

## PARKER POLICE DEPARTMENT POLICY AND PROCEDURE MANUAL

5.3	EFFECTIVE: March 1, 2014	James Tsurapas, Chief of Police
	REVISED: September 20, 2021	
SUBJECT: COMPLAINT AND DISCIPLINE PROCEDURES		
CALEA: 22.1.2; 26.1.4; 26.1.5; 26.1.7; 26.1.8; 26.2.1; 26.2.3; 26.2.5; 26.3.1; 26.3.2; 26.3.3; 26.3.4; 26.3.5; 26.3.6; 26.3.7; 26.3.8		PAGE: 1 of 18

### 5.3.1 PURPOSE

The purpose of this policy is to establish procedures for handling complaints against this Department and its members, internal investigations, and discipline. To ensure the integrity of the Department, all allegations of misconduct will be investigated as described below, regardless of source. Anonymous complaints are typically difficult to investigate. Nonetheless, each complaint will be carefully reviewed to determine whether it can be effectively investigated. <26.2.1>

### 5.3.2 POLICY

This Department recognizes the importance of establishing and implementing complaint and discipline procedures in order to monitor the conduct of the Department and eliminate any problems that might be found. Complaints made by Department members against other Department members should be made in good faith. To that end, the Department takes the processing, handling and investigation of all complaints very seriously and prohibits retaliation against persons who raise concerns.

### 5.3.3 PROCEDURE

#### A. Allegations by Citizens

1. Any person inquiring about the procedure for registering a complaint against a Department member shall be furnished with the needed information promptly and shall be assisted in filing the complaint, if necessary. A complainant does not need to meet with a supervisor to file a complaint; however, the complainant will be afforded the opportunity to do so. Department members should do nothing to harass, threaten or discourage anyone from making a complaint.
2. All attempts by a citizen to make a complaint will be documented by the Department member or supervisor contacted. A record will be kept with as much information about the complaint as possible, including the date and time of the complaint, the substance of the complaint and the name, address, and telephone number of the complaining party, if known. The fact that a citizen attempted to file a complaint will be recorded, even if the citizen refused to provide the requested information. This could be done via email by the Department member or by completing a Blue Team entry into the IAPRO Software by the supervisor. If for any reason a supervisor is not immediately available, the Department member will request the citizen's name, phone number, address, and a summary of the allegation(s), to the extent the citizen is willing to provide it and forward that information to an on-duty supervisor by the end of the shift. The supervisor will then input the information into the IAPRO Software via a Blue Team entry by the end of the shift. <26.2.2>

3. In no instances will a department member take the complaint, when the complaint is against that member.
4. If the complainant meets with a supervisor, the supervisor should request the complainant fill out a complaint form or otherwise provide the details of the complaint in writing. If the complainant refuses to fill out a complaint form, or otherwise provide requested information in writing, the supervisor will document as much information as possible regarding the allegation in an effort to assist the Department in completing a thorough investigation, based on the available information. Once a complaint has been brought to the attention of the supervisor, the supervisor will conduct a preliminary investigation or initial review, as appropriate, to gather all necessary facts and information concerning the complainant's allegation(s) and to assist in determining whether any law, ordinance, policy or standard operating procedure has been violated.
5. After taking the initial complaint, the supervisor will submit the information using the approved digital software for tracking complaints to the Office of Professional Standards (OPS). The OPS will generate a control number and forward the incident to the appropriate division or supervisor for investigation. The assigned supervisor has five (5) working days from the date the complaint is assigned to complete the preliminary investigation, unless extended by the Chief of Police or authorized designee. If the complaint warrants immediate review by the supervisor or member of command staff, the complaint will be forwarded directly to the OPS without a preliminary investigation. And the supervisor will ensure that OPS or another member of Command Staff is aware of the incident in a forthwith manner. This decision will be made based on the substance of the allegation(s), regardless of whether the complainant wishes to proceed further.
6. Once a complaint is received by the OPS, it will be entered into the complaint tracking computer software program IPro, assigned a control number and a case file will be prepared, either digitally within IPro or physically in a file. The names of the complainants and Department members will be automatically cross-indexed within the complaint tracking software. The identity of the reporting person and the report of any such comments that constitute a complaint must initially be kept confidential, to the extent permitted by law. Files will be kept in a secure area to protect confidentiality. <26.2.2>
7. When the complainant provides limited identifying information and additional identifying information becomes necessary for the further processing of the complaint, the complainant shall disclose their identity or, at the option of the Department, the complaint may be dismissed, per Colorado Revised Statute 24-31-309.

