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1. PURPOSE

This policy provides guidance to members regarding the process for recommending and assigning corrective action when an allegation of misconduct against a member is sustained. Corrective action encompasses disciplinary and non-disciplinary actions. This policy is to be used in conjunction with [DPM 1.4.5 Administrative Investigations](#).

The purposes to be achieved by the imposition of discipline in a particular case are properly dependent on all the facts and circumstances of that case. Those purposes may vary based upon a consideration of numerous factors including, but not limited to, the nature and seriousness of the misconduct, the circumstances under which the misconduct was committed, the harm or prejudice arising from the misconduct, and the existence of any relevant mitigating or aggravating factors.

The overall objectives of this disciplinary process are to facilitate the orderly functioning and operation of the Mesa Police Department (MPD); to ensure employee adherence to reasonable and acceptable standards of performance and conduct; and to provide fair and equitable consequences for failing to adhere to those standards. This policy serves to ensure that corrective action and discipline are applied in an impartial and consistent manner.

2. DEFINITIONS

Corrective Action Plan (CAP): A written plan, which alerts a member about a performance problem and provides a period of time to correct the performance problem. The plan outlines the supervisor's performance expectations, any scheduled training, the steps to be completed by the member, and warns the member of the potential consequences for failing to complete the plan successfully.

Department Investigation: An internal investigation, either conducted by command staff or Internal Affairs (IA).

Disciplinary Advisory Panel (DAP): A panel of Department members, and at the discretion of the Chief of Police, up to one non-department member, appointed by the Chief of Police or designee to make a recommendation as to appropriate discipline to impose against a subject member for misconduct.

Disciplinary Corrective Action (Formal Discipline): Corrective action that is considered formal discipline under [Section 810](#) of the City's Personnel Rules. These include written reprimand, disciplinary probation, suspension, involuntary demotion, and dismissal.

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Disciplinary Probation: Disciplinary probation is a form of disciplinary corrective action, which may result from a sustained finding of misconduct and a violation of City Personnel Rules [Section 510](#), Standards of Conduct.

Disciplinary probation cannot exceed 12 months and cannot be extended beyond its original length. Disciplinary probation is intended to notify the member that any prohibited act(s) by the member, occurring while the member is on disciplinary probation, may be grounds for demotion or dismissal. While on disciplinary probation, an employee will not receive a step pay increase or compete in any promotional testing opportunity.

Dismissal: Separation of employment from the City of Mesa (COM). [ALEAP 12.2B]

Involuntary Demotion: A reduction in rank based on a sustained finding of misconduct or for other reasons listed in [Section 510](#) of the City Personnel Rules. After involuntary demotion, disciplinary probation is for one year. [ALEAP 12.2B]

Misconduct: Any conduct by a Department member that violates policy or the law.

Non-Disciplinary Corrective Action (NDCA): Corrective action that is not considered formal discipline. These actions include, but are not limited to, oral counseling, training, memorandum of understanding, written counseling, or a corrective action plan. Supervisors may choose to initiate NDCA in response to first-time performance deficiencies or other minor offenses.

Pre-Deprivation Hearing: A hearing provided to a subject member facing disciplinary action of a suspension, demotion, or dismissal that provides the member the opportunity to provide reasons, orally or in writing, as to why the proposed discipline is not warranted.

Preponderance of the Evidence: For administrative purposes, the standard of proof is preponderance of the evidence.

Black's Law Dictionary defines a preponderance of the evidence as, "...evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not."

Internal Affairs (IA): A unit of the MPD that investigates allegations of misconduct by Department members.

Progressive Discipline: The practice of implementing the lowest appropriate level of discipline and advancing to higher levels in response to repeated misconduct or poor performance. Progressive discipline may not be appropriate in all cases, depending on

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the seriousness of the misconduct. Progressive discipline need not start over for subsequent misconduct of a different nature.

Subject Member: The Department member accused of misconduct and/or the subject of a complaint or Department investigation.

