

# Personnel Complaint Procedure

## **1020.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidelines for the reporting, investigation and disposition of complaints regarding the conduct of police department employees. For purposes of this policy, "employee" includes volunteer, and "supervisor" includes Officer in Charge (OIC), Sergeant, Support Services Supervisor (PASS) and Lieutenant.

### **1020.1.1 PERSONNEL COMPLAINTS DEFINED**

Personnel complaints consist of any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state or local law.

Inquiries about employee conduct which, if true, would not constitute a violation of department policy, federal, state or local law, may be handled informally by a department supervisor and shall not be considered complaints.

Complaints may be of internal or external origin.

This policy shall not apply to any interrogation, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of an employee in the normal course of duty, by a supervisor or any other employee, nor shall this policy apply to an investigation concerned solely and directly with alleged criminal activities (Cal. Govt. Code 3303(i)).

### **1020.1.2 INTERNAL COMPLAINTS**

Any department employee becoming aware of alleged misconduct shall immediately notify a supervisor. Any supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation or continuation of the situation giving rise to the complaint. Anonymous and/or third-party complaints shall be accepted and investigated to the extent that sufficient information is provided.

Any supervisor may initiate an internal complaint when there is cause to believe that an employee has engaged in conduct that is in violation of department policies or in violation of criminal or civil statutes. A supervisor initiating an internal complaint shall, by memorandum to the PSO, request the Police Chief initiate an investigation. The Police Chief may reject the request, recommend an alternate disposition, or assign the matter to be investigated. When choosing whether to initiate an internal complaint, the supervisor should consider whether the conduct warrants a formal investigation or can be handled through immediate counseling or training by a supervisor of rank greater than the subject employee.

An internal complaint investigation will be conducted in the same manner as an external/citizen complaint investigation.

### **1020.1.3 EXTERNAL COMPLAINTS**

A complaint made by any non-agency member may be filed in person (verbal), in writing, by telephone, or via email. Complaints are not required to be presented on the Albany Police Department Complaint Form. Anonymous and/or third-party complaints shall be accepted and investigated to the extent that sufficient information is provided.

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All complaints shall be investigated by a department supervisor of rank greater than the accused employee or referred to another qualified investigator depending on the nature and complexity of the investigation. All such assignments are made at the direction of the Chief of Police.

#### **1020.2 AVAILABILITY OF COMPLAINT POLICY AND FORMS**

Complaint Forms will be maintained in a clearly visible location in the public lobby. An electronic copy of this policy and a Complaint Form will also be maintained on the police department webpage. An additional supply of policy and forms will be kept at or near the communications center in the event of need.

##### **1020.2.1 COMPLAINTS REGARDING DEPARTMENT POLICY OR PROCEDURE**

Complaints about department policy, practice or procedure shall be forwarded to the appropriate Division Commander for review. The Division Commander shall review the complaint, conduct any needed investigation or follow-up and when appropriate, shall provide a written memorandum within 30 days to the Chief of Police containing recommendations regarding any changes to department policy or procedure that should be made. These complaints shall be kept separate from all personnel complaints.

##### **1020.2.2 PROFESSIONAL STANDARDS OFFICER**

The Chief of Police shall designate an agency member of the rank of Sergeant or higher to perform as a Professional Standards Officer (PSO). An employee serving in the role of PSO shall report directly to the Chief of Police on complaint matters and associated records.

The designated PSO is charged with responsibility for:

- Completing mandated CA DOJ reports
- Performing Category I administrative investigations
- Tracking ongoing investigations to ensure timely completion
- Maintaining statistical data on externally originating complaints
- Providing ad hoc reports when requested by the Chief of Police
- Responding to Superior Court pretrial discovery "Pitchess" motions
- Notifying complainants of receipt of complaint and assignment of investigator
- Familiarization and training of all employees in this policy and related matters/systems

All formal complaints should be routed to the PSO, who will then brief and confer with the Chief of Police, at which time a complaint classification and investigator will be assigned. If the PSO is not assigned as primary investigator, he/she will assist the assigned investigator as needed.