**B. Allegations by Department Members**

A Department member who wishes to make an allegation against another member is authorized to report the allegation directly to his or her supervisor. If the complaint is on a department member's supervisor, the member will go to his or her supervisor's next chain of command. Any Department member who initiates an allegation against another member will prepare a written memorandum and provide it to his or her supervisor or next chain of command when appropriate. The supervisor will investigate the complaint or refer it to the OPS after approval has been granted by a member of command staff, based upon the information received. The supervisor who receives the allegation has five working days from the date of the allegation to

complete the preliminary investigation, unless extended by the Chief of Police or authorized designee. The complaining Department member will not divulge the existence or contents of the allegation(s) to commissioned officers or persons without proper authorization by the Chief of Police or authorized designee.

C. Allegations by Government Officials

Allegations made by government officials will be handled in the same manner as those made by citizens.

**5.3.4 PRELIMINARY INVESTIGATION**

Any supervisory or command officer who receives an allegation against a department member will:  
<26.3.1 a., b.>

- A. Determine whether the allegation is based on a lack of understanding, as opposed to an impropriety by the involved Department member.
- B. The allegation(s) will be documented through Blue Team entry directly to the Office of Professional Standards.
- C. Allegations will be reviewed by the Office of Professional Standards and will be given a control number. Control numbers will be based on the classifications defined in this policy.
  - 1. If the allegation(s) are classified as an Inquiry, they will be assigned to the member's immediate supervisor by the Office of Professional Standards.
  - 2. If the allegation(s) are classified as a 303IA or a Department IA, they will be assigned to the Professional Standards Investigators.

An initial review of any readily available Body Worn Camera or In-Car video should be completed, to vet the merit of the allegation(s). If the video evidence provides sufficient information to reduce an allegation from a 303IA or a Department IA to an Inquiry, this should be established at the onset and the Inquiry should be assigned to the member's immediate supervisor by the Office of Professional Standards.

- 3. The Chief of Police will be notified as soon as feasible on any significant complaints. This notification will be made either in person, by telephone, or email. <26.3.2>
- D. All allegations that are assigned back to the supervisory level by OPS will be forwarded for approval through the involved Department member's chain of command via Blue Team. Appropriate action should be taken after approval by the member's commander. If the Department member's commander does not concur with the opinion of the investigating supervisor that the allegation can be resolved at the supervisor level, the complaint should be forwarded to the OPS for handling. <26.3.1 b.>
- E. When the preliminary investigation shows that no violation occurred, the allegation was based on a lack of understanding or the allegation can be resolved at the supervisory level, the allegation will be forwarded to the OPS via a Blue Team electronic entry so the complaint can be entered into the complaint tracking software program IAPro. If the complainant indicates

he/she is not satisfied with the resolution of the complaint, the complainant will be informed that he/she may contact the supervisor at the next level in the chain of command and will be given the appropriate contact information to do so.

NOTE: Pursuant to the Town of Parker Personnel Manual, probationary members are not entitled to any due process rights with respect to their employment, nor are they entitled to any Town grievance or appeal procedures with respect to their employment. However, the Department recognizes that commissioned officers and other Department members may be subjected to internal and/or external complaints that warrant an investigation. Therefore, the Chief of Police, or designee, may determine that it is appropriate to initiate a preliminary investigation, inquiry, and/or internal investigation against a probationary member of the Department. The mere fact that the Department has initiated an administrative action against a probationary member does not affect the member's probationary and at-will status, nor provide the member any rights beyond those specifically detailed in the Town of Parker Personnel Manual, or otherwise provided by law. Regardless of the findings of the inquiry or investigation, a probationary member remains at-will and may be dismissed without cause, without prior notice, and/or without the right to a hearing.

### **5.3.5 CLASSIFICATIONS**

All complaints will be assigned one of the following classifications:

- A. 303IA – Internal or external complaints or concerns of a significant nature that involve allegations related to a specific, identifiable incident of alleged misconduct involving a member of the public, by an in-uniform or on-duty peace officer, as described in Part 1 of Article 2.5 of Title 16. 303IA files are subject to C.R.S 24-72-303, as amended.

