

Administrative Investigations

602.1 POLICY

The Department has established a system of Administrative Investigations and adjudication procedures which will preserve both accountability to our community and employment rights of its Employees.

The Department recognizes administrative investigative procedures change over time due to many factors and places responsibility on the Professional Standards Unit to maintain a current Administrative Investigation Manual that protects the rights of employees, is responsive to complaints, and provides for review by Department personnel. Procedures in the Administrative Investigation Manual shall be followed. Any exceptions will be based on articulable reasons and approved through the chain of command.

602.2 DEFINITIONS

Class I Allegations. Allegations of misconduct regarding use of force, unlawful search or seizure, workplace harassment, discrimination, dishonesty, violation of civil rights, or violation of criminal statutes. Serious or willful violations that would ordinarily be considered Class II allegations may be treated as Class I allegations depending on the severity of the circumstances.

Class II Allegations. Allegations of misconduct regarding violations of City or Department policies, procedures, or rules other than those which constitute a Class I Allegation. Class II allegations may be investigated within the bureau, division, unit, or shift in which they originate.

Command Staff. Command Staff includes, Lieutenants, Commanders, Public Affairs Manager, and the Office of the Chief.

Complaint. A report from either an external or internal source that reasonably alleges employee misconduct.

Corrective Action. Non-disciplinary measures, specific to the complaint, which include any corrective counseling, documentation of training, mentoring, or coaching provided to an employee performing below expectations. Successive similar or like conduct that constitute policy violations may be considered in progressive disciplinary action.

Discipline Guide. The guidelines utilized to determine the appropriate level of discipline, if any (see Appendix).

Findings. Investigations are closed with Findings. Each allegation within an investigation may be closed with the following finding(s):

- **Unfounded** –The Investigation determined the alleged misconduct did not occur.
- **Exonerated** – The allegation did, in fact, occur but the actions of the Employee were legal, justified, proper and in conformance with policy and procedure or the result of a policy or procedure which was in error.

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- Not Sustained – There is insufficient evidence to either prove or disprove the allegation.
- Sustained – The allegation is supported by a preponderance of the evidence.
- Corrective Action - Non disciplinary measures, specific to the complaint, which include any corrective counseling, documentation of training, mentoring, or coaching provided to an employee performing below expectations. Successive similar or like conduct that constitute policy violations may be considered in progressive disciplinary action.
- Absolved – The employee's actions could technically be a violation but were deemed acceptable under the circumstances. (This finding may only be recommended and utilized by the Office of the Chief)

Formal Discipline. Any sanction that penalizes an Employee financially through loss of pay or accrued leave (e.g., demotion, suspension, removal, leave without pay, etc.) as set forth in City Policy or relevant Collective Bargaining Agreements.

Inquiry. Dissatisfaction with policy, procedure, practice, philosophy, service level or legal standard of the agency.

Member/Employee. Any person whether paid, unpaid, temporary, permanent, probationary, volunteer, appointed, non-appointed, commissioned, or non-commissioned, who is employed or supervised by VPD. The terms "Member" and "Employee" have the same meaning in this document.

Misconduct. Employee conduct which includes violation of laws, ordinances, Department policies, rules or procedures, code of ethics, oath of office, or violations of the state or federal constitution.

Office of the Chief. The Chief's Office includes the Chief of Police, Deputy Chief and the Assistant Chief(s).

Professional Standards Unit (PSU). This team reports directly to the Office of the Chief. PSU is an extension of the Office of the Chief and has the authority of the Office of the Chief to compel employees to provide answers to administration investigative questions. Only the Office of the Chief may provide direction or orders to the PSU Chain of Command.

PSU Records Management System (RMS). The electronic filing system which maintains the investigative files.

Toll. A mutually agreed upon pausing of the investigation. A toll stops time for deadlines, due dates, and statute of limitations.

602.3 RECEIVING COMPLAINTS

All complaints, allegations of misconduct or unresolved criticisms of services initiated from the community, member of the Vancouver Police Department or member of another agency shall be received. If a simple explanation of the facts, policy or law satisfies or resolves the complainant's

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concern, a complaint investigation may not be necessary. When in doubt, a supervisor should initiate an investigation.

Any employee of the department may receive a complaint. Complaints may be received in person, over the phone, in writing or submitted electronically. If the person receiving the complaint is not a supervisor, they shall notify a supervisor or command officer/manager of the details of the complaint as soon as practicable. The supervisor will document the complaint in Blue Team as soon as reasonably practicable. The supervisor must clearly identify the specific alleged misconduct or policy violation including the applicable policy number.

602.3.1 PROCESS FOR RECEIVING, CATEGORIZING AND COMPLETING AN INVESTIGATION

All processes on how an administrative investigation shall be conducted will be detailed in the Administrative Investigation Manual. This includes when a supervisor must take protective measures.

602.4 CLASS I ADMINISTRATIVE INVESTIGATIONS

Class I investigations are assigned by the Office of the Chief. These types of investigations will typically be completed by the Professional Standards Unit. Class I investigations must be completed within ninety (90) days upon receipt consistent with approved department procedures.

Assigned investigators must request an extension in writing if the investigation cannot be completed in ninety (90) days. The PSU Lieutenant may approve an extension up to an additional thirty (30) days. Any additional requests for extensions must be approved by the Office of the Chief.

Once a Class I investigation is complete, it shall be forwarded to the PSU Lieutenant for review. The PSU Lieutenant is responsible for reviewing completed Class I investigations. The PSU Lieutenant has the authority to return the investigation to the assigned investigator for additional work.

Upon conclusion of the Class I investigation review, the PSU Lieutenant will ensure all documents are properly maintained in the PSU RMS and forward the investigative file to the Office of the Chief. Delays in the PSU Lieutenant's review will not extend the ninety (90) day timeline and appropriate requests for extension must be followed.

Once approved through the chain of command, the subject employee will be notified that the investigation is complete and ready for review.

602.5 CLASS II SUPERVISORY INVESTIGATIONS

Class II Supervisory Investigations are typically completed within the respective Division. Supervisors assigned a Class II Allegation investigation will conduct and complete their investigation within thirty (30) days of receipt consistent with approved department procedures.

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Assigned investigators must request an extension of time in writing if an investigation cannot be completed within thirty (30) days. The Division Commander/Manager may approve a 15-day extension. Only the Office of the Chief may approve any additional extensions.

Once the investigator completes a Class II investigation, they shall forward their completed work through their chain of command to the Office of the Chief. The chain of command is responsible for reviewing the investigation for completeness and may return the investigation to the assigned investigator before sending the investigation to the Professional Standards Unit. Delays in the chain of command review will not extend the thirty (30) day timeline and appropriate requests for extension must be followed.

Once approved through the chain of command, the subject employee will be notified that the investigation is complete and ready for review.