Suspension: A form of discipline where a member is released from duty without pay for a specified period of time (no greater than 240 hours in any twelve-month period) due to a sustained finding of misconduct in violation of Department policy or [Section 510](#) of the City Personnel Rules. While on suspension, sworn members are relieved of all police duties and authority as Mesa Police Officers until restored to duty. [\[ALEAP 12.2B\]](#)

Sustained: The evidence shows, by preponderance of the evidence, that the alleged conduct did occur, and the actions of the member violated Department policies, procedures, or training.

Sustained: No Discipline: The evidence shows, by preponderance of the evidence, that the alleged conduct did occur, and the actions of the member violated Department policies, procedures, or training. The alleged policy violation was related to first time performance deficiencies or other minor offenses. Supervisors may choose to engage in one or more NDCAs.

Training: For the purposes of this chapter, training is a NDCA used to educate a member about a specific topic or to provide the opportunity to improve a member's specific skill set. Training received as part of corrective action should be documented and is not considered a form of discipline. [\[ALEAP 12.2A\]](#)

Verbal Counseling: A discussion between a supervisor and a member where the supervisor notifies a member about a problem and counsels him/her about potential consequences should the problem continue. A verbal counseling should be documented and is not considered a form of discipline. [\[ALEAP 12.2A\]](#)

Written Reprimand: A form of discipline resulting in a written warning explaining the violation(s) and expectations regarding future behavior of a Department member. [\[ALEAP 12.2B\]](#)

3. GENERAL [\[ALEAP 12.2B\]](#)

3.1 Disciplinary Corrective Action

- A. The following disciplinary corrective actions are recognized for sustained Department investigations concerning Department members:
 1. Written Reprimand
 2. Disciplinary Probation

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3. Suspension
 4. Involuntary Demotion
 5. Dismissal
- B. The Chief of Police has final authority on all Department discipline.
- C. The Department may deviate from this process from time to time for good cause. Such deviation does not violate any procedural or substantive rights of any member unless the deviation violates a specific right guaranteed by law.

4. DISCIPLINE GUIDE [ALEAP 1.16D] [ALEAP 11.1A] [ALEAP 12.2B]

[DPM 1.4.10F1 MPD Discipline Guide](#) is intended to address acts of misconduct by Department members and shall be used as a guide in determining the sanction imposed on any member for violations of Department policies.

The existence of the Discipline Guide does not preclude the Department from taking the actions necessary to respond to a member's failure to perform assigned duties or failure to comply with conditions of employment.

Disciplinary sanctions are based on the complaint classification definitions below.

VIOLATION LEVEL	DESCRIPTION (Refer to DPM 1.4.10F1 MPD Discipline Guide)	DISCIPLINE RANGE
Level 1 Violation	Policy violations that are egregious or seriously undermine community trust, public safety, or the professional image of the Department.	Dismissal from employment or involuntary demotion.
Level 2 Violation	Policy violations that negatively impact operations, serious misuse/abuse of authority, ethical offense, or unprofessional behavior.	BASELINE: 50-hour suspension from duty. UP TO: 240-hour suspension from duty. AND/OR Involuntary Demotion.
Level 3 Violation	Policy violations with minor operational impact, not involving misuse/abuse of authority or an ethical offense. More serious offense than a Minor Policy Violation.	BASELINE: 10-hour suspension from duty. UP TO: 40-hour suspension from duty.

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Minor Policy Violation [ALEAP 12.2A]	Policy violations with minor operational impact or minor performance issues where behavior is likely to be corrected or improved through NDCA or low-level discipline.	BASELINE: NDCA. UP TO: Written Reprimand.
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4.1 Mitigating & Aggravating Factors

The presumptive penalty assigned to each discipline level may be increased or decreased based upon mitigating or aggravating circumstances. The adjudicator must take into account all of the circumstances of a case and weigh mitigating and aggravating factors in the final disciplinary action. Nothing in this policy prohibits a subject member from providing a written response to the allegation at any point in time before final adjudication.