##### **1020.2.3 ACCEPTANCE OF COMPLAINTS**

Non-supervisory employees are prohibited from questioning the complainant about the matter (i.e. officers involved, when it incident took place, etc).

Complaints received via telephone shall be directed to a supervisor who shall make an audio recording of the complaint to insure accuracy.

If possible, citizen complaints should be documented on the Albany Police Department Complaint Form. However, any and all written complaints and/or attachments submitted by the complainant shall be accepted. Any non-supervisory employee receiving a written

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complaint by any method shall immediately forward the complaint to the on-duty supervisor. The supervisor will ensure the complaint is immediately forwarded to the Professional Standards Officer for review.

If a written complaint is received by mail or other means, the Professional Standards Officer will mail a copy back to the complainant and make the appropriate notation on the Citizen Complaint Tracking Form.

A complainant is not required to speak to a supervisor prior to filing a written complaint. However, complaining parties should generally be referred to a supervisor who can potentially resolve the complaint, provide a written complaint form, and/or offer assistance to the complainant if necessary. Refer to Policy Manual § 1020.3

A complainant who does not speak with a supervisor may obtain a citizen complaint form in the Albany Police Department lobby. Complaint Forms are also available on the Albany Police Department website. The completed form may be returned at the Albany Police Department lobby counter, mailed to the Albany Police Department, or mailed/returned to the City Manager's Office.

When a complainant is obviously under the influence of any mind-altering substance to the point where his/her credibility appears to be unreliable, the complaint should be accepted and the state of intoxication/drug influence documented by the receiving officer.

When a complainant is obviously suffering from mental illness to the point where his/her credibility appears to be unreliable, the complaint should be accepted and the observed mental illness documented by the receiving officer.

Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be received only with a parent or guardian present and after the parent or guardian has been informed of the circumstances of the contact that gave rise to the complaint.

When an uninvolved supervisor or the Watch Commander determines that a complainant is satisfied that the complaint required nothing more than an explanation regarding the proper/improper implementation of department policy or procedure, a complaint need not be taken.

A complaint that is determined to be without merit may be closed at intake by a supervisor under the provisions of Policy Manual § 1020.9.3. The supervisor making such a determination must make written notification of closure at intake to the Professional Standards Officer.

### **1020.3 SUPERVISORY RESPONSIBILITY**

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation. Moreover, supervisors shall also maintain the ability to engage in the interrogation of an employee in the normal course of duty, counseling, instruction, or informal verbal admonishment, or other routine or unplanned contact (Cal. Govt. Code 3303(i)).

A request made to any employee to speak to a department supervisor about possible employee misconduct or the mishandling of an incident or call for service shall be interpreted as a complaint. Such requests to speak to a supervisor shall be accepted and the patrol supervisor shall be summoned, if available. This type of request takes precedence over routine supervisory duties or low priority calls for service. If the patrol

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supervisor is not immediately available to speak to the complainant, the name and phone number of the complainant shall be provided to a supervisor, as soon as one is available. Available department personnel should provide the complainant with the Complaint Form and notify him/her that the supervisor is unavailable but will make contact as soon as possible. The supervisor should attempt to contact the complainant prior to the end-of-watch, or minimally, ensure the on-coming supervisor is briefed on the matter and contacts the complainant as soon as possible during the on-coming watch.

The responding supervisor should assess the initial complaint and interview the complainant if they are willing to speak to the supervisor. This will provide an initial forum for a citizen to resolve what may not actually be a complaint about an employee, but an inquiry or objection to a policy or procedure, a law, or the handling of an incident they witnessed or were involved in. The supervisor should record the contact or take notes to ensure the statement can be later recalled and documented if the matter is investigated. Following the supervisor's preliminary investigation, if the situation warrants, the supervisor may proceed under procedures for a Category III Informal Complaint. Refer to Policy Manual § 1020.6.