Upon conclusion of the investigation review, the Division Commander/Manager will forward all relevant documents of the investigation to the Professional Standards Unit via the PSU RMS.

602.6 RENDERING FINDINGS

PSU will forward the completed investigation to the Office of the Chief for review. The Office of the Chief will collaborate with the respective Division Commander or Manager to determine the assigned decision-maker. The Office of the Chief has the final authority on selecting the decision-maker.

- A decision-maker assigned to a Class I investigation shall complete the assignment and render a preliminary finding in thirty (30) days.
- A Decision-maker assigned to render a preliminary finding on a Class II investigations shall complete this assignment in twenty-one (21) days.

The preliminary decision shall be prepared in written form and sent to the respective chain of command. If the chain of command does not agree with the decision maker's preliminary decision, they shall not order the decision maker to change their preliminary finding. In this situation, the chain of command will add their preliminary finding with a written explanation to the Office of the Chief. The Office of the Chief will determine the most appropriate preliminary decision. For a disputed finding, the final decision is the responsibility of the Office of the Chief. The preliminary findings will be approved through the Office of the Chief, prior to issuance.

If the Office of the Chief determines potential counseling or discipline could be handled at the Division level, the investigative file will be returned to the respective Command/Management team. The Discipline Matrix shall be used to guide discipline considerations.

For sustained findings with possible discipline, the employee will have fourteen (14) days to request a Loudermill hearing. Loudermill hearing request will be made in writing to the appropriate decision maker. The Discipline Matrix shall be used to guide discipline considerations.

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For any investigation, only the Office of the Chief has the authority to overrule any findings decision with a designation of Absolved. No Guild or labor group may ask for this finding. This decision and final authority rests solely with the Office of the Chief.

If the Office of the Chief determines potential counseling or discipline could be handled at the Division level, the investigative file will be returned to the respective Command/Management team. The Discipline Matrix shall be used to guide discipline considerations.

602.7 AUTHORITY TO DISCIPLINE

Supervisory staff at all levels of VPD hold the basic responsibility for the maintenance of a positive discipline system that is fairly and evenly applied to all Employees of the Department. Civilian Supervisors/Managers only have authority to discipline civilian personnel. All Supervisors have the authority to provide remedial training with their chain of command, when appropriate, to correct performance deficiencies.

(a) Corporals have the following authority:

1. To issue letters of appreciation to Employees.
2. To immediately relieve an Employee from duty or work site when necessary

(b) Sergeants and Civilian Supervisors have the following authority:

1. To issue letters of appreciation to Employees.
2. To take Corrective Action and issue written reprimands to Employees.
3. To immediately relieve an Employee from duty or work site when necessary.
4. To make recommendations involving any level of discipline. Sergeants and Civilian Supervisors who review an Investigation file and determine discipline more severe than a written reprimand may be appropriate will forward the file to their supervisor with a recommendation as to the appropriate level of discipline.

(b) Lieutenants have the following authority:

1. To issue letters of appreciation to Employees.
2. To take Corrective Action, issue written reprimands and impose suspensions up to 3 days in length to Employees.
3. To immediately relieve an Employee from duty or work site when necessary.
4. To make recommendations involving any level of discipline. Lieutenants who review an Investigation file and determine that discipline more severe than a 3 day suspension may be appropriate will forward the file to his/her commander with a recommendation as to the appropriate level of discipline.

(c) Commanders and Civilian Managers have the following authority:

1. To issue letters of appreciation to Employees.
2. To take Corrective Action, issue written reprimands and impose suspensions up to 10 days in length to Employees.

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3. To immediately relieve an Employee from duty or work site when necessary.
 4. To make recommendations involving any level of discipline. Commanders and Civilian Managers who review an Investigation file and determine discipline more severe than a 10 day suspension may be appropriate will forward the file to their Assistant Chief with a recommendation as to the appropriate level of discipline.
- (d) **Assistant and Deputy Chiefs have the following authority:**
1. To issue letters of appreciation to Employees.
 2. To take Corrective Action, issue written reprimands, demote an Employee to a lower rank and impose suspensions up to 15 days in length.
 3. To take any necessary protective actions.
 4. To make recommendations involving any level of discipline
- (e) **The Chief of Police has the following authority:**
1. To issue letters of appreciation to Employees.
 2. To take any necessary protective actions.
 3. To take any disciplinary and/or Corrective Action up to and including termination

602.8 PROFESSIONAL STANDARDS UNIT RECORDS

- (a) The Professional Standards Unit will maintain all records pursuant RCW.
- (b) Access to the PSU RMS will be limited to the Professional Standards Unit and the Office of the Chief.
- (c) The Professional Standards Unit keeps confidential records of all complaints and Internal Affairs Investigations maintained in a secure area.
- (d) An annual statistical summary of internal affairs investigations is provided to the Office of the Chief by January 31 of each year by the Professional Standards Unit Supervisor for the preceding calendar year.

Confidentiality Requirements:

- A. All information obtained in connection with an Investigation shall be confidential as outlined in this policy.
- B. Any individual involved in a Departmental Administrative Investigation process and/or a Criminal Justice Training Commission (CJTC) Administrative Investigation process, including but not limited to witnesses, the subject of the Investigation and expert authorities, will keep all information about the Investigation confidential until a finding has been made and to the extent permitted by law.
- C. The following procedures will apply to assure the information remains confidential:

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1. The investigator may only share information with the Office of the Chief, Command Staff, the Professional Standards Unit, legal counsel and Human Resources, and others with a need to know as determined by the Office of the Chief.
 2. The subject of the Investigation, witnesses and expert authorities may only share information with the investigator(s), the Professional Standards Unit, Union or Guild representatives, legal counsel, Human Resources and Peer Support.
 3. Members who receive any protected information are also subject to the confidentiality requirements of this policy.
 4. As part of their normal duties, Command Staff regularly engage in the supervision, review and discussion of administrative investigations. For the purpose of effective and efficient operations, Command Staff may share information with other Command Staff members. Information shared among command members shall remain confidential.
- D. If VPD provides IA documents pursuant to a request under public records law, the documents provided (in the form provided) are no longer confidential under the IA policy. Use of such information is subject to the provision of the City of Vancouver Employment Policy 307 – Harassment Prevention.
- E. VPD will maintain, distribute, and retain IA documents consistent with public records and State of Washington Archive law.
- F. This section does not preclude the Guild or Union, or the City, from using the information as necessary during the grievance process outlined in the applicable Collective Bargaining Agreement, or from preparing and distributing the reports as outlined in this policy.

602.9 TOLLING

When an investigation is tolled, PSU will send notice every sixty (60) days to the subject(s) and respective bargaining units as well as when the investigation has resumed.