In addressing disciplinary action, the following factors should be considered:

- A. Mitigating factors may include:
 - 1. Efforts were made to correct the problem.
 - 2. Subject member receptive to correction/displayed proper attitude.
 - 3. Acts would not have come to light without self-report.
 - 4. Subject member new to the assignment.
 - 5. Tenure.
 - 6. Exemplary record.
 - 7. System/policy/training issue.
- B. Aggravating factors may include:
 - 1. High degree of operational impact.
 - 2. Subject member unreceptive to corrective action (displays poor attitude).
 - 3. Subject member refuses to cooperate with the administrative investigation.
 - 4. Delayed report or attempt to conceal.
 - 5. High value/dollar loss.
 - 6. Speed.
 - 7. Bias or harassment-based action.
 - 8. Rank, tenure, or position.
 - 9. Lack of due regard.
 - 10. Violation of civil rights/constitutional protections.

4.2 Progressive Discipline

- A. Violations requiring progressive discipline: [ALEAP 12.2A,B]
 - 1. Based on a **24-month** period beginning with the date the first complaint was initiated:
 - a. Failure to appear for court.

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- b. Unexcused tardiness in reporting for duty.
 - c. Failure to appear for Department-required training.
- 2. First Offense: [ALEAP 12.2A,B]
 - a. Disposition should be sustained; NDCA, unless there are aggravating circumstances which may dictate more severe discipline.
 - b. Member shall receive verbal counseling and workstation file documentation from the member's immediate supervisor.
- 3. Second Offense:
 - a. Disposition should be sustained, with a written reprimand unless there are aggravating circumstances which may dictate more severe discipline.
 - b. Member shall receive counseling and/or training from the member's Division Commander/Professional Staff Equivalent (PSE).
- 4. Third Offense:
 - a. Disposition should be sustained, with suspension and disciplinary probation, unless there are aggravating circumstances which may dictate more severe discipline.
 - b. Member shall receive counseling and/or training from the member's Division Commander/PSE.
- 5. Fourth Offense:
 - a. Disposition should be sustained, with higher suspension or involuntary demotion or dismissal, if aggravating circumstances support it.
 - b. Member shall receive counseling and/or training from the member's Assistant Chief.

4.3 Preventable Collision Progressive Discipline

- A. When it has been determined by a second-level review that an on duty collision in a City vehicle was preventable and the member was responsible per [DPM 2.7.115 Traffic Collisions – Department Vehicles](#), a Notice of Investigation (NOI) shall be served to the responsible member by their chain of command prior to any questioning.
- B. Preventable collision categories are described below, from least serious to most serious, along with the associated range of recommended discipline for each category. Any member found responsible for a preventable collision occurring within **24 months** of the first collision will receive progressive discipline as described below. For a quick reference guide, see [DPM 1.4.10F1 MPD Discipline Guide](#) "Preventable Collisions Where Member is Responsible".
 - 1. For collisions involving no property damage and/or no injury, or collisions involving only minor property damage and/or minor injury:
 - a. **First Offense:** NDCA up to a written reprimand.
 - b. **Second Offense:** Written reprimand and/or 10 to 40-hour suspension.
 - 2. For collisions involving significant property damage and/or injury:

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- a. **First Offense:** Written reprimand and/or 10 to 40-hour suspension.
 - b. **Second Offense:** 50 to 240-hour suspension.
3. For collisions involving reckless operation and/or failure to operate a City vehicle with due regard resulting in serious injury/hospitalization:
 - a. First Offense: 50 to 240-hour suspension.
 - b. Second Offense: 240-hour suspension and/or up to involuntary demotion/dismissal.
- C. If the second offense is categorized as a different type of collision than the first offense, it can be considered a mitigating or aggravating factor.
- D. For **third offenses or more**, the range of discipline is a 50 to 240-hour suspension and could include involuntary demotion/dismissal. Discipline for the offense shall not be less than the prior level of discipline.
- E. The following may be considered aggravating factors that elevate the range of discipline:
 1. Code 3 driving violations.
 2. Speed.
 3. Non usage of seatbelt.
 4. Severity of property damage and/or injury.
 5. More than 2 preventable collisions. This can be a combination of any preventable collision type for which the member was found responsible.