All complaints of alleged misconduct shall be properly documented by a supervisor. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible. When a Complaint Form is completed in person, the complainant should legibly write a detailed narrative of his/her complaint. If circumstances indicate that this is not feasible, the complaint may be dictated to the receiving supervisor. In an effort to ensure accuracy in any complaint, it is recommended that a recorded statement be obtained from the complainant. A refusal by a party to be recorded shall not be grounds to refuse to accept a complaint. Whether handwritten or dictated, the complainant's signature should be obtained at the conclusion of the statement. The complainant shall be provided with a copy of his/her own original complaint (Penal Code § 832.7) by the receiving supervisor. The supervisor shall document that a copy was provided to the complainant.

A supervisor receiving a complaint shall ensure that a Complaint Form has been completed as fully as possible. The original complaint should be directed to the Professional Standards Officer, or in his/her absence, the Chief of Police.

During the preliminary investigation of any complaint, the supervisor should make every reasonable effort to obtain names, addresses and telephone numbers of additional witnesses. Photographs of any alleged injuries as well as accessible areas of non-injury should be taken.

In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the affected Division Commander or the Chief of Police who will initiate appropriate action.

A supervisor receiving a complaint involving allegations of a potentially serious nature shall ensure that the affected Division Commander and Chief of Police are promptly notified. When the nature of a personnel complaint relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination, the supervisor receiving the complaint shall immediately contact the Chief of Police for direction.

#### **1020.4 COMPLAINT CATEGORIZATION**

Personnel Complaints shall be classified in one of the following three categories:

##### **Category I - Formal Complaint:**

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Category I complaints are of a serious nature that will be formally investigated and could result in major corrective action (more than a letter of Written Reprimand). The Chief of Police may classify any complaint, regardless of the nature of the complaint, as a Category I Formal Complaint and order a full investigation of the matter. Category I examples include, but are not limited to, significant violations of department policy, such as:

- Corruption or dishonesty
- Use of unnecessary force
- Unlawful detention or arrest
- Commission of any unlawful act (on or off-duty)
- Bias-based policing or any civil rights violations

#### **Category II - Formal Complaint:**

Category II complaints are those complaints of a nature that, if found to be true, would likely result in either informal or minor corrective action (letter of Written Reprimand or less). Some examples of Category II complaints include those where the allegations are:

- Improper procedure
- Poor/inadequate service
- Rude conduct/discourtesy
- Minor APD Policy Manual violations
- Discourteous or irresponsible operation of a department vehicle

#### **Category III - Informal Complaint:**

In those cases where a supervisor receives an inquiry or complaint and, after speaking to the complainant, it is determined that the complainant will be satisfied with having the supervisor relay any feedback or concern directly to an employee, without a formal investigation, a complaint may be classified as a Category III informal complaint. An informal complaint may be documented subject to the provisions of this policy; however, formal corrective action cannot result. A supervisor retains the ability to request an internal investigation if the alleged conduct is particularly grievous or criminal in nature, regardless of whether or not the complaining party agrees to cooperate in investigating the allegation.

Any Category III complaint in which the complaining party is satisfied that appropriate action has been or will be taken by a department supervisor of rank greater than the accused employee need not be documented on a Complaint Form and the responsible supervisor shall have the discretion to handle the complaint in any manner consistent with this policy. Refer to Policy Manual § 1020.6.

#### **1020.5 CATEGORY I & II COMPLAINT INVESTIGATION**

The Professional Standards Officer (PSO) shall issue each formal complaint a file number and initiate a Citizen Complaint Tracking Form to accompany the original complaint. The PSO is responsible for ensuring that the complainant has received a copy of the complaint as per Penal Code § 832.7.