602.10 POLICY REVIEW

This policy and associated procedures shall be reviewed each year, and prior to Collective Bargaining Agreement negotiations.

602.11 MANDATORY BARGAINING

- (a) Pursuant applicable Collective Bargaining Agreements, this policy and any related procedures are a mandatory subject of bargaining. Any changes shall be developed jointly between the affected labor organization and the Office of the Chief.
- (b) If discrepancies exist between this policy and a Collective Bargaining Agreement, such dispute will be resolved with the language in the Collective Bargaining Agreement taking precedence.

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602.12 ATTACHMENTS

[See attachment: PSU Procedures Manual 03_25.pdf](#)

[See attachment: Mitigating and Aggravating Circumstances.pdf](#)

[See attachment: Discipline Matrix.pdf](#)

[See attachment: Offense Classes Updated.pdf](#)

Attachments

PSU Procedures Manual 03_25.pdf



VANCOUVER POLICE DEPARTMENT

Administrative Investigations Procedures Manual

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Chief of Police

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PREFACE

This manual sets forth standards and expectations of the Vancouver Police Department as it pertains to Administrative Investigations. This manual is intended to provide specific and general guidance and to serve as a reference to employees of the Vancouver Police Department assigned to conduct an Administrative Investigation.

It is the responsibility of the assigned investigators to comply with the procedures in this manual. However, it is understood that it is impossible to anticipate every circumstance that may affect an Administrative Investigation.

Therefore, deviation from these written standards must be approved in advanced and evaluated on a case-by-case basis under the totality of the circumstances, as deemed reasonable by the Office of the Chief. Any actions taken must ultimately reflect the department's mission statement and values.

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SECTION 1 - INTAKE

INTERNAL SOURCE INTAKE

Any employee may report an allegation of employee misconduct or dissatisfaction of Vancouver Police Department services along with the desire to file such a complaint to any supervisor, directly to COV Human Resources, online through the VPD website or complete a written complaint form and submit it to a supervisor or PSU.

EXTERNAL SOURCE INTAKE

All allegations of Vancouver Police Department employee misconduct (Complaint) or dissatisfaction of Vancouver Police Department services (Inquiry) initiated from any external source are documented and reviewed through the PSU RMS.

Complaints and inquiries may be received in person, electronically, by telephone, or in writing. Any supervisor may receive and intake external source complaints and inquiries. Staff without supervisory authority who become aware of external source allegation of misconduct are required to report it to a supervisor or PSU.

1. In person or telephonic contact by a supervisor.
 - a. The supervisors BWC should be used to record the in person contact pursuant Policy 701, when feasible.
 - b. Telephonic contact should be audio recorded with notice provided, when feasible.
 - c. In situations where it is not feasible for a supervisor to respond in person or telephonically, basic contact information should be obtained for later contact.
 - d. If a non-supervisory employee receives a complaint or inquiry by electronic means, it should be forwarded to that employee's supervisor, or if not available, to an on-duty supervisor.
 - e. When a person wishes to file a complaint, the person will be provided with, or advised where or how to obtain a complaint form and the contact will be documented into the PSU RMS.
 - f. Complaints from juveniles should generally be taken with their parents or guardian present.
 - g. The intaking supervisor will review and collect applicable evidence such as Body Worn Camera (BWC) and Vehicle Camera (VC) footage (as reasonable), as well as, any related police reports available to the supervisor. This information will be documented in the PSU RMS for Chain of Command review. Additionally, the intake supervisor will categorize BWC/VC as PSU.

The Vancouver Police Department **does not accept** complaints involving:

- The elements of a criminal case which has already been before the court and resulted in a conviction or guilty plea; or
- Anonymous or third party complaints of a minor nature (Class II Allegations).

2. Initial Review.

The supervisor must classify the type of incident, as one of the following:

- a. **Complaint**, a report from either an external or internal source that reasonably alleges employee misconduct.

- b. **Inquiry:** an expression of dissatisfaction with a policy, procedure, practice, philosophy, service level or legal standard of the agency.
- c. **Commendation** of an employee or group of employees.
- d. Upon review, PSU may change a classification.

3. Initial Documentation.

If the incident is determined to be a Complaint or Inquiry, the supervisor will intake the information and enter it into the PSU RMS system. A complaint form may be provided via Certified Mail or e-mail.

- a. As an alternative, the complainant can be referred to the online reporting form on the VPD website as a means to offer written documentation of the complaint.

If the complainant is unable to be interviewed, the intaking supervisor will document the attempts made to interview the complainant, and any available contact information in the PSU RMS system.

INFORMATION

This list contains generalized questions the reporting party can be asked as it pertains to the complaint or inquiry. A complainant's refusal to provide pertinent and/or identifying information, will be documented by the intaking supervisor.

Involved Persons Personal Data

- 1. Full Name (Last, First, MI)
- 2. Street Address
- 3. Mailing Address, if different
- 4. Contact Phone Number(s)
- 5. If the reporting party or another involved person is transient, attempt to obtain a back-up means of contact such as a relative, friend or social worker.
- 6. Email Address or social media contact information
- 7. Race
- 8. Gender
- 9. Date of Birth

Who - Who was Involved?

- 1. Does the situation involve a VPD Employee?
- 2. Who established the employee's identity and how was that accomplished?
- 3. Was the VPD employee on or off duty, if applicable.
- 4. Who was present at the time of alleged misconduct or may know something about it?
- 5. Who are the parties involved, i.e., subjects, complainants, witnesses, and named employees?

What - What happened?

1. Obtain a detailed description of the alleged misconduct.
2. What were the circumstances prior to, during, and after the event.
3. What was the reporting party's role or involvement?
4. What are the relationships among the involved parties?
5. What outcome or remedy does the complainant desire?

When - When did this happen?

1. Obtain dates and times of the alleged misconduct.
2. When did the reporting party learn of the alleged misconduct if the reporting party is not the subject?
3. If there is a delay in time (more than a few days) between the underlying incident and the intake of information; ask for an explanation from the reporting party.

Where - Where did this happen? Obtain as specific information as possible about the location where the alleged misconduct occurred so that an address could be identified or confirmed.

Why - Why did it happen? What events/circumstances led to incident.

How - How did the reporting party learn of the alleged misconduct?

4. IS RELIEF FROM DUTY APPLICABLE? The supervisor must determine if the allegation along with the available information merits removing an involved employee from duty.

If and when appropriate, a supervisor may relieve an employee from duty in an emergency when it appears such action is in the best interest of the Department and/or the community.

