

**Boulder Police Department**  

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**General Order 120**  

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**Professional Standards Investigations**

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- 120-1 Definitions**
- 120-2 Member Responsibilities**
- 120-3 Member Rights**
- 120-4 Classifications and Basis for Professional Standards Investigations**
- 120-5 Basis for Professional Standards Investigations**
- 120-6 Acceptance and Initial Processing of Complaints**
- 120-7 General Investigative Procedures**
- 120-8 Supervisory Disposition Review**
- 120-9 Professional Standards Review Panel**
- 120-10 Police Chief's Review**
- 120-11 Disposition Classifications**
- 120-12 Administrative Hearings and Final Dispositions**
- 120-13 Discipline**
- 120-14 Record-keeping**
- 120-15 Purging of the Professional Standards Unit Records**
- 120-16 Disclaimer**

**POLICY**

The intent of this policy is to maintain the integrity of the department by conducting thorough and impartial investigations of complaints of member misconduct, to protect the community from member misconduct and to protect department members from false or malicious allegations. The Professional Standards Unit is responsible for coordinating and recording complaints and investigations of employee misconduct.

**PROCEDURES**

**120-1 Definitions**

Investigations of employee misconduct and complaints from community members are classified and defined as follows.

- A. Class 1 Professional Standards Investigation: the allegation is serious in nature and/or serious discipline may result if the allegation is sustained. It may also include allegations of great concern to the community. Normally the Professional Standards Unit conducts the investigation.
- B. Class 2 Professional Standards Investigation: the allegation is non-serious in nature and any resulting discipline may not exceed a permanent letter of reprimand. Normally the investigation is conducted by the affected member's immediate supervisor (see General Order 121, Supervisory Reviews).
- C. Referral: the allegation is not based on a member's intentional misconduct, but rather a complaint of a minor performance or protocol issue. A formal investigation is

not conducted; however, the affected member's immediate supervisor is notified and makes the appropriate disposition decision.

- D. Inquiry: questions as to the propriety of department policy and procedures or issues with regulations or actions of other agencies that are resolved by appropriate referral and not subject to a Professional Standards investigation, supervisory review or referral.

### **120-2 Member Responsibilities**

Department members are responsible for ensuring that complaints are processed in accordance with the value-based management system.

### **120-3 Member Rights**

- A. Without express authorization from the Chief of Police, department members, with the exception of subject members, may not share or discuss any information relevant to a Professional Standards investigation with any person except the Professional Standards investigator, legal counsel or other designated representative. Members involved in a Professional Standards investigation may not contact the complainant(s) or any witness(es) regarding the allegation(s) except through the subject member's legal counsel or designated union representative.
- B. Members who are either subjects or witnesses in a Professional Standards investigation may, if they wish, seek legal and/or other representation. Such members may have their representative present at all interviews; however, the attorney or other representative is not allowed to turn the interview into an adversarial proceeding.
- C. Each member has the option to stipulate to the facts of a complaint and may request a waiver of a complete Class 1 Professional

Standards investigation after being advised of the complaint and that some form of serious discipline may result if the allegation is sustained. However, the Chief of Police makes the final determination of whether an investigation continues.

1. When all parties are in agreement, the investigator and the subject member sign the Professional Standards investigative report.
  2. The investigation then proceeds, with the possible below exception, through the normal Class 1 Professional Standards investigation review process.
  3. When an investigation waiver has been granted, the Chief of Police may choose to forego the Professional Standards Review Panel process.
- D. Any member who becomes the subject of a Professional Standards investigation is entitled to the following administrative due process.
1. The member is entitled to a presumption of innocence and a fair, impartial investigation.
  2. The member is informed in writing of the complaint or charge which initiated the Professional Standards investigation.
  3. The member is given an opportunity to reply to all allegations.
  4. The administration considers a member's reply.
  5. When serious disciplinary actions are recommended or likely, the member is given the opportunity for an administrative hearing before the Chief of Police or designee. The member may be represented and may discuss evidence

