

To	From
BOARD OF HARBOR COMMISSIONERS	
EXECUTIVE DIRECTOR	
DED - ADMINISTRATION, EO, COS	
DED - PUB SAFETY & EMERG MGT, CHIEF	
DED - MKTG & CUSTOMER RELATIONS	
DED - DEVELOPMENT	
DED - STAKEHOLDER ENGAGEMENT	
SR DIR COMM & STAKEHOLDER ENGAGE	
SR DIR WORKFORCE & GOV AFFAIRS	
CHIEF FINANCIAL OFFICER	
ACCOUNTING	
CARGO INDUST REAL ESTATE	
CARGO MARKETING	
CITY ATTORNEY	
COMMISSION OFFICE	
COMMUNITY RELATIONS	
CONSTRUCTION	
CONSTRUCTION & MAINTENANCE	
CONTRACTS & PURCHASING	
DEBT & TREASURY MANAGEMENT	

CITY OF LOS ANGELES  
HARBOR DEPARTMENT

November 8, 2024

To	From
EMERGENCY MANAGEMENT	
ENGINEERING	
ENVIRONMENTAL MANAGEMENT	
FINANCIAL MANAGEMENT	
GOODS MOVEMENT	
GRAPHIC SERVICES	
HUMAN RESOURCES	
INFORMATION TECHNOLOGY	
INTERNAL AUDIT	
LABOR RELATIONS & GOV AFFAIRS	
MEDIA REL & STRATEGIC COMM	
PLANNING & STRATEGY	
PORT PILOTS	
X PORT POLICE	X
RISK MANAGEMENT	
TRADE DEVELOPMENT	
WATERFRONT/COMM REAL ESTATE	
WHARFINGERS	

**SPECIAL ORDER 24-02**

TO: All Port Police Personnel

SUBJECT: POLICY MANUAL UPDATE SECTION 1020 PERSONNEL COMPLAINTS

Effective immediately, the Los Angeles Port Police Policy Manual will be reissued to update Policy Section 1020 Personnel Complaints.

All staff are directed to read and become familiar with the above policy manual update. Sworn and civilian employees will access the manual through their Lexipol accounts. You may also access the manual on the "G" drive.

THOMAS E. GAZSI  
Chief of Police

TEG:RWA:KJM:arl

## Personnel Complaints

### 1020.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation, and disposition of complaints regarding the conduct of members of the Los Angeles Port Police. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment, or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other ranking member, nor shall this policy apply to a criminal investigation.

#### 1020.1.1 OTHER CITY POLICIES

See also the Los Angeles Harbor Department (LAHD) Employee Manual and the City Personnel Policies for additional information.

### 1020.2 POLICY

The Los Angeles Port Police takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state, and local law, municipal and county rules, and the requirements of any collective bargaining agreements.

It is also the policy of this Department to ensure that the community can report misconduct without concern for reprisal or retaliation.

### 1020.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of Department policy or of federal, state, or local law, policy, or rule. The definition also includes any Department service, policy or procedure, or claims for damages.

#### 1020.3.1 COMPLAINT CLASSIFICATIONS

Complaints reported shall be classified as either Disciplinary or Non-Disciplinary. The Watch Commander, Section's Officer in Charge, supervisor or civilian equivalent is responsible for the initial complaint classification; however, the employee's Commanding Officer may reclassify the complaint at any time.

The classification shall be included when forwarding the report for review by the Commanding Officer.

#### 1020.3.2 NON-DISCIPLINARY CLASSIFICATIONS

A complaint may not be classified as non-disciplinary if any of the following criteria are met:

- (a) The complaint, as stated, may result in discipline against the employee.
- (b) The complaint, as stated, would amount to the commission of a felony or misdemeanor crime.