- a. Conditions for emergency relief from duty may include, but are not limited to:
 - i. Alleged commission of a crime that could result in loss of eligibility to perform essential job functions.
 - ii. Reasonable suspicion the employee is under the influence of either alcohol or drugs on duty.
 - iii. Apparent psychological problem.
 - iv. Apparent inability or refusal to perform the essential functions of their job.
- b. The Supervisor imposing the emergency relief from duty shall:
 - i. Immediately Notify the employee's chain of command action taken.
 - ii. Instruct the employee they should not report to duty until notified by the Office of the Chief.
 - iii. If necessary, require the employee to relinquish his/her badge, Department identification, Department-owned firearms, key fobs/cards and/or other Department equipment.

5. If a complaint or inquiry reasonably appears that it will progress into a criminal investigation, the supervisor makes command notifications pursuant VPD Policy 356.

6. If prior to being entered into the PSU RMS, the supervisor is able to refute the allegation, it can be entered with a recommendation for a decline.

7. INPUT INTO PSU RMS

Follow the Blue Team format for entering the information.

Administrative leave:

A member may be placed on administrative leave with pay and benefit during an Administrative Investigation involving the member's conduct.

1. Administrative leave will be considered when:
 - a. The Complaint involves concerns about the Employee's ability to perform the essential functions of their job such as allegations of violation of criminal laws or dishonesty.
 - b. The Complaint involves Misconduct that may impact the City's ability to provide a safe and non-violent workplace for its Employees such as allegations of harassment, or violence in the workplace.
 - c. Removing the member from duty is in the best interest of the employee, the Department or the community.
2. Administrative leave shall be approved, in advance, by the Office of the Chief.
3. During the time an Employee is on administrative leave, their case will be reviewed monthly to determine if the circumstances or situation has changed so the Employee can be returned to work, either to their regular assignment or a modified assignment, while the Investigation is in process. A decision as to whether the Member may return to work must be approved by the Chief of Police.
4. Member's Responsibilities During Administrative Leave:
 - a. Members on administrative leave shall not engage in any law enforcement activities.
 - b. Members shall notify their assigned supervisor as to where they can be reached, and must be available during regular business hours, unless excused from such requirement in writing by the Chief of Police, or designee.
 - c. Members will comply with any other written requirements established while they are on administrative leave status.
5. Employer Responsibilities During Administrative Leave:
 - a. When an Employee is placed on administrative leave, PSU will make completion of the Investigation a priority over other pending Investigations, except pending Investigations where another Employee was placed on administrative leave at an earlier date.

- b. The Office of the Chief, or their designee, will notify the affected Union or Guild that the Member was placed on administrative leave.
- c. When an Employee is on administrative leave, a Personnel Order will be prepared by the Officer of the Chief and distributed notifying the Department members of who is on administrative leave, if they have access to police facilities, and whether or not their peace officer powers are still in effect or if they have been removed.
- d. After an Employee has been assigned to a period of administrative leave exceeding 30 days, and each month thereafter, the Chief shall inform the City Manager of the reasons for continued use of administrative leave, an update on the progress of the Investigation, and the estimated duration of administrative leave.

6. Review of Administrative Leave:

- a. After an Employee has been on administrative leave for 90 days, the involved Guild or Union may request a meeting with the City Manager to voice its concerns about the length of the leave and why the subject Employee should be returned to work. The City Manager may take whatever actions they deem necessary, within the guidelines of this policy and any other applicable Department policy and/or labor agreement, regarding the administrative leave. This is not an appeal or grievance process and there is no appeal of the City Manager's decision.
- b. Provided the Guild, Union, or Employee subject to this policy has given the City Manager notice that it intends to file a grievance not more than 129 days after the Employee was placed on administrative leave and meet with the City Manager upon request, the Guild or Union may grieve the placement of an officer on administrative leave for more than 150 days. Such grievance will be heard on an expedited basis by an Arbitrator [parties to agree on 3-5 arbitrators to list as this panel]. The Arbitrator with the earliest available hearing date will conduct the arbitration. The Arbitrator will be requested to issue an expedited, summary award. The Arbitrator's fees and expenses will be borne by the City if the Employee is removed from administrative leave. The Arbitrator's fees and expenses will be borne by the Guild or Union, if the Arbitrator continues the administrative leave.

7. Transfer to another Job Position

- a. An Employee may be temporarily removed from their job position or specialty assignment during the Investigation and placed in another established position or a position created for the Employee within VPD.
- b. This action is not disciplinary and will not result in a reduction or loss of wages.
- c. This action may include directing a uniformed Employee to work in civilian clothing.

- d. The Employee must be returned to their job position or specialty assignment if the findings for the allegations are Not Sustained, Exonerated or Unfounded unless the Department has reasonable grounds not to return the Employee to the position or assignment.
8. Change in Job Responsibilities
- a. An Employee's job responsibilities or job duties may be changed temporarily by removing or adding certain duties.

SECTION 2

Classification & Assignment of Administrative Investigations

VPD classifies administrative investigations as a Class I Allegation, a Class II Allegation or an Inquiry. This section describes each incident type and the process to enter those incident types into the PSU RMS (Blue Team).

Incident Types

Class I Allegations. Allegations of misconduct regarding the following:

1. Use of force
2. Unlawful search or seizure
3. Workplace harassment
4. Discrimination
5. Dishonesty
6. Violation of civil rights
7. Violation of criminal statutes.
8. Serious or willful violations that would ordinarily be considered Class II allegations may be treated as Class I allegations depending on the severity of the circumstances.

A Class I Allegation is assigned to a PSU investigator.

Class II Allegations. Allegations of misconduct regarding violations of applicable City and/or Department policies, procedures or rules other than those which constitute a Class I Allegation.

A Class II Allegation is assigned to the bureau, division, unit, or shift in which it originated or where the subject employee is assigned.

An **Inquiry** is assigned to a PSU investigator and reviewed by the Audit Sergeant.

Process for collisions involving city vehicles:

Collisions involving City Vehicles are documents as outlines in VPD Policy 502-Traffic Collision Reporting. In the event there is a collision, and the involved employee is determined to be at

fault by the collision investigator, an entry into the PSU RMS system shall be completed. The entry will include the underlying policy violation(s) corresponding to the collision (most likely VPD Policy 304 Vehicle Use).

If the at fault party cannot be determined by the on-scene investigator, the collision will be routed to the Collision Review Board to determine culpability. After review by the Collision Review Board, if an employee is determined to be at fault, the at fault finding will be routed to the supervisor of the involved employee. The supervisor shall complete an entry into the PSU RMS system regarding the underlying policy violation(s).

SECTION 3

Conducting Administrative Investigations

Within fifteen (15) calendar days of PSU receiving the complaint or inquiry:

1. A case or tracking number is assigned;
2. A preliminary review of the information is conducted;
3. The PSU Lieutenant or designee will decide one of the following classifications:

NOTE: The purpose of the preliminary review is to determine the veracity of the Complaint/Inquiry, and what appropriate action should follow. Permissible steps within the Preliminary Investigation process may include review of applicable databases, to include BWC and Vehicle Cameras, documents and interviews with non-members.