Allegations qualifying for a 303IA, provided they relate to a specific, identifiable incident of alleged misconduct involving a member of the public, by an in-uniform or on-duty peace officer, as described in Part 1 of Article 2.5 of Title 16, include:

1. Offensive and/or discriminatory comments regarding race, ethnicity, gender, religious beliefs, physical characteristics and/or sexual orientation;
2. Discrimination;
3. Obstructing or hindering a criminal investigation;
4. Failure to intervene in the use of unlawful force;
5. Intoxication/ Consumption of alcohol while on duty;
6. Intentional and/or willful destruction, disregard, and/or tampering of evidence;
7. Intentional failure to activate or tampering with body worn or in car camera, with the intent to conceal unlawful or inappropriate actions or obstruct justice;
8. Intentional misrepresentation;
9. Violations relating to medical/mental health treatment of arrestees;

10. Abuse of Police powers;
  11. All criminal violations and attempt; including serious traffic offenses (subject to prosecution by the State's Attorney);
  12. Use of controlled dangerous substances;
  13. Vehicle collision due to negligence, recklessness, or gross negligence, involving a member of the public;
  14. Use of Force that is alleged to be unreasonable, excessive or brutal;
  15. Failure to arrest/cite when required;
  16. Improper interview or interrogation;
  17. Unreasonable search and seizure;
  18. Knowing or willfully violating a person's Constitutional Rights;
  19. Improper dissemination of investigation information; and
  20. Improper use of departmental information.
- B. Department IA - Internal complaints or concerns of a significant nature that involve allegations that may result in suspension or termination and do not relate to a specific, identifiable incident of alleged misconduct involving a member of the public, by an in-uniform or on-duty peace officer, as described in Part 1 of Article 2.5 of Title 16.

Allegations qualifying for a Department IA (DIA) include:

1. Offensive and/or discriminatory comments regarding race, ethnicity, gender, religious beliefs, physical characteristics and/or sexual orientation
2. Discrimination;
3. Insubordination;
4. Failure to obey an order;
5. Failure to intervene in the use of unlawful force;
6. Obstructing or hindering a criminal investigation;
7. Sleeping on duty;
8. Intoxication/ Consumption of alcohol while on duty;
9. Failure to assist/ back up other commissioned officers;
10. Abuse of sick/ medical leave;

11. Intentional and/or willful destruction, disregard, and/or tampering of evidence;
12. Intentional failure to activate or tampering with body worn or in car camera, with the intent to conceal unlawful or inappropriate actions or obstruct justice;
13. Intentional misrepresentation;
14. Working prohibited secondary employment;
15. Working while on medical leave without permission or in violation of restricted duty policy;
16. Working secondary employment while on duty;
17. Failure of a supervisor to take necessary actions;
18. Abuse of police powers;
19. All criminal violations and attempt; including serious traffic offenses (subject to prosecution by the State Attorney's Office);
20. Use of controlled dangerous substances;
21. Failure to complete training required by the P.O.S.T. Board;
22. Vehicle collision due to negligence, recklessness or gross negligence;
23. Carrying an unauthorized firearm on or off duty;
24. Carrying unauthorized ammunition on or off duty;
25. Failure to properly secure firearm: on or off duty;
26. Negligent handling of a firearm resulting in discharge;
27. Weapon discharge violation on or off duty;
28. Failure to report firearm discharge on department issued weapon;
29. Loss of departmental firearm and/or vehicle;
30. Intentional damage to departmental uniform items or equipment items;
31. Allowing unauthorized persons to wear/use departmental uniform item or equipment;
32. Major damage to department equipment as a result of negligence;
33. Improper use of department equipment;
34. Improper dissemination of investigation information;
35. Improper use of departmental information;
36. Failure to report contact with a controlled dangerous substance;

37. Associating with persons of questionable character/going to places suspected of violating the law while off duty;
  38. Surreptitiously recording other Department members; and
  39. Conducting a parallel investigation to a department investigation.
- C. Inquiry (IQ) – Internal and external concerns received that do not rise to the level of a Department IA or a 303IA.
1. Regardless of the classification assigned to any complaint, the complaint and attachments should be uploaded and forwarded via Blue Team to OPS for review and assignment of a control number. If the complaint is deemed to be an Inquiry, OPS will assign the investigation to the member's immediate supervisor for completion and recommendations.
  2. At any time during the Inquiry process, but prior to any conversation between the subject Department member and a supervisor regarding the complaint, and/or prior to the supervisor requesting the subject Department member write a memorandum or report regarding the complaint, the supervisor will advise the subject Department member that he or she is conducting an internal administrative investigation (Inquiry).
  3. Any questions asked by the supervisor, or the subject matter of any requested written statement will be narrow in scope to the complaint and will be focused on establishing facts related to the complaint for the purpose of determining any potential policy violations.
  4. Department members are required to cooperate in a department investigation, including an Inquiry, to answer all questions fully and truthfully, will not omit any material facts. The requirement to answer questions or to provide a written statement, upon request, is compelled and not voluntary. The failure of a department member to cooperate and fully and truthfully answer any questions, will subject the Department member to administrative charges and their employment with the Department will be terminated.
  5. Prior to asking any questions the supervisor will provide the Department member an Inquiry Administrative Advisement (Garrity). A Department member may also include the following language at the beginning of any compelled written statement provided in response to an Inquiry:

“I understand that I am being compelled to provide this statement as part of an internal administrative investigation. I am required to provide full and truthful information based upon the scope of the complaint as related to me. If I fail to provide full and truthful statements or omit any material information, I will be subject to administrative charges and my employment with the Department will be terminated. Any statements I make will be protected pursuant to *Garrity v. New Jersey*, 385 U.S. 493 (1967), and other relevant legal authority. However, I understand that these statements may be used against me in subsequent departmental charges.”
  6. After completion, the complaint should be forwarded via Blue Team to the Department member's commander for review and should then be forwarded to the Deputy Chief. OPS

will be notified of all complaints made to the Department and will in turn be the ultimate authority in notifying the Chief of Police or authorized designee. <26.3.2>

7. Whether the complaint is handled within or outside of the OPS, the complainant should be notified that the Department has received their complaint and be provided with periodic updates, to the extent practical, regarding the status of his or her allegation. Upon conclusion of the investigation, the investigating supervisor should notify the complainant that the investigation has been completed. Notification can be completed using the Department's notice of complaint form.
8. If a complaint concerns misconduct by the Chief of Police, the Deputy Chief of Police should forward the complaint directly to the Town Administrator.

**5.3.6 FINAL DISPOSITION**

All complaints will be assigned one of the following final disposition codes:

- A. **Unfounded:** A finding which indicates that the alleged act(s) did not occur or did not involve a department member.
- B. **Exonerated:** A finding which indicates that the alleged act(s) did occur, but that the act(s) was/were justified, lawful and/or proper.
- C. **Not Sustained:** A finding which indicates that the investigation failed to discover evidence sufficient to prove or disprove the allegations made in the complaint.
- D. **Sustained:** A finding which indicates that there is sufficient credible evidence to prove the allegations made in a complaint of misconduct and that the Department member did not follow the policy and procedure guidelines.
- E. **Clarification Only:** A finding which indicates that the complainant sought only clarification regarding his or her contact with the Department.
- F. **Partially Sustained:** A finding which indicates that the complainant made more than one allegation of misconduct against the Department member, and that the investigation determined at least one of the allegations was sustained.

All complaints and associated attachments should be maintained electronically in the IAPro software. Any complaint with a disposition code of "sustained" or "partially sustained" should include a statement of any action taken against the Department member.

**5.3.7 SCOPE OF AUTHORITY FOR CORRECTIVE ACTIONS AND DISCIPLINE, IN ADDITION TO THE TOWN OF PARKER <26.1.5> <26.1.4 a.,b.>**

- A. All supervisors may impose the following corrective actions: <26.1.5>
  1. Counseling; <26.1.4 b.>
    - a. Supervisors are responsible for providing appropriate counseling when there is a recognizable problem with a member's performance or behavior. Effective counseling



provided in a timely manner can avert the need for more stringent disciplinary actions by correcting inappropriate conduct.

- b. Counseling in response to a sustained complaint is deemed to be a type of formal corrective action.
2. Training; and/or <26.1.4 a.>
    - a. Supervisors should adopt a philosophy of training subordinates rather than punishing them in response to isolated policy violations, particularly in regard to minor violations. In many cases, a formal response to a violation may not be appropriate.
    - b. All supervisors have the discretion to administer informal retraining for violations which would normally result in a Formal Warning or less for the first violation.
  3. Negative entry into the performance tracking system in the form of a verbal reprimand which is documented; <26.1.4 c.>
  4. A Letter of Reprimand which will need Deputy Chief of Police approval prior to discipline being issued to the Department member involved. <26.1.4 c.>
- B. The Chief of Police or Deputy Chief of Police may impose the discipline described in the PD Manual.
  - C. Upon completion, Department IA and 303IA investigations should be submitted to the Deputy Chief for approval and applicable discipline decisions after the file has been reviewed by the Town's Human Resources Director and the Town Attorney's office.
  - D. The Department disciplinary categories/matrix shall be used to determine appropriate disciplinary action, except as otherwise provided in the Personnel Manual. Departure from it must be approved by the Chief of Police.