## *Personnel Complaints*

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- (c) The complaint alleges any of the following:
1. Unauthorized force.
  2. Discrimination of any kind.
  3. Unlawful search and/or unlawful seizure of person or property.
  4. Dishonesty.
  5. Domestic Violence.
  6. Improper/Illicit use of alcohol, narcotics, or drugs.
  7. Sexual misconduct.
  8. Theft.
  9. Retaliation/retribution against another employee.

Exception: When it is clearly proven at the time of the preliminary complaint investigation that the alleged misconduct is Demonstrably False, as defined in this policy, the allegation may be classified as non-disciplinary.

A Commanding Officer who receives and/or recommends a non-disciplinary classification shall select the appropriate disposition/rationale as follows:

- (a) Policy/Procedure - The facts of the case revealed that the complaint relates to Department policy or procedure and not to a specific employee's actions. e.g. A subject complains that they should not have received a parking citation. The initial supervisor's investigation revealed that the citation was issued correctly and the subject did not have any contact with the officer.

Note: Complaints against Department policy and procedure, not specifically addressing an employee's actions, shall still be initiated on a Complaint Form. In such cases, the Department shall be named as the accused employee, and the complaint will be adjudicated as non-disciplinary. Individuals making complaints against Department policy and procedure shall also be referred to the Department entity having functional oversight of the policy or procedure.

- (b) Employee's Actions Did Not Rise to the Level of Misconduct - A preliminary investigation revealed that the allegations did not rise to the level of misconduct and/or the named employee's actions were protected by law or found to be consistent with Department policy or procedure. e.g. A subject complains that they were unnecessarily handcuffed during a law enforcement contact. A supervisor's investigation showed that during the officer's initial contact, the subject threatened to fight the officer. The officer's use of the handcuffs continued only as long as reasonably necessary.
- (c) Employee's Actions Could Have Been Different - The facts in the complaint revealed the employee's actions could have been different; however, the employee's act or omission is best addressed through corrective action by the employee's Commanding Officer. The corrective action(s) taken was:
1. Counseling.

## Personnel Complaints

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2. Training.
3. Supervisory Comment Form (LAPP Form No. 4/2-03.54).

e.g. A subject complains of unprofessional behavior by an officer resulting from a vehicle stop. The subject states that at the conclusion of the stop, the citing officer yelled at them to "get their act together and pay attention to the road".

(d) **Demonstrably False** - When it is clearly proven that an allegation did not occur. Note: An allegation is considered to be "clearly proven" as Demonstrably False under the following circumstances:

1. The complainant is determined to be vexatious, i.e., the complainant demonstrates an irrational thought process and/or has established a pattern of making chronic or crank complaints.
2. Body Worn Camera (BWC) Video or Mobile Audio Video (MAV) footage, or other audio or video evidence captured the entire incident or citizen contact, and conclusively shows that the employee(s) did not commit the alleged misconduct or did not violate Department policy or procedures. Consistent with Department policy, all allegations of misconduct initiated by a member of the public, including those determined to be Demonstrably False, must be recorded on a Complaint form or entered into an electronic complaint intake application; however, when an audio or video recording clearly proves that an allegation of misconduct is Demonstrably False, the accused and witness officers need not be interviewed regarding the Demonstrably False allegation.

e.g. A subject complains that an officer stole an item from their vehicle's trunk during a law enforcement contact. A supervisor immediately reviewed the camera footage of the incident and it revealed the alleged act never occurred.

(e) **Department Employee(s) Not Involved** - The preliminary investigation revealed that the complaint did not involve a Department employee(s).

### 1020.3.3 ADJUDICATION OF A NON-DISCIPLINARY COMPLAINT

After approving a complaint's final classification as non-disciplinary, the employee's Commanding Officer shall forward the complaint with their final classification and disposition/rationale to the Deputy Chief.

### 1020.3.4 DEPUTY CHIEF RESPONSIBILITIES

A Deputy Chief reviewing a complaint that has been classified as non-disciplinary shall:

- (a) Forward the complaint with their approval to Professional Standards Section, or:
- (b) Return the complaint to the employee's Commanding Officer for:
  1. Clarification or further rationale of the final complaint.
  2. Reclassification as a disciplinary complaint with written rationale and direction of how to proceed.