- **Class I Allegation.** This is assigned to a PSU investigator.
- **Class II Allegation.** This is assigned as a supervisory investigation to the bureau, division, unit, or shift in which it originated or where the subject employee is assigned.
- **Inquiry.** This is referred to the Audit Sergeant for review.
- **Investigation is Declined.** This is based upon a preponderance of the available facts and evidence.
- **Absolved.** The employee's actions could technically be a violation but were deemed acceptable under the circumstances.

For PSU to DECLINE to investigate an allegation, a preliminary review will provide satisfactory evidence of one of the following criteria:

- **No Misconduct:** The Employee's conduct, as alleged within the Complaint, did not occur and/or does not constitute Misconduct.
- **Minor or De Minimus Rules Violation:** The Employee's conduct, as alleged within the Complaint, would constitute - at most - a minor technical violation that, if sustained, would not result in discipline and is too minor or too vague to warrant supervisory intervention.
- **No Jurisdiction:** The Complaint is against a non-employee, former Employee, or an employee of another department or other agency; Despite the option to decline an investigation into former members, Investigations may be appropriate based on RCW 43.101.105.
- **Judicial or Administrative Review:** The allegations have been, or will be, subject to effective judicial or administrative review. A pending tort claim or

lawsuit generally shall not be a sufficient basis for declining to investigate a Complaint.

- **Unidentifiable Member:** A reasonable preliminary review has failed to identify the subject member.
- **Previously Investigated or Adjudicated:** The alleged conduct was previously investigated, or adjudicated, by the department, and the current Complaint does not provide substantial new evidence.
- **Lacks Investigative Merit:** Specific articulable reasons exist why there is no reasonable possibility that an Investigation will sustain the allegation, or the Complaint is not credible or reliable.

If no investigation is warranted based on the above criteria, the assigned investigator drafts a Declined Findings Letter to the PSU Lieutenant. The investigative file is routed and approved through the chain of command to the Office of the Chief. The Office of the Chief will then approve or decline the recommended finding. If approved, the file will be closed with a DECLINED finding. If not approved, the Office of the Chief will direct PSU to assign the investigation to an investigator.

If, after the 15 day period, an investigation is warranted the subject employee is noticed of the Investigation at the end of the 15-day period.

If the incident is listed in RCW 43.101.135 as requiring notification to the commission, PSU will notify WSCJTC within 15 days.

Assignment of Complaint/ Investigation

Following classification by PSU, the investigation will be assigned as follows:

- **Class I Allegation.** This is assigned to a PSU investigator.
- **Class II Allegation.** This is assigned as a supervisory investigation to the bureau, division, unit, or shift in which it originated or where the subject employee is assigned.

For investigations that could reasonably result in Corrective Action, the employee's supervisor may act as both the assigned investigator and decision-maker upon approval of the responsible Commander.

- **Inquiry.** This is referred to the Audit Sergeant for review.

NOTE: Outside investigations may be assigned by the Office of the Chief as deemed necessary.

When Command Staff are Subjects of a Complaint

1. If a Commander or a Lieutenant is the subject of the Complaint, it is routed to the Office of the Chief to determine investigative responsibility. The Office of the Chief has the authority to utilize a PSU investigator, a Command Staff member or outside investigator(s). If a PSU investigator or an outside investigator(s) is utilized, the Office of the Chief will provide a reason to the Command subject and their Guild.

2. If an Assistant Chief is the subject of a complaint, the Police Chief will determine investigative and decision-making responsibility.
3. If the Police Chief is the subject of a complaint, the information is routed to the City Attorney, Human Resources Director and Deputy City Manager to determine investigative responsibility; the Deputy City Manager or designee shall thereafter render findings and impose any necessary Corrective Action or discipline.

Employee Notification

1. Written notification to the subject employee of an investigation is the responsibility of PSU.
2. It occurs within the fifteen (15 days) of PSU receiving the complaint.
3. The notification will include a summary of the complainVallegations and the employee rights.
4. All subjects of Class I allegations, which are classified as an investigation, will receive written notification.
5. All subjects of second offense Class II allegations or more serious Class II allegations, which are classified as an investigation and have the possibility of ending in discipline, will receive written notification.
4. PSU will send a copy of the notification and summary to the subject employee's guild or union.
5. The notification letter is attached to the PSU case file in the PSU RMS.

Only for Class II Investigations - Not likely to result in discipline (Corrective Action)

1. Written notice will not be provided to the subject employee by PSU. The assigned investigator (Supervisor) will provide verbal notification to the subject employee (See below).
2. The Supervisory Complaint Investigation Form (Short form) will be used.
3. The Supervisory Complaint Investigation Form shall not be used for matters classified by PSU as Class II investigations, that based upon the nature of the allegation(s) and/or PSU history of the subject employee could result in discipline.

Verbal Notification/Interview (External Complaints)

This is an administrative interview regarding IAC (included number here). On (included date), the Vancouver Police Department received a complaint alleging (include summary of complaint here). If true, this conduct may constitute a violation of VPD Policy (include Policy here) and is not likely to result in discipline. This information has been classified as a Class II Investigation and I am the assigned Investigator.

You can have a guild representative present for this interview. Would you like to have a guild representative present for this interview?

If yes, wait for a guild representative.

Once a guild representative is present, continue with the process.

If no, read below admonishment.

At this time, under the authority of the Chief of Police, I am invoking administrative process and ordering you to truthfully answer any questions asked during the course of this interview. Do you understand this?

Following the admonishment, conduct the interview of the involved employee. Note: all interviews should be recorded, in accordance with applicable laws, and recorded interviews shall be transcribed.

Verbal Notification/Interview (Collisions)

This is an administrative interview regarding TC (include number here). On (include date), you were involved in an at fault on-duty collision. If true, this conduct may constitute a violation of VPD Policy (include Policy here, most likely VPD Policy 304 Vehicle Use) and is not likely to result in discipline. This information has been classified as a Class II Investigation and I am the assigned investigator.

You can have a guild representative present for this interview. Would you like to have a guild representative present for this interview?

If yes, wait for a guild representative.

Once a guild representative is present, continue with the process.

If no, read below admonishment.

At this time, under the authority of the Chief of Police, I am invoking administrative process and ordering you to truthfully answer any questions asked during the course of this interview. Do you understand this?

Following the admonishment, conduct the interview of the involved employee. Note: all interviews should be recorded, in accordance with applicable laws, and recorded interviews shall be transcribed.

Due Dates

Once the employee is noticed, PSU will forward the Investigation to the assigned investigator in the PSU RMS and courtesy carbon copy the employee's chain of command.

For **Class I Allegation** investigations, PSU Investigators have **ninety (90) days** from the date the complaint is assigned to complete the investigation, obtain chain of command review and approval.