**5.3.8 DISCIPLINARY CATEGORIES/MATRIX**

- A. The Department uses a discipline categorization system and matrix to identify presumptively correct disciplinary actions for various types of misconduct. This is intended to help assure that prescribed discipline is proportionate, fair and consistent. It will also promote positive behavior by insuring awareness of consequences. The disciplinary matrix is located in Appendix A of this PD Manual. Discipline categories are explained below. Where a "midpoint" is identified, it is the presumptively correct action and shall be used except as is otherwise permitted by this policy.
- B. Categories of Misconduct
  1. Misconduct is categorized based on degree of severity. The categories range from Category "A" through Category "E". Category "A" contains the lowest levels of infractions and involves non-punitive measures. Repeated violations in any category may move an infraction to the next level. Category "B" violations or higher will normally result in punitive measures.

2. A second and/or subsequent violation of similar nature in Category “A” within 12-month period will increase the violation to a Category “B”.
3. A second and/or subsequent violation in Categories “B” and “C” within a twenty-four (24) month period will be treated as an aggravating factor and will normally increase the category of a current violation and/or its punishment to the next higher category.
4. A second and/or subsequent violation in Categories “D” and “E” within a 36-month period will normally result in dismissal.

C. Types of Violations

The disciplinary matrix contains generalized headings and sub-headings with presumptively prescribed dispositions. The generalized headings are as follows:

1. general conduct and behavior;
2. evidence & found property violations;
3. untruthfulness/deception;
4. secondary employment;
5. prisoner issues;
6. neglect of duty;
7. criminal violations;
8. department collisions (at-fault);
9. use of force;
10. pursuits;
11. firearms;
12. investigative protocol;
13. care and use of agency uniforms and equipment; and
14. miscellaneous issues.

D. General Penalty Ranges

1. Category “A” Violations: Remedial Corrective Action

- a. training and/or education;
  - b. PTS documentation;
  - c. mediation;
  - d. psychological Services; and
  - e. other non-punitive action.
2. Category “B” Violations
- Written reprimand
3. Category “C” Violations
- Ten (10) to thirty-hour (30) suspension (midpoint twenty (20) hours) from duty without pay.
4. Category “D” Violations
- a. forty (40) to eighty-hour (80) suspension (midpoint sixty (60) hours) from duty without pay; and/or
  - b. involuntary transfer when the continued presence of the member would affect performance and/or integrity of the Department.
5. Category “E” Violations
- a. demotion; or
  - b. dismissal.
6. Deviation from Presumptively Prescribed Dispositions:
- a. A supervisor or command staff member who recommends or imposes a disciplinary action other than the presumptively prescribed action shall document the aggravating or mitigating factors that justify deviation.
  - b. In cases where recommended disciplinary measures deviate from prescribed matrix standards, an independent review board consisting of three supervisors designated by the Chief of Police may review the recommendation and report their findings in writing to the Chief of Police. The Chief of Police may determine final disposition based on the information presented, as well as any other information that the Chief of Police determines is necessary for a final disposition, including any information provided by the member subject to the disciplinary action as provided in the Town Personnel Manual.

**5.3.9 PROFESSIONAL STANDARDS – AUTHORITY AND RESPONSIBILITY**

- A. The Professional Standards Commander reports directly to the Chief of Police. The investigators assigned to Professional Standards report to the Professional Standards Commander. Any Professional Standards investigator authorized outside or third-party investigator, or human resources representative conducting or assisting in any investigation, has the authority to require any Department member, regardless of rank, to make a full and complete disclosure pertaining to the commission of, or omission of, any act which might be in conflict with his or her or any other member's duties and obligations as a member of the Department. <26.2.3>
- B. The Professional Standards investigator(s) has full authority to conduct an investigation without interference from any Department member.
- C. The primary duty of the Professional Standards investigator(s) is to ensure the integrity of the Department. The Professional Standards investigator(s) will direct his or her efforts toward conducting an efficient, impartial and prompt investigation of allegations of misconduct against Department members.
- D. The Professional Standards investigator(s) will maintain a central file. This file should contain all complaints, final disposition of each complaint and all investigative material relating to disciplinary actions arising there from. <26.1.8> <26.2.2>
- E. The Professional Standards investigator(s) shall notify the complainant in writing when a complaint has been received in OPS if phone contact has not been made. The complainant will be notified of the investigative status every ten (10) days, or of the outcome when the investigation is concluded, whichever is sooner. Notifications may occur in writing, via letter or email, or verbally. All notifications including verbal will be documented in the IAPro software. 26.3.4 a.,b.,c.>