The PSO will then initiate the formal investigation or, if the Chief of Police has designated a different supervisor to conduct the investigation, turn the complaint over to the assigned supervisor. Generally, only Division Commanders will conduct Category I investigations. In any event, the assigned supervisor should have had no direct involvement in the incident

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being investigated. All assignments will be documented on the Citizen Complaint Tracking Form and the PSO will retain investigative oversight.

If the complaining party is charged with a criminal offense associated with this investigation, then the investigation may be suspended until the completion of the criminal trial.

If the nature of the allegations dictate that confidentiality is necessary to maintain the integrity of the investigation, the involved employee(s) need not be notified of the pending investigation unless and until the employee is interviewed or formally charged.

If new or additional facts become known to the investigator which would likely move the complaint from a Category II to a Category I allegation, the investigator should temporarily stop the investigation and immediately notify the PSO, who should then consult with the Police Chief. At the direction of the Police Chief, the investigation may be re-assigned to the PSO or another investigator.

When a supervisor is investigating a complaint in which unusual circumstances exist, or where points of policy and procedure clarification are necessary, he/she should consult with the PSO to maintain consistency in the investigative process.

#### **1020.5.1 PROCEDURES REGARDING THE ACCUSED EMPLOYEE(S)**

The following procedures shall be followed with regard to the accused employee(s):

Interviews of accused employees shall be conducted during reasonable hours and, if the employee is off duty, the employee shall be compensated (Government Code §3303(a)).

No more than two interviewers may ask questions of an accused employee (Government Code § 3303(b)).

Prior to any interview, an employee shall be informed of the nature of the investigation (Government Code § 3303(c)).

All interviews shall be for a reasonable period and the employee's personal needs shall be accommodated (Government Code § 3303(d)).

No employee shall be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively or be subject to discipline for insubordination. Nothing administratively ordered may be provided to a criminal investigator (Government Code § 3303(e)).

The investigator shall record all interrogations or interviews conducted as part of an investigation. Subject employees may also record their interview. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview (Government Code § 3303(g)).

If the allegations involve potential criminal conduct, the employee shall be advised of his/her Constitutional rights pursuant to Lybarger (Lybarger v. City of Los Angeles (1985) 40 Cal.3d 822, 827). This admonishment shall be given administratively whether or not the employee was advised of these rights during any separate criminal investigation. (Government Code § 3303(h)).



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All employees subjected to interviews that could result in punitive action shall have the right to have an uninvolved representative present during the interview (Government Code § 3303(i)).

Employees who are interviewed shall not provide misleading, untruthful, inaccurate, or partially misleading, untruthful, or inaccurate information to the investigator, nor shall any employee fail to disclose any pertinent facts or information within their knowledge to the investigator.

#### **1020.6 CATEGORY III COMPLAINT INVESTIGATION**

A supervisor may counsel an employee regarding a Category III Informal Complaint. For the purposes of this policy, personnel counseling is defined as a process in which a command officer or supervisor meets with an employee in a non-punitive setting to discuss the employee's performance. Counseling sessions employ techniques designed to reinforce good performance, improve poor performance and, when appropriate, correct behaviors that precipitate or contribute to complaints and/or allegations of misconduct. The counseling defined in this policy is intended to be a positive tool to assist employees in reaching a higher level of effectiveness. Supervisors are encouraged to use counseling sessions to help improve communication with employees. Counseling may be documented in the employee's performance file as part of the performance review.

A supervisor may provide or recommend training to an employee. Training is a non-punitive tool used to make members more efficient/effective by providing instruction and practice. Training can be either in-house or outside training, specific to the needs of the employee and the department. Training should be documented in an employee's performance or personnel file, as appropriate.

A supervisor should, absent extenuating circumstances or in those cases where the allegations made are such that there is no reasonable basis for believing that any misconduct occurred, conduct a performance review of the matter to determine whether the incident should be documented in the employee's performance file. A performance review, for the purposes of this policy, is defined as an informal examination of the incident with an emphasis on the manner in which the employee performed his/her job tasks and how that manner may have contributed to the complaint.