## *Personnel Complaints*

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- (c) Ensure that all closed non-disciplinary complaints are forwarded to Professional Standards Section.

### 1020.3.5 PROFESSIONAL STANDARDS SECTION RESPONSIBILITIES

Professional Standards Section shall have review authority and responsibility for all non-disciplinary complaints.

Upon review of a non-disciplinary complaint, Professional Standards Section shall close out the complaint and archive it by IA number in Professional Standards Section's electronic files.

### 1020.3.6 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person, or by telephone.
- (b) Any Department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

## **1020.4 AVAILABILITY AND INTAKE OF COMPLAINTS**

### 1020.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the Department website.

The Professional Standards Section Officer in Charge (OIC) will ensure personnel complaint forms in English and Spanish are readily available at the front counter of the Los Angeles Port Police Headquarters.

### 1020.4.2 INTAKE

All complaints will be courteously accepted by any Department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person, by telephone, via email, fax, or any other electronic means. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs, or physical evidence may be obtained as necessary.

## *Personnel Complaints*

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If requested, a complainant shall be provided with a copy of the complaining party's statement at the time it is filed with the Department (Penal Code § 832.7).

### **1020.4.3 HATE COMPLAINTS AGAINST PEACE OFFICERS**

Internal complaints or complaints from the public shall be accepted and investigated in accordance with this policy where it is alleged that an officer has in the previous seven years, and since 18 years of age, engaged in membership in a hate group, participated in a hate group activity, or advocated any public expression of hate (Penal Code § 13682).

### **1020.4.4 AVAILABILITY OF WRITTEN PROCEDURES**

The Los Angeles Port Police shall make available to the public a written description of the investigation procedures for complaints (Penal Code § 832.5).

## **1020.5 DOCUMENTATION**

Supervisors shall ensure that all complaints are documented via an electronic complaint intake program. If a supervisor is unable to document a complaint electronically, they shall complete a personnel complaint intake form and enter the complaint electronically, as soon as practicable. The supervisor shall ensure that the nature of the complaint is summarized as clearly as possible.

All complaints shall be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint.

On an annual basis, the Professional Standards Section Officer in Charge should audit the log and send an audit report to the Chief of Police or the authorized designee.

## **1020.6 ADMINISTRATIVE INVESTIGATIONS**

Allegations of misconduct will be administratively investigated as follows:

### **1020.6.1 SUPERVISOR RESPONSIBILITIES**

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor or contracted private investigator investigates any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, the complaint is documented via an electronic complaint intake program or a complaint intake form is completed.
  1. The original complaint will be directed to the immediate supervisor or Watch Commander of the accused member, via the chain of command, who will

## *Personnel Complaints*

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- take appropriate action and/or determine who will have responsibility for the investigation.
2. 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 member's Division Commander or the Chief of Police, who will initiate appropriate action.
- (b) Responding to all complainants in a courteous and professional manner.
  - (c) Resolving those personnel complaints that can be resolved immediately.
    1. Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
    2. If the matter is resolved and no further action is required, the supervisor will note the resolution in the complaint and forward it to the immediate supervisor or Watch Commander.
  - (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Watch Commander, Division Commander, Deputy Chief, and the Chief of Police are notified via the chain of command as soon as practicable.
  - (e) Promptly contacting the Fiscal Operations and Human Resources Division and the Watch Commander for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination.
  - (f) Forwarding unresolved personnel complaints to the Watch Commander, who will determine whether to contact the complainant or assign the complaint for investigation.
  - (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
  - (h) Investigating a complaint as follows:
    1. Making reasonable efforts to obtain names, addresses, and telephone numbers of witnesses.
    2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
  - (i) Ensuring that the procedural rights of the accused member are followed (Government Code § 3303 et seq.).