**5.3.10 INDIVIDUAL DEPARTMENT MEMBER RESPONSIBILITY**

- A. All Department members will perform their duties and should report complaints or allegations of misconduct.
- B. Department members are required to cooperate in any Department investigation and to answer questions by, or render material and relevant statements to, a supervisor or a Professional Standards investigator(s). Department Members will answer all questions fully and truthfully and will not intentionally omit any material facts. Any deviation from these requirements may result in discipline, up to and including termination.
- C. If appropriate, any Department member may be required to submit to medical or laboratory tests at the Department's expense when the examination and/or tests are specifically directed and narrowly tailored to a particular internal investigation. <26.3.6 a.>
- D. Any Department member may be required to participate in a line up, submit to a fingerprint comparison, submit to testing utilizing an instrument for detecting deception, provide a DNA sample, prepare a financial disclosure statement, and/or submit to use of audio or video recordings, when such actions are material to a particular internal investigation. <26.3.6 c.,d.,e.,f.>

- E. Department members may be required to be photographed or fingerprinted for records kept by the Chief of Police or authorized designee and/or the Professional Standards investigator. <26.3.6 b.>
- F. Department members are prohibited from participating in a parallel investigation or inquiry by or on behalf of a member subject to a department investigation.

**5.3.11 WEARING OF WEAPONS DURING INTERVIEWS AND DISCIPLINE HEARINGS**

Commissioned officers will be unarmed during interviews with the Professional Standards investigator(s) and during pre-disciplinary/disciplinary hearings with the Chief of Police or authorized designee.

**5.3.12 INTERVIEW AND INTERROGATIONS**

- A. Questioning of Department members by the OPS should be accomplished at a reasonable hour, preferably when the member is on duty, unless the time conflicts with the work schedule of the investigator. In that case, a reasonable timeframe shall be agreed upon by the investigator and the Department member, unless the seriousness of the investigation requires immediate action.
- B. Interviews and interrogations shall take place at a location designated by the Professional Standards investigator. It will usually take place at the Department.
- C. When the Department member is notified that they have become the subject of an internal investigation, the member shall be provided with a written statement of the allegations and the member's rights and responsibilities relative to the investigation. If it is known that the Department member being questioned is a witness only, they should be so informed. <26.3.5> Regardless of an individual member's status as either a subject or a witness in an internal investigation, all members will be provided the administrative advisement (Garrity) prior to an interview being conducted.
- D. Department members must answer questions even if the answers may result in departmental sanctions. Failure to do so shall result in departmental charges and your employment with the Department will be terminated. After the administrative advisement (Garrity) has been given, statements or other evidence directly obtained from or provided by a Department member during their interview with a Professional Standards investigator, or designee, after the administrative advisement cannot and will not be used against the member in a criminal prosecution, as set forth in case law.
- E. Upon written request, a subject member may be entitled to review certain records or documentation prior to submitting to an interview. Such records are limited to: the individual member's body worn camera (BWC) recordings and/or Mobile Video Recordings (MVR) which are directly related to the subject matter of the pending investigation, the member's narrative or supplemental reports, other public records directly related to the pending investigation, any prior memos written by the member regarding the subject matter, and either a recording or a transcript (if one is available) of any prior interviews to which the subject member previously submitted in the same investigation. Members may also be entitled to review the initial complaint submitted with respect to the investigation. Should the Chief of Police or his/her designee

determine any of the above records to be sensitive in nature or that such records would jeopardize the investigation, the same will be withheld from the subject member's review.

- F. Although Department members have the right to retain an attorney, the attorney will not be allowed to be present during the interview.

**5.3.13 RELIEF FROM DUTY <22.2.1>**

Any Department member may be relieved from duty, with or without pay, as a temporary administrative action by the Chief of Police for one or more of the following reasons, pursuant to the section on Administrative Leave in the Personnel Manual: <26.3.7>

- A. questions as to the Department member's physical or psychological fitness for duty;
- B. where the Department member's continued presence on the job is deemed to be a substantial and immediate threat to either the Department or the public; in such case, the Chief of Police or authorized designee shall be notified immediately;
- C. where a department member refuses to obey a direct order issued in conformance with the Department's written rules, and regulations;
- D. where temporary relief from duty is deemed appropriate by the Department member's supervisor, pending resolution of an investigation; or
- E. other circumstances as deemed appropriate by the Chief of Police or authorized designee.