A supervisor shall, prior to placing any document created pursuant to this policy, provide a copy to the Division Commander for review. A copy shall also be provided to the employee, who should initial the document before it is placed in any file. Should the employee refuse to initial the document, the supervisor shall make a notation on the document that the employee had an opportunity to review it and they refused to initial it. An employee may respond in writing within 30 days to any document which is adverse to their interest and placed in any file.

A copy of the performance review will be maintained in the employee's division performance file and may be used pursuant to the provisions of Policy Manual § 1002 Evaluation of Employees. Documentation shall be in the form of a short summary of the incident and what actions, if any, were taken. The memorandum shall contain the complainant's name, address, phone number, and any other identifying information. The original copy of the document shall be forwarded, through the chain of command, to the Professional Standards Officer who will be responsible for filing and maintaining the document. A performance review and any documentation of such is a non-punitive action.

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#### **1020.7 ASSIGNMENT TO ADMINISTRATIVE LEAVE**

When a complaint of misconduct is of a serious nature or when circumstances practically dictate that it would impose an unreasonable risk to the Department, the employee, other employees or the public, a supervisor may assign the accused employee to inactive duty pending completion of the investigation or the filing of administrative charges. An employee placed on administrative leave may be subject to the following guidelines:

- Under such circumstances, an employee placed on administrative leave shall continue to receive regular pay and benefits pending the imposition of any discipline
- An employee placed on administrative leave may be required by a supervisor to relinquish any badge, departmental identification, assigned weapon(s) and any other departmental equipment
- An employee placed on administrative leave may be ordered to refrain from taking any action as a departmental employee or in an official capacity. The employee shall be required to continue to comply with all policies and lawful orders of a supervisor
- An employee placed on administrative leave may be temporarily reassigned to a different shift (generally normal business hours) during the pendency of the investigation and the employee may be required to remain available for contact at all times during such shift and report as ordered

It shall be the responsibility of the assigning supervisor to promptly notify the employee's Division Commander and the Chief of Police

#### **1020.8 ADMINISTRATIVE SEARCHES**

An employee of this department may be administratively ordered to submit to a blood, breath, or urine test for alcohol and drugs under any of the following circumstances:

- When the employee, whether on or off duty, is involved in a shooting or police related death.
- When the employee is involved in an injury or fatal accident while on duty.
- When the employee is involved in an injury or fatal accident while operating any City owned vehicle whether on or off duty.
- When the employee is found to be exhibiting objective symptoms of intoxication or drug influence while on duty.

The use of compelled testing results shall be restricted to the administrative investigation.

Assigned lockers and storage spaces may only be administratively searched in the employee's presence, with the employee's consent, with a valid search warrant or where the employee has been given reasonable notice that the search will take place (Government Code § 3309). An investigative search of such areas shall only be conducted upon a reasonable suspicion that misconduct is involved. All other departmentally assigned areas (e.g., desks, office space, assigned vehicles) may be administratively searched by a supervisor, for non-investigative purposes. (e.g., obtaining a needed report, department equipment, property or for other operational purposes). Employees shall have no expectation of privacy when using telephones, computers, radios or other communications methods or devices provided by the Department.

#### **1020.9 CLASSIFICATION OF FORMAL COMPLAINT ALLEGATIONS**

All formal complaints of either category I or II shall be classified with one or more of the following applicable allegations:



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- Dishonesty
- Discourtesy
- Unlawful Act
- Neglect of Duty
- Unreasonable Force
- Workplace Harassment
- Workplace Discrimination
- Policy/Procedure Violation
- Unlawful Search or Seizure
- Unlawful Detention or Arrest
- Conduct Unbecoming an Officer
- Excess Police Service or Harassment
- Bias-Based Policing (includes discrimination)

If an investigation reveals misconduct or improper job performance which was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

#### **1020.9.1 COMPLAINT INVESTIGATION REPORT FORMAT**

Investigations of formal personnel complaints shall be detailed, complete and essentially follow this format:

##### **Introduction**

Include the identity of the employee(s), the identity of the assigned investigator(s), the initial date and source of the complaint.