5. PRE-DEPRIVATION HEARING PROCESS (LEVEL 1 TO LEVEL 3 VIOLATIONS)

[ALEAP 11.1A,C]

A Pre-Deprivation Hearing will be provided to a subject member who has recommended discipline of suspension, disciplinary probation, involuntary demotion, or dismissal.

5.1 Suspension of 40 Hours or Less

- A. For suspensions of 40 hours or less, the subject member's Division Commander/PSE will serve as the hearing officer. [ALEAP 11.1B,E]
 1. Within 5 calendar days, absent extraordinary circumstances and after receipt of the file, the hearing officer or designee will serve the subject member with [DPM 1.4.10F15 Pre-Deprivation Hearing Memo](#), setting forth the date, time, and location of the hearing. Absent extraordinary circumstances, the hearing will be scheduled and take place a minimum of 48 hours, but not more than 10 calendar days, after service of the notice.
 2. The subject member may request an extension by submitting a written memorandum to the hearing officer or designee.
- B. The hearing will be recorded by the hearing officer, and this recording will be added to BlueTeam and will be the official recording of the hearing. Subject members and their representative are permitted to take notes and record the

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hearing using their own recording device if they notify the hearing officer in advance that they are recording.

- C. The subject member and/or representative will have a maximum of 30 minutes to present their case as to why the recommended discipline should not be imposed.
- D. After the hearing, the hearing officer may consult with the IA Commander, the Department's Human Resources Analyst, and the City Attorney's Office on the appropriate discipline.
- E. In the event the hearing officer decides to change a disciplinary findings recommendation, including moving the discipline recommendation from a Level 3 to a Minor Policy Violation, they shall consult with and get approval from the affected Assistant Chief. The affected Assistant Chief will check "concur" or "not concur", sign, and date [DPM 1.4.5F16 Notice of Investigation Disposition](#).
- F. Within 10 calendar days after the hearing, the hearing officer will complete [DPM 1.4.10F5 Notice of Investigation Supplement Form](#), which shall include the finding for each allegation (i.e., sustained, etc.), the discipline to be imposed, and any supplemental corrective action (e.g., training, corrective action plan, etc.). [DPM 1.4.10F5 Notice of Investigation Supplement Form](#), [DPM 1.4.5F16 Notice of Investigation Disposition](#), and the case file will then be returned to IA electronically for final processing.
 1. IA staff and/or City Human Resources staff will prepare, complete, and process all final discipline documents and notifications within eight working days after receiving [DPM 1.4.10F5 Notice of Investigation Supplement Form](#) from the hearing officer. Within two days, all required signatures will be obtained, and the subject member will be provided an electronic copy of final discipline documents for their records.

5.2 Suspensions Greater than 40 Hours, Involuntary Demotions & Dismissals

- A. For suspensions of greater than 40 hours, involuntary demotions and dismissals, the subject member's Assistant Chief will serve as the hearing officer. [ALEAP 11.1B,E]
 1. Within five calendar days, absent extraordinary circumstances and after receipt of the file, the hearing officer or designee will serve the subject member with [DPM 1.4.10F15 Pre-Deprivation Hearing Memo](#), setting forth the date, time, and location of the hearing. Absent extraordinary circumstances, the hearing will be scheduled and take place a minimum of 48 hours, but not more than 10 calendar days, after the service of the notice.
- B. The subject member may request an extension by submitting a written memorandum to the hearing officer or designee. [ALEAP 11.1B]
- C. The hearing will be recorded by the hearing officer, and this recording will be added to BlueTeam and will be the official recording of the hearing. Subject

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members and their representative are permitted to take notes and record the hearing using their own recording device if they notify the hearing officer in advance that they are recording.