- and provide any mitigating information.
6. The member is entitled to notification of a decision within a reasonable amount of time.
  7. The member has the right to appeal a decision.
- E. The subject member has the opportunity to review all evidence produced during a Professional Standards investigation (excluding confidential informant identity) upon reasonable notice and as such information becomes available.
1. This review may be made with counsel or other representatives present.
  2. The review must be made by appointment with the Professional Standards investigator and must be completed within seven business days after receipt of the notice.
  3. The subject member may request an additional investigation and has the right to attach any comment or assessment he/she believes should be included in the disposition review.
- F. Members being interviewed are treated with fairness and respect.
1. When investigative interviews are conducted, questions are specifically directed and narrowly related to the performance of a member's official duties, fitness for duty or alleged violations of department rules and general orders.
  2. Members honestly, completely and to the best of their knowledge and ability, answer all questions that relate to the conduct under investigation.
3. The subject member is entitled to copies of all recorded statements prior to subsequent interviews.
- G. Members who are the subject of, or a witness in, a Professional Standards investigation are required to answer all questions that relate to the conduct under investigation. Should a member refuse to obey a lawful order to answer, the member is subject to disciplinary action for insubordinate conduct.
1. Involuntary statements given in response to a direct order during an investigation into alleged procedural misconduct are prefaced with language that the statement is not voluntary.
  2. The order given to obtain such involuntary statements says:
    - a. That the statements may be the basis for subsequent department discipline, up to and including termination; and
    - b. That neither the member's statement nor any information directly gained from his/her statements will be used against the member in any subsequent criminal proceedings.
- H. The Professional Standards interview may be halted and appropriate authorities advised if, during the interview, misconduct is discovered which creates a fair probability that criminal charges will be filed.
- I. A member may not be compelled to take a polygraph or other lie detection examination.
1. A member's refusal to submit to such examination may not be grounds for any disciplinary action.

2. Should a member request or voluntarily agree to submit to such examination, the location and firm conducting the examination is mutually agreed upon.
3. In the event the complainant(s) has taken such examination, the subject member(s) will use a different firm.
4. Upon request, the member is provided an exact copy of all reports or graphs compiled.

#### **120-4 Classifications and Basis for Professional Standards Investigations**

Any time the department determines that it is necessary to investigate events or circumstances that may lead to disciplinary action, a Professional Standards investigation is initiated. Member misconduct may be either minor or serious depending on the specific alleged act(s) and the likelihood of a consequence of non-serious or serious discipline.

A. Serious misconduct includes allegations which charge criminal misconduct, serious deviations from department rules or general orders, or repeated less serious deviations and which involve the likely consequence of serious discipline if sustained.

1. Some examples of serious misconduct are:
  - a. Any violation of law which would impair a member's ability to fulfill his/her responsibility as a member of the department or would jeopardize the public safety. Such criminal misconduct includes, but is not limited to:

- (1) Felony: The commission of any felony is considered criminal misconduct.

- (2) Controlled Substance Violation: Any violation of laws governing controlled substances or any use of controlled substances without medical supervision is considered misconduct.

- (3) Negative Impact Offense: The commission of a crime with negative consequence to persons or property or the commission of which reflects unfavorably on the department because of the individual's status as a member of the department, is considered criminal misconduct.

- b. Intoxication while on duty.
    - c. Acceptance of a bribe or gratuity.
    - d. Misuse of police powers.
    - e. Unauthorized release of confidential information.
    - f. Use of excessive force.

2. Serious misconduct complaints are handled as Class 1 investigations by the Professional Standards Unit.

3. If it is deemed to be in the best interest of the community, department or employee the Chief of Police may place the employee on administrative leave or reassign the employee during the investigation. No employee is placed on administrative leave without pay, without due process.

B. Minor misconduct includes allegations which are determined to be appropriate for review but which appear to involve the likely consequence of non-serious discipline if sustained.

1. Examples include, but are not limited to, discourtesy or other lesser violations of department rules or general orders.
  2. Minor misconduct may be investigated by the Professional Standards Unit or referred to the member's supervisor for investigation as a Class 2 Professional Standards investigation (supervisory review; see General Order 121). Traffic accidents involving members driving city-owned vehicles are normally investigated as a Class 2 Professional Standards investigation, and are conducted by a designated traffic supervisor (see General Order 309-6).
- C. Minor complaints in reference to job performance rather than intentional misconduct may be classified as a referral to a member's supervisor for disposition. Unless otherwise instructed, supervisors provide follow-up or disposition information to Professional Standards for the referral record. The Professional Standards Unit maintains a record of a referral for a period of three years.
- D. Inquiries from the public as to the propriety of department policies or procedures or general questions about department activities are not the subject of a Professional Standards investigation or supervisory review and need not be referred to the Professional Standards Unit. Supervisors are encouraged to answer questions from the public concerning department operations. The Professional Standards Unit maintains records on inquiries.
1. If the basis for a community member's complaint appears to be an objection to a department policy or procedure rather than any particular problem with an identified member, the supervisor of the identified member may be notified.
  2. Either the Professional Standards investigator or the supervisor informs the complainant of the propriety of the member's actions.
- E. Complaints against another agency's members or policies made mistakenly to this department are referred to the appropriate agency, if it can be identified.