### 1020.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Professional Standards Section, the following applies to members covered by the Public Safety Officers Procedural Bill of Rights Act (POBR) (Government Code § 3303):

- (a) Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty. If the member is off-duty, he/she shall be compensated.

# Los Angeles Port Police

Los Angeles Port Police Policy Manual

## Personnel Complaints

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- (b) Unless waived by the member, interviews of an accused member shall be at the Los Angeles Port Police station or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused member.
- (d) Prior to any interview, a member shall be informed of the nature of the investigation, the name, rank and command of the officer in charge of the investigation, the interviewing officers, and all other persons to be present during the interview.
- (e) All interviews shall be for a reasonable period and the member's personal needs should be accommodated.
- (f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
- (g) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
  - 1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Lybarger* advisement. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g. discussion of processes, timing, implications).
  - 2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer should record all interviews of members and witnesses. The member may also record the interview. If the member has been previously interviewed, a copy of that recorded interview shall be provided to the member prior to any subsequent interview.
- (i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (j) All members shall provide complete and truthful responses to questions posed during interviews.
- (k) No member may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

No investigation shall be undertaken against any officer solely because the officer has been placed on a prosecutor's *Brady* list or the name of the officer may otherwise be subject to disclosure



## *Personnel Complaints*

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pursuant to *Brady v. Maryland*. However, an investigation may be based on the underlying acts or omissions for which the officer has been placed on a *Brady* list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

### 1020.6.3 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

**Unfounded** - When the investigation discloses that the alleged acts did not occur or did not involve Department members. Complaints that are determined to be frivolous will fall within the classification of unfounded. (Penal Code § 832.8).

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

**Not sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

**Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

**Non-disciplinary** - When the investigation discloses that the alleged act does not rise to the level of misconduct.

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

### 1020.6.4 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 (Government Code § 3304).

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 Government Code § 3508.1.

The Professional Standards Section Officer In Charge shall ensure investigations are completed within the proper time period set forth in Government Code § 3304(d) or Government Code § 3508.1.

### 1020.6.5 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete, and essentially follow this format:

**Introduction** - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

## *Personnel Complaints*

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**Synopsis** - Provide a brief summary of the facts giving rise to the investigation.

**Summary** - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

**Evidence** - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

**Conclusion** - A recommendation regarding further action or disposition should be provided.

**Exhibits** - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

### **1020.7 ADMINISTRATIVE SEARCHES**

Assigned lockers, storage spaces, and other areas, including desks, offices, and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio, or other document or equipment.

Lockers and storage spaces may only be administratively searched in the member's presence, with the member's consent, with a valid search warrant, or where the member has been given reasonable notice that the search will take place (Government Code § 3309).

#### **1020.7.1 DISCLOSURE OF FINANCIAL INFORMATION**

An employee may be compelled to disclose personal financial information under the following circumstances (Government Code § 3308):

- (a) Pursuant to a state law or proper legal process.
- (b) Information exists that tends to indicate a conflict of interest with official duties.
- (c) If the employee is assigned to or being considered for a special assignment with a potential for bribes or other improper inducements.

### **1020.8 ADMINISTRATIVE LEAVE**

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police, or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any Department badge, identification, assigned weapons, and any other Department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.

## *Personnel Complaints*

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- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.
- (d) Shall receive a written notice of administrative leave as soon as practicable.

### **1020.9 CRIMINAL INVESTIGATION**

Where a member is accused of potential criminal conduct, a separate supervisor, or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation.

Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be advised of his/her constitutional rights (Government Code § 3303(h)). The member should not be administratively ordered to provide any information in the criminal investigation.

No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

The Los Angeles Port Police may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

Investigation of potential criminal or civil rights violations may be investigated by the Los Angeles Police Department's Internal Affairs Criminal Section per approval of the Chief of Police.

### **1020.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES**

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police or the authorized designee through the chain of command. Each level of command should review the report and include his/her comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

#### **1020.10.1 DIVISION COMMANDER RESPONSIBILITIES**

Upon receipt of any completed personnel investigation, the Division Commander of the involved member shall review the entire investigative file, the member's personnel file, and any other relevant materials.