For **Class II Allegation** investigations, the assigned investigator has **thirty (30) days** to conduct the investigation.

An **Inquiry** will be sent to the Audit Sergeant for review within **thirty (30) days** of receipt by PSU.

Due Date Extensions

For **Class I Allegation** investigations, PSU Investigators shall request an extension of time up to ninety (90) additional days if an investigation cannot be completed within ninety (90) days. The PSU Lieutenant may approve an extension up to an additional thirty (30) days and any further requests must be approved by the Office of the Chief.

For **Class II Allegation** investigations, the assigned investigator shall request an extension of time up to fifteen (15) additional days if an investigation cannot be completed within thirty (30) days. The assigned investigator's supervisor may approve the initial extension, and further requests must be approved by the Office of the Chief.

A request for an extension of time to complete an investigation shall be in the form of a memorandum and will indicate what remains to be done, an estimated time for completion and a reason for the request.

If approved, the subject employee and the Union or Guild will be notified by PSU of the new due date and a copy of the approved memorandum as an explanation as to why the date is being extended.

Predisposition Settlement Agreement

A Pre-Disposition Settlement Agreement (PDSA) is an alternative method to a full Investigation, especially when an Employee readily acknowledges their error, and wants to conclude the matter promptly. The following procedure will be followed for a PDSA:

1. A subject employee, supervisor, or the Office of the Chief may suggest or request a PDSA at any time prior to implementation of discipline. The administrative investigation process will continue until the PDSA is agreed upon and signed. PDSA request are reviewed through the chain of command, and are forwarded to the Office of the Chief, by the division commander, with a recommendation for implementation, resolution and/or discipline.
2. A PDSA must have the approval of the subject employee and the Office of the Chief.
3. If approved by the Office of the Chief, the division commander or lieutenant will memorialize the decision in a memo to the subject employee.
4. The subject will be informed of the level of discipline that will be imposed prior to entering into the agreement. The subject has 48 hours to respond after being informed.
5. The subject must accept responsibility for their actions, and must either write a responsibility memorandum or be interviewed on tape acknowledging the conduct. Additionally, the employee must agree to waive their individual right to grieve the discipline. The Employee's Guild or Union will not grieve the discipline on behalf of the Employee, but does not waive its right to grieve the actions if there is an issue that impacts the bargaining unit.
6. The ultimate decision on the determination of discipline rests with the Office of the Chief.

7. Documentation of the process, and the discipline, will be created and maintained in the PSU RMS.

ROLE AND AUTHORITY OF THE INVESTIGATOR

The role of the investigator, whether it is a PSU investigator or an assigned supervisor, is to be an objective, unbiased factfinder. This section will refer to both as the 'assigned investigator'.

The assigned investigator has full authority to decide the extent and manner of the investigation, to request interviews and obtain information and/or evidence that is necessary to conduct the investigation.

Upon assignment, the investigator should first review the PSU RMS file for associated documents included during the intake of the complaint.

While preparing to conduct the investigation, assigned investigators should evaluate the specific allegation(s) and determine what needs to be addressed in the investigation pertaining only to the allegation(s).

Forms specific to Administrative Investigations can be located in SharePoint Forms, Service Area: Professional Standards Unit. Assigned investigators may also request the forms from PSU.

Employee Interviews

1. Schedule an Administrative Interview

Employees shall be given at least 24 hours' notice prior to a scheduled interview to occur during the employees scheduled work week, unless waived by the employee.

Non-represented employees who are the subject of an administrative investigation may request to have an uninvolved representative and/or attorney present. VPOG and VCG members may have representatives present as allowed in the collective bargaining agreement.

To schedule an interview, the assigned investigator completes the following:

- Email an **Interview Notice** (Witness or Subject) and an **Administrative Proceedings Rights Form**.
- Include notification to the employee's Guild representative (if known) or the employee's Guild President or union representative (if known) in the email.
- Advise the employee if they are a subject or a witness in the e-mail.
- Provide a Date/Time/Location for the interview at a reasonable date/time/location for the employee.
- The notice should include advisement to the employee to review all associated police reports, BWC, VC, etc. prior to the interview.
- It is the employee's responsibility to make the arrangements for a representative to be present at the interview.

2. Conduct an Interview

- Employees are provided a copy of the **Administrative Proceedings Rights Form** prior to any interview that may result in discipline. This form needs to be signed and witnessed. The assigned investigator can be the witness.
- Have and use a printed copy of the **Administrative Investigation Interview form** for any interview that may result in discipline. Use this form to begin the interview. It contains the process for compelling statements from employees and the employee's Garrity Rights.

3. **Audio Recording**

- All interviews, including those done by telephone, should be audio recorded with notice provided, in accordance with applicable laws.
- Video recordings will not be used for employee interviews.
- Assigned investigators will not use the BWC or VC system for audio recording employee administrative interviews.
- Approved recording devices for assigned investigators include digital recorders and audio only recordings using a department issued cell phone.
- All interviews which are recorded shall be transcribed.
- An employee or interviewed person may bring their own recording device and audio record any and all aspects of the interview. Such recording and any transcription of their recording is their own personal property.
- PSU will provide a recorder and/or assist with the recording, as requested. Investigators should use the departments contracted transcription services, to have the interview transcribed.
- Use the **Officer Recorded Admin Interview form** for all recorded interviews so that the proper notice is provided. State the times for the beginning and end of recordings, including breaks.

4. **Questions**

- All questions must be relevant, appropriate and specific to the allegation(s) being investigated.

5. **New Allegations**

New allegations of Misconduct may arise during the interview/Investigation process. If the allegations are the result of interviewing the subject of the Investigation, the investigator will advise the Employee of the new allegation, on the record, and may continue questioning.

If the allegations are the result of interviewing a witness Employee in the Investigation, and it may cause the witness Employee to become a subject, the interview should be stopped and the now subject employee given notice of the allegations. The subject employee can elect to continue with the interview or can choose to have a follow-up interview scheduled for a later date. The new allegations shall be investigated pursuant to the procedures previously outlined in this policy.

COMPLETION OF INVESTIGATION

Class I Allegation Investigation. Upon completion of the investigation and within the investigation timeline, the assigned investigator shall prepare an Administrative Investigation Summary Report and forward the completed investigation, including all documents and evidence, to the PSU Lieutenant in the PSU RMS.

Once received, and within the investigation timeline, the PSU Lieutenant will review the investigation for completeness and approve or reject the investigation in the PSU RMS. If the investigation is rejected, the PSU Lieutenant will provide the reasons and what further investigation is needed. If the investigation is approved, the PSU Lieutenant will forward the investigation for review through the Office of the Chief within the investigation timeline.