**120-5 Basis for Professional Standards Investigations**

Any investigation initiated by the department to determine the possibility of or to establish the basis for serious disciplinary action, whether such investigation is initiated by an internal, external, formal, or informal complaint, requires investigation by the Professional Standards Unit or Police Chief designate. The Professional Standards Unit investigates allegations in accordance with the guidelines herein provided.

- A. The Professional Standards Unit is an extension of the Office of the Chief of Police and a Professional Standards investigator acts as the direct representative of the Chief of Police with authority commensurate to that responsibility regardless of rank.
- B. All members of the department respond to requests or orders from Professional Standards personnel just as they would respond to requests or orders from the Chief of Police.
- C. The Professional Standards Unit conducts administrative investigations of allegations of serious misconduct.
  1. When the alleged misconduct is criminal, the Professional Standards Unit monitors the progress and outcome of the authorities' investigations into the criminal charge. Depending on circumstances, a Professional Standards investigation may proceed either con-

- currently or upon completion of a criminal investigation.
2. Lack of evidence substantiating a criminal charge does not preclude disciplinary actions arising out of a Professional Standards investigation into a possible violation of written department rules or general orders.
  3. If the investigation concerns misconduct that might also result in criminal charges, or the investigation discovers criminal conduct, the investigator advises the appropriate authority and notifies the Chief of Police.
  4. If appropriate, the Chief of Police may halt an administrative investigation.
- D. The Chief of Police may direct any supervisor or manager to conduct or review a special internal investigation as needed.
- E. The Professional Standards Unit may also be involved in reviews which are usually not directly generated by an outside source, but rather are initiated within the department as a quality control measure or in defense of a civil proceeding.
1. The Professional Standards Unit may conduct a civil investigation with the assistance of the City Attorney's Office and/or the department's legal advisor to prepare a defense to any suit filed against the city as a result of acts of omission or commission by a department member. Copies of such investigations are available to any member named as a defendant in the suit.
  2. The Professional Standards Unit may conduct an administrative investigation into any case of a department member discharging a firearm, whether on- or off-duty.
3. The Professional Standards Unit may, pursuant to department General Order 225, conduct an investigation into cases of a department member's use of force.
- F. When an investigator discovers evidence of additional misconduct during the course of an investigation, he/she causes such discoveries to be enumerated, investigated and submitted for review and disposition with the original case.
- G. Upon receipt of complaints of minor misconduct, the Professional Standards Unit may refer those complaints to the subject member's supervisor for investigation and disposition as a Class 2 Professional Standards investigation. Refer to General Order 121, Supervisory Reviews.

#### **120-6 Acceptance and Initial Processing of Complaints**

The Professional Standards Unit investigator documents all allegations of member misconduct on the Professional Standards complaint form for the initiation of an investigation or referral as appropriate. All such reports, logs, and investigative reports are considered personnel files as that term is defined in C.R.S. 24-72-202-(4.5).

- A. A member who receives a serious complaint against him/herself or another department member directs the complainant immediately to the Professional Standards Unit.
- B. Should the Professional Standards investigator not be available or on-duty, the complainant is directed to the member's commander/manager or supervisor.
  1. The commander/manager or supervisor documents receipt of the complaint and subsequently relays it to the Professional Standards Unit.