**5.3.14 RETENTION OF FILES <26.1.8>**

Prior to July 1st of each year, the OPS supervisor should review the complaint and investigation files. These files shall be retained in accordance with applicable Town policy and the Parker Records Retention Schedule. If the matter is substantiated enough to warrant disciplinary action, such as suspension or termination, the retention is ten (10) years after the Department member has retired or separated from the Department. After the retention time period has passed the files will be destroyed excluding those investigations:

- A. involving on-going criminal investigations;
- B. where the Department has received notice of civil litigation, notice of administrative proceedings filed or notice of a claim filed; and/or
- C. resulting in other nonspecific extenuating circumstances.
- D. Corresponding electronic internal affairs files will also be purged following the same timeframes as outlined above.

**5.3.15 PROFESSIONAL STANDARDS ANNUAL REPORT**

The Office of Professional Standards shall compile a summary of the data contained in the electronic files and prepare an annual report, including conclusions. The completed report should be given to the Chief of Police or authorized designee during the first quarter of each year. The information

should be made available to the public and Department members as appropriate. Details of the investigation will not be included. <26.2.5>

**5.3.16 INTERNAL INVESTIGATIONS**

- A. When situations arise requiring an internal investigation, the investigation will be handled by the OPS or an outside agency at the direction of the Chief of Police or authorized designee. All investigations will be concluded within thirty (30) days unless an authorization for an extension is granted by the Chief of Police or authorized designee. <26.3.3>
- B. The Professional Standards investigator shall request an extension through the chain of command. The request must include the extenuating circumstances requiring the extension. The requests and approval/disapproval shall be documented in the IAPro software. <26.3.3>
- C. At the termination of an investigation, the investigating commissioned officer shall prepare and submit a report to the Chief of Police, Deputy Chief of Police, or authorized designee which shall contain the following: <26.3.8>
  - 1. allegation(s);
  - 2. investigation;
  - 3. summary;
  - 4. findings; and
  - 5. conclusion of fact.
- D. At the termination of a 303IA, the investigating commissioned officer shall also prepare a summary of the investigation file to be provided in the event of a request pursuant to C.R.S. 24-72-303(4)(a).
- E. The review process to approve the investigation and determine any contemplated imposition of discipline will generally be determined by the Deputy Chief of Police or authorized designee, with advisory review by Human Resources and the Town Attorney's Office. During this review, if determined necessary, the Deputy Chief of police or authorized designee, Human Resources, or the Town Attorney's Office may request that further investigation be conducted, or information obtained. Should it be determined to be necessary for further investigation or information to be obtained, the member will be notified, and such process shall be completed within fifteen (15) days, unless an authorization for extension is granted by the Chief of Police and the member notified. Once the final investigation is submitted to the Deputy Chief of Police or authorized designee, the review process to approve the investigation and determine any contemplated imposition of discipline will be concluded within fifteen (15) days unless an authorization for an extension is granted by the Chief of Police.
- F. Should the contemplated discipline be more significant than a Letter of Reprimand, the subject member will be notified, and the member can request, in writing, an opportunity to have a pre-disciplinary meeting with the Deputy Chief of Police or authorized designee.

- G. Upon receiving notification regarding the completed investigation, but prior to the final imposition of discipline, a member can make a written request to review the investigation file. Upon the discretion of the Chief of Police, certain records deemed otherwise confidential or sensitive may be removed from the investigation file prior to such review. The review must be conducted in an area designated by OPS, and the OPS Commander or other designee may be present to ensure that no records are copied, photographed, or removed from the file. The member may not remove any records from the room where the review is being conducted. The member may not make copies, photograph, or otherwise obtain images of any of the records in the file. Additionally, if the member wishes to make notes during the file review, such notes are to remain in OPS and will be provided to the member, upon request, only during their attendance at a pre-disciplinary meeting, and must be returned to OPS immediately after a pre-disciplinary meeting. All notes provided to OPS will be retained in the IAPro software system.
- H. Sections (E) and (G) only apply to formal OPS investigations and do not apply to any Preliminary Investigation or Inquiry. Additionally, should a member be the subject of an EEO (Equal Employment Opportunity) investigation, pursuant to confidentiality reasons, Sections (E) and (G) do not apply.
- I. If a formal OPS investigation is ultimately determined to be sustained, and the determined discipline is more significant than a Letter of Reprimand, regardless of whether a pre-disciplinary meeting was held, the Deputy Chief or Chief may schedule a meeting with the subject member to discuss the final imposition of discipline with the member.
- J. Regardless of the level of any corrective action or disciplinary action imposed, and irrespective of whether the member requests a pre-disciplinary meeting, any member may submit a written statement of mitigation or other relevant information that they wish to be considered in deciding potential discipline and included in the investigation file.
- K. After the final disposition of a formal OPS investigation, any subject member may submit a written request to the Chief of Police for a copy or review of the investigation. If the formal OPS investigation is designated as a 303IA, the subject is entitled to request a copy and will be provided information that would be disclosed under C.R.S 24-72-303, as amended. However, if the formal OPS investigation is designated as a DIA, while a subject member can make a request to the Chief of Police, such requests will be reviewed on a case by case basis on the nature of the investigation and the information contained therein, and it will be determined if any information is appropriate to disclose to the subject member, and, if so, if that information will be subject to review only (with possible redactions) in OPS as outlined below, or if copies of any documentation are appropriate to provide to the subject member.