Once the investigation is approved by the Office of the Chief, and within the investigation timeline, PSU will send a letter to the subject employee and the appropriate Guild if applicable, notifying them the investigation has been completed. The letter will also state that the complete investigation file is available for review and that the subject employee will have fourteen (14) days to review the file and provide a written response if desired.

Additionally, the PSU Lieutenant will consult with Office of the Chief to assign a Decision-Maker and forward the complete investigative file to the Decision-Maker and the reviewing chain of command in the PSU RMS.

CLASS II Allegation Investigation. Upon completion of the investigation and within the investigation timeline, the assigned investigator will upload a final report and any documents and evidence relevant to the investigation into the PSU RMS. **The Supervisory Complaint Investigation Form may only be utilized as the final report for all first offense Class II allegations that would likely not result in discipline, based on the nature of the allegation and PSU history.** The investigation file will be forwarded through the assigned investigators chain of command for review.

Once received, and within the investigation timeline, the assigned investigators supervisor will review the investigation for completeness and approve or reject the investigation in the PSU RMS. If the investigation is rejected, the reviewing supervisor will provide the reasons and what further investigation is needed. If the investigation is approved, the reviewing supervisor will forward the investigation for review through their chain of command within the investigation timeline.

Once the investigation is approved by the appropriate Commander, and within the investigation timeline, the entire file will be forwarded to PSU in the PSU RMS. PSU will send a letter to the subject employee and the appropriate Guild if applicable, notifying them the investigation has been completed. The letter will also state the complete investigation file is available for review and that the subject employee has fourteen (14) days to review the file and provide a written response if desired.

There is no fourteen (14) day review period for Class II Investigations not likely to result in discipline (Corrective Action). These are completed using the **Supervisory Complaint Investigation Form**. This form is the investigative summary and the findings, and will be issued to the employee following the completion of the investigation.

SECTION 4

DECISION MAKING & FINDINGS OF ADMINISTRATIVE INVESTIGATIONS

Role of the Decision-Maker

The role of a decision-maker is to review the investigation in its entirety, identify whether the allegations were proven based on a Preponderance of the Evidence, and render a finding.

In cases where discipline is being imposed, disciplinary actions taken must be reasonable and consistent with past organizational practice and Discipline Guide.

Decision-Making Timeline

The decision-making process begins on the first calendar day following completion or waiver of the subject employee's 14-day review.

The decision-making process and findings for Class I investigations, must be completed within thirty (30) days. The decision-making process and findings for Class II investigations, must be completed within twenty-one (21) days. Extensions for the decision-making process can only be approved by the Office of the Chief.

If the investigation results in a sustained finding which could result in discipline the employee will have fourteen (14) days to request a Loudermill hearing. Such a meeting request will be made by the subject employee to the decision-maker in writing.

Decision-Making Process

Once assigned, the decision-maker completely reviews the entire investigative file.

- a. Is the investigation sufficiently complete?
- b. Was the subject employee provided proper notice?
- c. Were the Administrative Investigations policy timelines met?
- d. Was there any conduct which was a violation of the policies and procedures of the Vancouver Police Department?
- e. Was the investigation conducted in a manner that was fair and objective?
- f. Was the burden of proof (**Preponderance of the Evidence**) for each allegation(s) met?

The decision-maker will then make a determination of findings for each specific allegation(s) in the investigative file. While certain policies may have been identified by the assigned investigator, it is the responsibility of the decision-maker to determine which specific policies actually apply to the allegations.

If the decision-maker determines there are additional allegations or need for further investigation, the investigation will be sent to PSU for review and timely notices pursuant to this manual.

Within the decision-making time frame (Class I = 30 days, Class II = 21 days)

1. The decision-maker will complete a **Findings Letter**. The letter will be sent through the decision-makers Chain of Command for review and approval, prior to issuance to the subject employee.
2. For sustained findings, the appropriate Offense Class from the Discipline Guide is identified. The assigned Decision-Maker will support their findings and consider potential discipline (in line with the discipline guide and progressive discipline) as well as, corrective and/or disciplinary history (if any).
3. Each policy violation/allegation is to be classified separately in the letter and addressed based on the appropriate Disposition Classification.
4. During a chain of command review, the decision makers supervisor has the authority to complete an overruled findings and submit it. Changes made to a findings decision must be documented in an 'overruled findings' memorandum by the supervisor making the change.
5. Once approved, the decision-maker will notify the subject employee that the findings are complete and ready for issuance.

If there are no sustained findings, the **Findings Letter** will serve to close the investigation.

For Class II Investigations not likely to result in discipline (Corrective Action). The **Supervisory Complaint Investigation Form** is the investigative summary and the findings. The investigation and findings will be completed within the thirty (30) day investigation period. The completed **Supervisory Complaint Investigation Form** will be issued and signed by the employee following the completion of the investigation and chain of command review.

Disposition Classification (Findings)

The investigative findings are classified as follows:

- **Unfounded** -The Investigation determined the alleged misconduct did not occur.
- **Exonerated** - The allegation did, in fact, occur but the actions of the Employee were legal, justified, proper and in conformance with policy and procedure or the result of a policy or procedure which was in error.
- **Not Sustained** - There is insufficient evidence to either prove or disprove the allegation.
- **Sustained** - The allegation is supported by a preponderance of the evidence.
- **Corrective Action** - Non disciplinary measures, specific to the complaint, which include any corrective counseling, documentation of training, mentoring, or coaching provided to an employee performing below expectations. Successive similar or like conduct that constitute policy violations may be considered in progressive disciplinary action.
- **Suspended** - An administrative investigation can be suspended when the employee separates from employment with the City of Vancouver before the conclusion of the investigation, or before a final disposition is rendered and there are no provisions within RCW 43.101.135 or WAC 139-06-020 requiring completion of the investigation.

- **Absolved** - The employee's actions could technically be a violation but were deemed acceptable under the circumstances. (This finding may only be recommended and utilized by the Office of the Chief)

Procedure for Handling a Loudermill Hearing

If an administrative investigation is sustained and discipline recommended, a copy of the investigation file will be given to the subject employee by PSU. Prior to a final decision on the imposition of discipline, the subject employee will have an opportunity to meet with the decision-making authority.

The subject employee will be given the opportunity to speak or provide written correspondence on their own behalf in response to the findings letter and/or any discipline.

1. The Employee will have 14 calendar days following the completion of the decision making time frame to request the meeting.
2. Following the meeting, or in the absence of a proper request for a meeting, a decision will be made as to whether discipline is necessary. The decision and/or discipline will be provided to the subject in writing.
3. No employee may be disciplined for alleged misconduct if the City has known of the allegations for more than 12 months pursuant to applicable labor agreements.

Decision to Discipline

All disciplinary action will be consistent with the applicable labor agreements. The Department Discipline Guide (see Appendix) shall be utilized when determining the appropriate level of discipline. Any imposed discipline will be documented in writing and provided to the employee.