2. Should the alleged misconduct be such that immediate attention is required, the commander/manager or supervisor immediately attempts to notify the Professional Standards investigator and the involved member's commander/manager.
    - a. Contact with the Professional Standards investigator is attempted prior to severing contact with the complainant.
    - b. Examples of serious misconduct that require immediate notification are:
      - (1) Member's alleged commission of a felony.
      - (2) Member's alleged violation of the alcohol and controlled substances sections of General Order 125.
  3. When immediate on-scene attention is not necessary, the commander/manager or supervisor ensures that written documentation is received by the Professional Standards investigator at the start of the next standard business day.
- C. The department takes complaints from all sources including, but not limited to, in person, by telephone and written.
1. The person registering the complaint is afforded the opportunity to review the complaint report and to receive a copy, if requested.
  2. To this end, the department publishes a brochure outlining the Professional Standards process.
  3. These brochures are printed in both Spanish and English and are available at the Public Safety Building, Community Police Centers and City Hall.
4. While the department takes initial complaints from all sources, the original involved party of an allegation must be willing to be interviewed by the Professional Standards investigator as part of the investigation.
- D. Complaints alleging non-serious misconduct which occurred more than six months prior to receiving the complaint are handled as supervisory referrals.
- E. Complaints alleging serious misconduct are investigated regardless of time elapsed, unless the amount of time makes investigation of the allegation impractical. The statute of limitations does not apply to serious misconduct complaints.

#### **120-7 General Investigative Procedures**

The Professional Standards Unit investigates impartially and maintains careful documentation of all proceedings.

- A. The Professional Standards Unit maintains the Professional Standards review logs for noting incoming complaints which will be investigated, referred to supervisors or cleared by explanation of department policy or procedures.
- B. If the initial complaint is not substantiated, the investigation goes no further and no statement is required of the member against whom the complaint was made. The fact that the complaint was not substantiated is noted on the Professional Standards log.
- C. All Professional Standards investigations are initiated within 14 calendar days of knowledge of an event with the exercise of reasonable diligence.

1. Professional Standards investigations are conducted in a timely fashion within the limits specified below.
  2. Class 1 Professional Standards investigations, as a general rule, are completed within 30 calendar days after initial receipt of the complaint.
  3. One due date extension of up to 10 calendar days may be allowed by the Professional Standards supervisor.
    - a. Requests for additional extensions must be submitted in writing to the Chief of Police at least 48 hours before the due date.
    - b. Subject members are notified in writing of any due date extensions.
- D. Upon receiving a complaint against a department member and after completing a complaint report, the Professional Standards investigator forwards a copy of the complaint report to the subject member as notification of the complaint and pending investigation.
- E. When possible, a member who is the subject of or a witness in a Class 1 Professional Standards investigation is given at least 72 hours advance notice of the scheduled interview.
  1. At their option, members may waive the 72-hour notice requirement.
  2. A synopsis of the complaint is attached to the interview notice.
- F. Advance notice is not given for cases of extreme sensitivity when evidence could be removed, destroyed, or altered or potential witnesses intimidated or influenced.
  1. If the complainant is to be treated as a confidential informant, their identity is not divulged, subject to administrative review by the City Manager or his/her designee, either in the notification or during any subsequent interview.
  2. If the complaint was filed anonymously, the subject member is advised of the exact circumstances of its receipt.
- G. When the Professional Standards investigator determines that a written statement from the subject or witness member would be acceptable in lieu of a personal interview, he/she informs the member of this option in the interview notice.
- H. In addition to the complaint report, a statement is taken from a complainant who alleges a member's serious misconduct unless the complainant was anonymous.
  1. The statement includes the complainant's full name, date of birth and business and home addresses and telephone numbers.
  2. Everyone present is also identified for the record.
  3. Complainant interviews are recorded electronically in all cases alleging serious misconduct.
  4. The Professional Standards investigator completes a synopsis of the complainant's statement, identifying specifics of the allegation.
  5. In cases of alleged serious misconduct, the complainant's statement is transcribed only with the approval of the Chief of Police or designee.

- I. Interviews of witnesses and subject members are conducted in the same general manner as for the complainant.
  1. In cases of alleged serious misconduct, witness and subject member statements are transcribed only with the approval of the Chief of Police or designee.
  2. All members who are interviewed for any Professional Standards investigation are advised prior to making any statement whether they are witnesses or subjects of the investigation.
    - a. The interview takes place within the police department or in an area where privacy is assured.
    - b. Interviews are conducted at a reasonable hour, preferably at a time when the member is normally on duty, unless the seriousness of the allegation requires immediate action.
    - c. Interviews are conducted for a reasonable length of time allowing for personal necessities.
    - d. In cases alleging serious misconduct all witness and subject member interviews are recorded electronically, and there are no unrecorded or off-the-record questions. Everyone present for the interview is identified for the record.
- A. In turn, each supervisor in the member's chain of command recommends a disposition for each alleged violation.
- B. Supervisors may also identify other violations that were not initially charged.
- C. Each supervisor who recommends a sustained disposition also includes a recommendation for discipline.
- D. Each disposition and discipline recommendation is supported by written justifications.
- E. Prior to recommending discipline, the supervisors in the chain of command consider past performance and disciplinary actions for the purpose of determining appropriate disciplinary remedies.
- F. Mitigating or aggravating circumstances which may affect determination of appropriate disciplinary action are presented in detail.
- G. Any recommendation for changes in department rules, general orders, or directives which relate to the case being considered is presented in detail, with thorough justification.
- H. When the subject member has been transferred prior to disposition of the case, the member's supervisors at the time that the alleged incident occurred prepare the response.