##### **Synopsis**

Provide a very brief summary of the facts giving rise to the investigation.

##### **Summary of Allegations**

List the allegations separately (including applicable policy sections)

##### **Victim/Complainant Interview(s)**

Include a comprehensive summary of victim/complainant statements.

##### **Witness Interview(s)**

Include a comprehensive summary of witness statements.

##### **Accused Interview(s)**

Include a comprehensive summary of accused employee statements.

##### **Evidence as to Allegations**

Each allegation should be set forth with the details of the evidence applicable to each. A separate recommended disposition should be provided for each allegation.

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#### **Conclusion and Recommendations**

A recommendation regarding further action or disposition should be provided.

#### **Exhibits**

A separate list of exhibits (recordings, photos, documents, transcriptions, etc.) should be attached to the report.

#### **1020.9.2 DISPOSITION OF PERSONNEL COMPLAINTS**

Upon conclusion of a formal (Category I & II) complaint investigation, each allegation shall receive one of the following four dispositions:

##### **Sustained**

When the investigation discloses sufficient evidence to establish that the alleged act did in fact occur and that it constituted misconduct. The standard for burden of proof in sustaining any allegation shall be "clear and convincing evidence." If an anonymous complaint cannot be verified by other evidence, or a third-party refuses to identify the affected complainant, the complaint will not result in a sustained disposition unless there is sufficient independent evidence to support such a disposition.

##### **Not Sustained**

When the investigation discloses that there is insufficient evidence to sustain the complaint allegation or fully exonerate the employee in the matter.

##### **Unfounded**

When the investigation discloses that the alleged act did not occur or did not involve the employee subject to investigation.

##### **Exonerated**

When the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.

Upon conclusion of an informal (Category III) complaint investigation, the matter shall receive the following disposition:

##### **Information Received**

A category III complaint investigation is NOT a disciplinary investigation – it is an informal examination of the incident with an emphasis on the manner in which the employee performed his/her job tasks and how that manner may have contributed to the complaint.

The investigating supervisor shall document any action taken (i.e. Performance Review) and provide copies of any such document as described in "Category III Complaint Investigation" above. Category III complaints are not reportable to the Department of Justice under the requirements found in 13012(e) P.C.

#### **1020.9.3 ADDITIONAL COMPLAINT DISPOSITIONS**

##### **Without Merit**

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The allegation of misconduct is totally without merit or for the sole purpose of harassing an employee. Without merit is synonymous with "frivolous" as cited in 832.5 (c) P.C. and 128.5 of the Code of Civil Procedure.

#### **Resolved through Mediation**

The Chief of Police may authorize mediation of any complaint if all parties voluntarily agree to such a process. In these instances, the complaint is removed, without investigation, from the disciplinary process to allow a neutral third-party to facilitate a discussion/mediation. By agreeing to enter this process, the complaint is closed against the officer and is considered "Resolved through Mediation."

#### **Withdrawn**

When the complainant expresses a voluntary desire to withdraw the complaint, or the complaint investigator determines conditions exist to merit this disposition.

A complainant may withdraw his/her complaint at any stage of the complaint process. Withdrawal will bring the complaint investigation to an end and the file will be closed. If a complainant chooses to withdraw a complaint, the investigator must notify the Chief of Police in writing, giving sufficient documentation of the reason/s for withdrawal. The Chief of Police may grant withdrawal of the complaint if he/she is satisfied that the withdrawal was made voluntarily and for good cause.

