. IA will prepare a weekly report of the status of all pending administrative investigations with the originally assigned due dates and any new dates given. This report will be made available to all commanding officers and the Chief of Police.

### **III. INTERNAL AFFAIRS UNIT RECORDS AND CONFIDENTIALITY**

- A. The IA shall be informed of all final disciplinary decisions.
- B. The Department's central personnel office shall forward a copy of all final DARs to the IA.
- C. IA case files and information shall be maintained separately from other personnel records.
- D. Because they deal with personnel information, IA files are considered confidential personnel records and will be retained under secure conditions within the IA and in accordance with Municipal Code and the current CBA.
  - 1. IA case files and personnel dispositions may not be released to any source without prior approval of the Chief of Police unless otherwise provided by law. Before releasing an IA case file or personnel disposition, the Department shall provide at least 48 hours' notice, if possible, to the employees who were the subject of and witnesses in the investigation of the intent to release the file.
  - 2. IAPRO files may be accessed or reviewed by supervisors and commanders running the process during promotion, job transfer, or special assignment selection.
  - 3. All complaints will remain in an employee's IA Pro file indefinitely.
  - 4. All employees will have access to their internal affairs files per the collective bargaining agreement. The APDEA president shall be able to review employee files per the collective bargaining agreement.

**\*\*\*END OF DOCUMENT\*\*\***