- D. The subject member and/or representative will have a maximum of 30 minutes to present their case as to why the recommended discipline should not be imposed.
- E. After the hearing, the Assistant Chief may consult with the IA Commander, the Department's Human Resources Analyst, and the City Attorney's Office on the appropriate discipline.
 1. Within 10 calendar days after the hearing, the hearing officer will complete [DPM 1.4.10F5 Notice of Investigation Supplement Form](#), including the finding for each allegation (i.e., sustained, etc.), the discipline to be imposed and any supplemental corrective action (e.g., training, corrective action plan, etc.). [DPM 1.4.10F5 Notice of Investigation Supplement Form](#), [DPM 1.4.5F16 Notice of Investigation Disposition](#), and the case file will then be returned to IA electronically for final processing.
- F. IA staff and/or City Human Resources staff will prepare, complete, and process all final discipline documents and notifications within eight working days after receiving [DPM 1.4.10F5 Notice of Investigation Supplement Form](#) from the Assistant Chief. Within two days, all required signatures will be obtained, and the subject member will be provided an electronic copy of final discipline documents for their records.

6. DISCIPLINARY ADVISORY PANEL (DAP)

The Chief of Police, in his/her sole discretion, may convene a Disciplinary Advisory Panel (DAP) in any case. The purpose of the DAP is to make a recommendation as to the discipline to impose against the subject member and convenes upon conclusion of any Pre-Deprivation Hearing.

6.1 DAP Composition

- A. The DAP will consist of a five-member panel appointed by the Chief of Police as follows:
 1. One Assistant Chief to preside over the meeting.
 2. Two members at the rank of Commander/PSE.
 3. Two members at the rank of Lieutenant/PSE.
- B. At the discretion of the Chief of Police, one sworn officer at the rank of Commander or above may be from an outside law enforcement agency.
- C. The Police Staff Attorney will provide legal counsel and advice to the DAP but will not be a voting member.

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6.2 DAP Hearing

- A. The DAP shall provide the subject member with written notice of the time, date, and place of the hearing not less than three City business days before the hearing.
- B. The subject member may attend the hearing with their labor organization representative or attorney and may make a statement to the DAP regarding the severity of the penalty, although a statement is not required.
- C. The DAP hearing will be closed to the public.

6.3 Panel Recommendation

- A. A majority of the DAP members must reach consensus on the recommended discipline.
- B. The presiding Assistant Chief will draft the recommendation and provide it to the Chief of Police within 30 calendar days after the DAP hearing. The recommendation will state the DAP's concurrence or non-concurrence with the disciplinary recommendation. A copy of the recommendation will be provided to the subject member.
- C. The Chief of Police or designee will review the DAP's recommendation and document concurrence or non-concurrence with the recommendation on the [DPM 1.4.5F16 Notice of Investigation Disposition](#).
 1. The decision of the Chief of Police or designee is final for purposes of Department adjudication.
- D. The completed forms shall be sent to IA for processing.

7. GRIEVANCES & APPEALS [ALEAP 11.1A,B,C,E] [ALEAP 12.6]

- A. All grievances shall be filed in accordance with the [City of Mesa Personnel Rules](#).
- B. For cases involving suspension, involuntary demotion, or termination, the subject member may request an in-person meeting with the Chief of Police within five calendar days after receipt of the final adjudication.
 1. This meeting will not change the final adjudication. It is intended to provide the subject member an opportunity to discuss the administrative investigation with the Chief of Police.
 2. A request for a meeting with the Chief of Police pursuant to this subsection shall not delay or change the timelines set forth in City of Mesa Personnel Rules pertaining to filing grievances and appeals.

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REFERENCE

- [COM Personnel Rules](#)
- [DPM 1.4.5 Administrative Investigations](#)
- [DPM 1.4.5F16 Notice of Investigation Disposition](#)
- [DPM 1.4.10F1 MPD Discipline Guide](#)
- [DPM 1.4.10F5 Notice of Investigation Supplement Form](#)
- [DPM 1.4.10F15 Pre-Deprivation Hearing Memo](#)
- [DPM 2.7.115 Traffic Collisions – Department Vehicles](#)