### **120-8 Supervisory Disposition Review**

The Professional Standards investigator routes the completed Class 1 Professional Standards investigative file, the review and recommendations for disposition form to the reviewing Deputy Chief or designee.

- I. A Deputy Chief has 14 calendar days from date of receipt of the Professional Standards investigative report in which to ensure that the disposition review is completed and returned to the Professional Standards Unit. Extensions may be granted by the Chief of Police for good cause.

## 120-9 Professional Standards Review Panel

The department staffs and maintains a Professional Standards Review Panel to assist in the function of reviewing Class 1 investigative complaints against employees and making subsequent recommendations to the Chief of Police. The Chief of Police may also request review of other administrative investigations as needed. The panel is staffed by department members and authorized community member volunteers.

A. The Professional Standards Review Panel consists of 12 members.

1. Six of the members are Boulder community members selected by the City Manager, or his/her representative, from a pool of qualified volunteers.
  - a. Qualified volunteers are those community members who have completed and passed the application and selection process.
  - b. In order to serve on the Professional Standards Review Panel, community members must be a United States citizen, be a City of Boulder resident for the past three years, be 21 years of age or older and agree to a background check.
  - c. Community member panelists must be willing to serve for a minimum of two years and sign a non-disclosure agreement.
  - d. Community member volunteers who wish to serve on the Professional Standards Review Panel must obtain an application form from the police department and submit it prior to the announced closing date.

- (1) The department then reviews the applications to insure that applicants meet the established criteria.
- (2) Volunteers who meet the criteria are then allowed to proceed with the following process:
  - (a) A criminal history is used to determine past arrests, traffic violations and dealings with the department.
  - (b) Other information submitted on the application form may be confirmed at the department's discretion.
  - (c) Any past felony conviction, any misdemeanor conviction in the last five years, excessive traffic violations, or any apparent conflict of interest is grounds for denying service on the panel.
  - (d) Past arrests and traffic convictions may be considered in determining suitability to serve on the panel.
  - (e) Any false information supplied by an applicant is grounds for denial.
- e. Qualified applicants are interviewed by a department interview board consisting of a Management Staff member, BPOA member, BMEA member, Professional Standards Unit Supervisor and an appointee from the City Manager's Office.

- (1) The interviews are used to determine a volunteer's suitability.
  - (2) The interview board then submits a list of qualified applicants to the City Manager's Office for selection.
- f. The City Manager, or his/her representative, selects the panel members from the list of qualified applicants.
2. Six of the members are department representatives selected by the Chief of Police with input from the BPOA and BMEA.
    - a. Department representatives consist of three commissioned officers, one commissioned sergeant, and two BMEA department employees.
    - b. If an insufficient number of applications are received to fill a department representative vacancy, the Chief of Police may choose to allow applications from non-union management department employees after discussion with affected bargaining units.
  3. All panel members must attend training designated by the Chief of Police prior to serving on the panel.
  4. The Chief of Police selects a Management Staff member to serve as the facilitator for the Professional Standards Review Panel.
    - a. It is the facilitator's responsibility to schedule meetings, make notifications to panel members, and facilitate panel meetings to insure adherence to policy and procedure.
- b. The facilitator is not a voting member of the panel and does not offer recommendations to the panel or Chief of Police.
- B. When the supervisory disposition review has been completed and returned to the Professional Standards Unit, the Professional Standards investigator presents the investigative file with supervisory recommendations to the Professional Standards Review Panel.
  - C. Except for disciplinary recommendations, all information and evidence in the current Professional Standards case file is made available to the Professional Standards Review Panel members prior to and during the meeting.
    1. Panel members do not have access to previous Professional Standards files.
    2. Panel members are not allowed to make unauthorized copies of Professional Standards materials, nor remove any Professional Standard materials from the department.
  - D. The panel is advisory only and does not have any investigative or decision making authority, but reviews the case file and makes written comments and recommendations per the Professional Standards Unit procedure on the following issues:
    1. Whether the investigation was conducted fairly, completely and reported accurately.
    2. Based on the material contained in the case file, a recommendation on disposition; recommendations must include written justification.
  - E. Individual members or small groups of the Review Panel may submit dissenting opinions along with the majority opinion.