The Division Commander shall make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Deputy Chief, the Division Commander may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

## *Personnel Complaints*

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When forwarding any written recommendation to the Deputy Chief, the Division Commander shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

### 1020.10.2 DEPUTY CHIEF RESPONSIBILITIES

Upon receipt of any personnel investigation, the Deputy Chief shall review the entire investigative file and any other relevant materials.

The Deputy Chief may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief of Police, the Deputy Chief may return the entire investigation to the Division Commander for further investigation or action.

### 1020.10.3 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Division Commander for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Chief of Police shall provide the member with a pre-disciplinary procedural due process hearing (*Skelly*) by providing written notice of the charges, proposed action, and reasons for the proposed action. Written notice shall be provided within one year from the date of discovery of the misconduct (Government Code § 3304(d)). The Chief of Police shall also provide the member with:

- (a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.
  1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.
  2. If the member elects to respond orally, the presentation may be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

## *Personnel Complaints*

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### 1020.10.4 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Chief of Police or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded, non-disciplinary) of the complaint (Penal Code § 832.7 (f)).

### 1020.10.5 NOTICE REQUIREMENTS

The disposition of any civilian's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall not include what discipline, if any, was imposed (Penal Code § 832.7 (f)).

### **1020.11 PRE-DISCIPLINE EMPLOYEE RESPONSE**

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

### **1020.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE**

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline (Penal Code § 13510.8).

### **1020.13 POST-DISCIPLINE APPEAL RIGHTS**

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement, memorandum of understanding, and/or personnel rules.

## *Personnel Complaints*

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In the event of punitive action against an employee covered by the POBR, the appeal process shall be in compliance with Government Code § 3304 and Government Code § 3304.5.

During any administrative appeal, evidence that an officer has been placed on a *Brady* list or is otherwise subject to *Brady* restrictions may not be introduced unless the underlying allegations of misconduct have been independently established. Thereafter, such *Brady* evidence shall be limited to determining the appropriateness of the penalty (Government Code § 3305.5).

### **1020.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS**

At-will and probationary employees and those members other than non-probationary employees may be released from employment for non-disciplinary reasons (e.g., failure to meet standards) without adherence to the procedures set forth in this policy or any right to appeal. However, any probationary officer subjected to an investigation into allegations of misconduct shall be entitled to those procedural rights, as applicable, set forth in the POBR (Government Code § 3303; Government Code § 3304).

At-will, probationary employees, and those other than non-probationary employees subjected to discipline or termination as a result of allegations of misconduct shall not be deemed to have acquired a property interest in their position, but shall be given the opportunity to appear before the Chief of Police or the authorized designee for a non-evidentiary hearing for the sole purpose of attempting to clear their name or liberty interest. There shall be no further opportunity for appeal beyond the liberty interest hearing and the decision of the Chief of Police shall be final.

### **1020.15 RETENTION OF PERSONNEL INVESTIGATION FILES**

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in policy manual § 1026.

### **1020.16 REQUIRED REPORTING TO POST**

The Chief of Police or the authorized designee shall notify POST on the appropriate POST form within 10 days of certain officer personnel events, including but not limited to (Penal Code § 13510.9).

The Chief of Police or the authorized designee shall be responsible for providing POST access to or duplication of investigation documentation (e.g., physical or documentary evidence, witness statements, analysis, conclusions) within the applicable timeframe provided in Penal Code § 13510.9.

#### **1020.16.1 NOTIFICATIONS TO POST FOR SERIOUS MISCONDUCT**

The Chief of Police or the authorized designee shall report allegations of serious misconduct by an officer to POST in accordance with 11 CCR 1207.

### **1020.17 POLICY ADMINISTRATION**

Adherence to this policy is under the chain of command of the Office of the Chief or Police or their authorized designee.

*Personnel Complaints*

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