The investigator may also recommend a complaint disposition of withdrawn, by providing such written recommendation to the Chief of Police, if any of the following conditions apply:

- The subject matter of the complaint has been, or is likely to be, dealt with by another body or statutory authority, or the Chief of Police.
- The complainant fails to reply to any correspondence, phone calls or attempts to contact over a reasonable amount of time.
- The subject employee of the complaint is no longer subject to administrative compulsion to participate in the investigation

The Chief of Police may refuse to accept withdrawal of any complaint. Any complaint given a disposition of withdrawn requires the Chief of Police provide a written explanation to all involved parties, in writing, within 30 days. Complaints receiving any disposition found in this subsection are not reportable to the Department of Justice under the requirements found in 13012(e) P.C.

#### **1020.10 COMPLETION OF INVESTIGATIONS**

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation. In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or § 3508.1.

Recognizing that factors such as witness availability and the complexity of allegations will affect each case, every effort should be made to complete each investigation within a reasonable period following receipt. Administrative personnel investigations should be completed according to the following standards:

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- Category I – 90 calendar days
- Category II – 60 calendar days
- Category III – 15 calendar days

Upon presentation of good cause, the Chief of Police may authorize an extension beyond the recommended standard.

After an investigation has been completed, the report and all supporting documents will be forwarded to the PSO. Any evidence, recordings, photographs, or original documents not attached to the investigation shall be placed in evidence and recorded/referenced using the complaint number.

The PSO is responsible for reviewing the completed report and its recommended disposition/s. The report will then be forwarded to the Chief of Police who will assign the final disposition/s. The Chief of Police may accept, reject or modify any classification and recommendation contained in the report.

The Chief of Police is responsible for filing the final document and sending out disposition notices to the involved parties within 30 days of the final review. This notice shall indicate the allegation dispositions, however will not disclose the amount of discipline, if any, imposed. Any complaining party who is not satisfied with the disposition of a complaint may contact the Chief of Police directly to discuss the matter further.

#### **1020.11 ADMINISTRATIVE ACTION ON SUSTAINED COMPLAINTS**

Administrative corrective action on a sustained complaint allegation may include one or more of the following:

Training

Oral Counseling

Change of Assignment

Documented Counseling

Written Reprimand\*

Suspension\*

Demotion\*

Discharge\*

Referral for criminal complaint

\*Denotes disciplinary action

Only the Chief of Police may administer disciplinary action to APD personnel.

#### **1020.12 ALLEGATIONS OF CRIMINAL CONDUCT**

The Chief of Police shall be immediately notified when an employee is formally accused of criminal conduct. Where an employee of this department is accused of potential criminal conduct, a separate supervisor or detective may be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative

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investigation may parallel a criminal investigation. In the event of serious criminal allegations, the Chief of Police may request a criminal investigation by an outside law enforcement agency.

An employee accused of criminal conduct shall be provided with all rights and privileges afforded to a civilian and the employee may not be administratively ordered to provide any information to a criminal detective.

No information or evidence administratively coerced from an employee may be provided to a criminal detective. Any law enforcement agency is authorized to release information concerning the arrest or detention of a peace officer, which has not led to a conviction, however, no disciplinary action, other than paid administrative leave shall be taken against the accused employee based solely on an arrest or crime report (Labor Code § 432.7(b)).

#### **1020.13 CONFIDENTIALITY OF PERSONNEL FILES**

All investigations of personnel complaints shall be considered confidential peace officer personnel files. The contents of such files shall not be revealed to other than the involved employee or authorized personnel except pursuant to lawful process.

In the event that an accused employee (or the representative of such employee) knowingly makes false representations regarding any internal investigation and such false representations are communicated to any media source, the Albany Police Department may disclose sufficient information from the employee's personnel file to refute such false representations (Penal Code § 832.5).

Sustained complaints shall be maintained in the affected employee's personnel file. Complaints which are not sustained, unfounded, exonerated, withdrawn or found to be without merit shall be maintained apart from the employee's personnel file.

All personnel complaints shall be maintained on file (under the control of the Chief of Police) for a period of no less than five years. (Penal Code § 832.5, Government Code § 34090 et seq).