- F. Review Panel meetings are scheduled on an as needed basis to review current cases in a timely manner. Panel recommendations are completed prior to adjournment of the meeting. A quorum of seven panel members is required and will consist of at least three community members and at least three department members. Department members include, at a minimum, one BMEA member when subject member is BMEA and two BPOA members when subject member is BPOA.
- G. While not for the purpose of receiving formal disciplinary recommendations, the Police Chief may confer with the Professional Standards Review Panel regarding any case the panel has reviewed for additional input.
- H. The City Manager, or his/her designee, may remove any panel member for a conflict of interest violation, violation of any applicable law, regulation, department policy, non-disclosure agreement or non-attendance to duty.
- I. In the event that a panel member is also a subject member, complainant, witness or otherwise involved in a Professional Standards investigation, that member may not participate in the review of that case. Panel members notify the facilitator of any conflict of interest so that if needed, an alternative panel member may be arranged.
- J. The Review Panel is part of the administrative review process and meetings are not open to complainants, subject members, witnesses or the public. In order to encourage discussion and deliberation, Review Panel deliberations are considered confidential, and are not made available to complainants, subject members, witnesses, or the public.
- K. After the final disposition has been made, the Chief of Police notifies the Professional

Standards Review Panel of the disposition and discipline, if any.

#### **120-10 Police Chief's Review**

After the Professional Standards Review Panel has made its recommendations, the Professional Standards investigator forwards the case file and all input received during the disposition review process to the Chief of Police. The Chief reviews the Professional Standards investigative report and the review and recommendations for disposition and discipline, and considers information provided in any administrative hearing. The Chief of Police is then responsible for making a determination as to final disposition and discipline.

#### **120-11 Disposition Classifications**

- A. Exonerated: The incident occurred, but member actions were lawful and proper, and/or a justified departure from policy.
- B. Exonerated with Commendation: The incident occurred, but member actions were justified, lawful, and proper under cases of exceptional circumstances.
- C. Unfounded: The complainant admits to false allegation; the charges were found to be false; the member was not involved in the incident; or the complainant has voluntarily withdrawn the complaint prior to the conclusion of an investigation, and the department elects not to continue the investigation.
- D. Not Sustained: An allegation is not supported by a preponderance of the evidence.
- E. Sustained: An allegation is supported by a preponderance of the evidence.
- F. No Finding: Cases that are, with the approval of the Chief of Police, handled in an alternative manner or cases in which a sub-

ject member resigns and the department elects not to continue the investigation.

### **120-12 Administrative Hearings and Final Dispositions**

In all cases in which any recommendation of discipline is more serious than a letter of reprimand, the Chief of Police holds an administrative hearing. In all other cases, hearings are held at the discretion of the Chief of Police, however, the member may request one. The Chief of Police has five working days to consider all recommendations and to set a date for an administrative hearing.

- A. The opportunity for an administrative hearing is provided to the member prior to imposition of serious discipline so that he/she may offer any information in mitigation or explanation of the behavior for which disciplinary action may be imposed.
- B. When the Chief of Police schedules an administrative hearing the subject member is provided a minimum notice of 72 hours.
  - 1. The member may request in writing to waive an administrative hearing. Approval of this request rests with the Chief of Police.
  - 2. The member may be represented by counsel and/or other representation of his/her choice, provided that representation is limited to three persons.
  - 3. The department may be represented by a staff member from the City Attorney's Office should the Chief of Police request such representation.
  - 4. After the administrative hearing, the Chief of Police has up to three working days to render a decision on disposition and discipline.

- C. In cases that involve non-serious discipline and in which an administrative hearing is not held, the Chief of Police has five working days to reach a decision on disposition and discipline.

### **120-13 Discipline**

Discipline may be administered when an allegation is sustained at the conclusion of a Professional Standards investigation.