A review only in OPS must be conducted in an area designated by OPS. The OPS Commander or other designee may be present to ensure that no records are copied, photographed, or removed from the file. The member may not remove any records from the room where the review is being conducted. The member may not make copies, photograph, or otherwise obtain images of any of the records in the file. Additionally, if the member wishes to make notes during the file review, such notes are to remain in OPS and will be retained in the IAPro software system.



**5.3.17 NOTIFICATION**

When incidents of major concern occur, supervisors should communicate all information through the chain of command which will notify the Chief of Police or authorized designee. The OPS should handle all investigations of major concern which include, but are not limited to: <26.3.1 a.,b.> <26.1.5>

- A. allegations of criminal activity;
- B. allegations of civil rights violations;
- C. incidents involving off-duty misconduct;
- D. allegations of unreasonable or unnecessary force;
- E. allegations of physical abuse or threats of bodily harm against another person;
- F. insubordination; and
- G. dishonesty.

**5.3.18 RESPONSE**

Professional Standards investigator(s) may respond to the following incidents:

- A. Any commissioned officer-involved shooting or discharge of a firearm or other weapon outside the Town limits.
- B. When, because of the application of force by a commissioned officer, a person is admitted to a hospital ("admitted to a hospital" means the probability is great that the person will be confined to a hospital for more than eight hours for purposes of medical treatment).
- C. Major police actions which are of public interest or may result in claims being made against the Department.
- D. If a department member is involved in an incident and it is immediately apparent that a criminal investigation will be conducted, the assigned Professional Standards investigator(s) should not respond until the member(s) involved has been removed from the scene. When the assigned Professional Standards investigator(s) responds to the scene, his or her purpose is to observe the scene and the circumstances. The assigned Professional Standards investigator(s) will not direct or otherwise become involved with the criminal investigation.

**5.3.19 INVESTIGATION**

- A. If an investigation is criminal in nature, the Department member under investigation will be advised of the fact. Criminal investigations should be conducted by another jurisdiction to avoid a conflict of interest. A Miranda advisement should be given to the Department member under investigation prior to questioning. No Department member will be required to incriminate themselves in a criminal investigation. Statements made during a criminal investigation may be used in any subsequent administrative proceeding.

- B. If the alleged misconduct is criminal, Professional Standards will monitor the progress and outcome of the investigation into the criminal charges to determine whether the alleged conduct involves a possible violation of Town, Department policies, procedures, guidelines, regulations or orders. However, the Office of Professional Standards is not prohibited from conducting their own administrative investigation while a criminal investigation is pending.
- C. Lack of evidence sustaining a criminal charge will not preclude disciplinary actions arising out of a subsequent investigation into a possible violation of policy, procedures, guidelines, regulations or orders.
- D. Department members involved as a subject of an investigation may have access to review their investigation after the investigation is completed and approval from the Chief of Police or authorized designee is granted. As soon as practical, all findings of any investigation should be reported to the Chief of Police.

**5.3.20 DISMISSAL/RESIGNATION**

- A. If a member's misconduct results in dismissal (outlined in the Town Personnel Manual) the following will be provided to the member:
  - 1. a written statement citing the reason for dismissal; <26.1.7 a.>
  - 2. the effective date of the dismissal; and <26.1.7 b.>
  - 3. a statement of the status of fringe and retirement benefits after dismissal. <26.1.7 c.>
- B. If a member resigns while under investigation for violating Department policy, or is dismissed for a sustained policy violation, that resignation/dismissal will be reported to the designated State recording agency, if required by Colorado Revised Statutes.