- A. Disciplinary action is intended to be corrective and, as such, is normally intended to progress from less to more severe.
  - 1. This is not to be interpreted as limiting the authority of the Chief of Police to impose whatever discipline seems appropriate as warranted by the circumstances under consideration.
  - 2. The Chief of Police may increase, decrease, or set aside any recommended disciplinary action.
- B. The severity of disciplinary action against a member is relative to the gravity of the consequences generated by the member's misconduct. For these reasons, graduated forms of disciplinary action are available to correct member transgressions. These include:
  - 1. Non-serious discipline:
    - a. Any verbal warning;
    - b. Twelve month letter of reprimand;
    - c. Long-term (five year minimum) letter of reprimand;
  - 2. Serious discipline:
    - a. Involuntary transfer;

- b. Suspension;
  - c. Demotion; and
  - d. Termination.
3. Any other discipline agreeable to the employee and to the Chief of Police.
- C. If appropriate, the department may also require professional counseling and/or remedial training.
- D. The Chief of Police renders the decision as to appropriate discipline when a complaint has been sustained after a Professional Standards investigation.
- E. The Office of the Chief of Police provides the member with a notice of disciplinary action.
- 1. The notice includes a reference to the behavior for which discipline is being administered, what discipline is being administered, and when it is effective.
  - 2. If admonitions against further misconduct are warranted, they are made.
- F. Copies of the disciplinary notice goes to the member, the member's supervisors and to the Professional Standards Unit case file. If appropriate, a copy is filed in the member's personnel file, after processing as appropriate by the Support and Staff Services Division.
- G. The terms of the imposed disciplinary action are carried out within ten working days of final determination by the Chief of Police unless, as determined or approved by the Chief of Police, the case is extended for the benefit of the department or at the request of the member, or the member is not available. In such a case, the disciplinary action follows as soon as practical.

H. Professional Standards investigative files are maintained as confidential records, however, in order to maintain organizational integrity and accountability and to minimize organizational rumors, the Chief of Police may notify department members of dispositions and imposed discipline. The Chief of Police may also share pertinent case facts if deemed to be in the best interests of the department. In matters of high profile, public interest cases involving the public trust, the Chief of Police may publicly disclose pertinent case facts, disposition and discipline.

### **120-14 Record-keeping**

The Professional Standards Unit securely maintains all records and documents related to the Professional Standards function.

- A. A file is maintained indicating complainant name, date of birth, address and the Professional Standards Unit case number.
- B. Each member against whom a complaint has been made which required a Professional Standards investigation (Class 1 or 2) or referral has a file maintained in the Professional Standards Unit.
  - 1. The file includes case number, name, nature of complaint, disposition, discipline, if applicable, and completion date.
  - 2. Only the Chief of Police and personnel assigned to the Professional Standards Unit have access to the files. Supervisors may review specific employee files with authorization from the Chief of Police.
  - 3. Subject members may review their respective files.

- C. The department notifies the complainant of the disposition and discipline, if any, after final resolution.

### **120-15 Purging of the Professional Standards Unit Records**

Time frames for purging documents related to Professional Standards investigations are set by the city's records retention ordinance.

- A. Records and evidence of sustained violations resulting in disciplinary action are purged 10 years after the subject member's retirement or separation from the department.
- B. Except as described in 120-15C, records and evidence from allegations resulting in dispositions of not sustained, exonerated or unfounded, and records generated from referrals not resulting in discipline, are purged after five years.
- C. All Class 1 Investigations into allegations of excessive force or criminal misconduct, not resulting in discipline, are maintained throughout an employee's career.
- D. In no instance are records or evidence related to pending civil or criminal cases (including appeal or statute of limitation periods) purged, regardless of allegation or disposition. Risk Management and or the City Attorney is consulted before records pertaining to civil matters are purged.
- E. The department may keep statistical records of referrals, supervisory reviews, or Professional Standards investigations for an indefinite period, as long as the records do not identify subject members.
- F. The method of destruction is in accordance with department records procedure.

### **120-16 Disclaimer**

- A. Any provisions contained in this general order adjudged to be illegal, incorrect or inapplicable do not affect the validity of the remaining provisions.
- B. Time constraints described in this order have been established to expedite investigation and disposition of complaints against members and to minimize the strain and frustration of members and the public while awaiting investigation results. Occasionally, more time will be needed to properly investigate and reach disposition of a complaint. The failure to meet an established deadline will not be the sole cause for dismissing a case or reversing or amending disciplinary action.