1. Using the Discipline Guide

- The Department's Discipline Guide will be used when determining the appropriate level of discipline.
- The standard range is intended to generally be the appropriate discipline for violations most likely to occur in each category.
- The mitigating and aggravating circumstances will be used to determine the most appropriate level of discipline within the range.

2. Progressive Discipline Concept

- The basic principle of progressive discipline is the process of using increasingly severe disciplinary steps or measures when an Employee fails to correct a problem after being given a reasonable opportunity to do so.
- The underlying principle of sound progressive discipline is to use the least severe action necessary to correct an Employee's performance, while providing the Employee a reasonable amount of time to make needed improvements. The severity of the action should only increase if the performance is not corrected.
- Progressive discipline only uses termination of employment as a last resort for serious and/or repeated Misconduct, or for one incident involving the most serious law or policy violation(s).
- Generally, discipline will follow a progressive discipline method. This method attempts to correct, resolve or remove the Employee's performance

problem or misconduct at the lowest, most effective level. It should be imposed only when the supervisor/manager can reasonably anticipate the discipline will be effective.

- It is not necessary to impose the lowest step of discipline on the Discipline Guide prior to imposing a more severe level.
- Mitigating and aggravating circumstances may call either for by-passing or imposing the standard range of discipline. There are some acts of misconduct, which by their nature, may result in severe discipline, even termination of employment, without the use of progressive discipline.

3. Training in lieu of Discipline

The Office of the Chief may offer training related to the violation in lieu of or in conjunction with the disciplinary action.

4. Corrective Action

The progressive discipline method may include Corrective Action and is a non-disciplinary measure. Successive similar or like conduct that constitute policy violations may be considered in progressive disciplinary action.

5. Written Reprimand

- A written reprimand can be the lowest form of discipline pursuant to the Employee's Collective Bargaining Agreement. The written reprimand is maintained in the Employee's personnel records and documented in the performance evaluation. The documentation shall be maintained per the State of Washington Archive law. A written reprimand can be considered in subsequent discipline as outlined in the Discipline Guide.

6. Formal Discipline - The formal disciplinary steps from least to most severe are:

- Suspension includes the removal of an Employee from duty without pay for a predetermined length of time. A suspension can be of any length depending on the seriousness of the misconduct, but must be in full day increments, and calculated equivalent to eight (8) hour days. The Office of the Chief has the authority to determine the dates on which the suspension will be implemented and/or to forfeit accrued paid days off on a day-for-day basis, in lieu of the suspension. The document is maintained in the Employee's personnel records and is documented in the performance evaluation. The documentation shall be maintained per the State of Washington Archive law.
- Reduction in rank is a lowering of an Employee's rank (classification). Reduction and demotion are synonymous. The reasons for reduction in rank must be stated in writing and include specific grounds and facts upon which the reduction in rank is based. The document is maintained in the Employee's personnel records, is documented in the performance evaluation and maintained per the State of Washington Archive law.
- If reduced in rank, seniority will be based on an employee's original or adjusted date of hire, whichever is most recent.
- Termination means the complete and final separation from employment with the City/Department for cause. The reasons for termination must be stated

in writing and include specific grounds and facts upon which the termination is based. The document is maintained in the Employee's personnel records per the State of Washington Archive law.

Closure of an Investigation

Once the findings letter, or written documentation of discipline imposed is issued, it is placed in the applicable investigation file in the PSU RMS. PSU will provide the applicable Guild or Union a copy of all investigations when the investigation is completed.

Record Keeping

All open Administrative Investigation files will be maintained by the investigator responsible for completing the investigation.

In accordance with Department retention guidelines, PSU maintains all closed Investigation files and a record of all Complaints against the Department or its members. These records are stored in a secure area separate from personnel records and other centralized records systems.

Release of information regarding Administrative Investigations

All requests for, or disclosures of, information, not including those made pursuant the Administrative Investigations Policy, Administrative Investigations Procedure Manual and applicable labor agreements, regarding an Administrative Investigation shall be subject to the public disclosure laws of the State of Washington and applicable City and Department policies.

Appeal Rights

Employees who disagree with disciplinary action have access to an appeal procedure. Those procedures are contained in applicable Collective Bargaining Agreements, Civil Service Rules and City policy.

APPENDIX

Definitions

Administrative Investigation: The formal action by, or on behalf of, the Department to fully, fairly and impartially gather all relevant information in order to render findings and, if necessary, impose discipline.

Investigations can be assigned to the Professional Standards Unit or another supervisor based on recommendations from the chain of command, and as decided by the Office of the Chief.

The Office of the Chief has the authority to utilize outside investigator(s). If an outside investigator is utilized, the Office of the Chief will provide a reason to the appropriate Guild or Union.

Command Staff. Command Staff includes, Lieutenants, Commanders, Public Affairs Manager, and the Office of the Chief.

Complaint. A report from either an external or internal source that alleges employee misconduct.

Complaint Form: VPD paper form, or electronic form on the Department website, designed and used to record the elements of a complaint.

Corrective Action: Non disciplinary measures, specific to the complaint, which include any corrective counseling, documentation of training, mentoring, or coaching provided to an employee performing below expectations. Successive similar or like conduct that constitute policy violations may be considered in progressive disciplinary action.

Decision-Maker: The person responsible for reviewing the investigative file and rendering an investigative findings for the alleged Misconduct.

Garrity Rights: An administrative process to compel a public employee to cooperate with an internal/administrative investigation. The public employee is admonished advising they are being ordered to cooperate and answer all questions truthfully. Their failure to answer questions or cooperate in the investigation could result in disciplinary action. The investigators questioning of the employee must be specific, direct, and narrowly related to the scope of the investigation. The answers derived from the compelled employee may be used in a disciplinary proceeding or civil hearing against the employee or another member of the department. However, the compelled employee statements may not be used against the employee in a criminal proceeding unless the employee was determined to have lied during their compelled statement.

Guild/Union: This refers to the represented employees from the Vancouver Police Officer Guild, Vancouver Command Guild, and OPEIU.

Incident Type: Inquiry, Investigation, and Corrective Action. The classification of administrative investigations within the PSU RMS.

Incomplete Complaint: A matter in which the party initiating a Complaint either refuses to cooperate or becomes unavailable after diligent follow-up investigation.

Inquiry: An inquiry is an expression of dissatisfaction with a policy, procedure, practice, philosophy, service level or legal standard of the agency.

Loudermill Hearing: An administrative action of due process for public employees who possess a property right to their job (not at will). This action is a Pre-Disciplinary Hearing where the accused employee has the opportunity to offer rebuttal information or mitigating circumstances. This is not a compulsory process, and the employee may defer attending. There is no fundamental right to representation in this process. The questioning of the employee by the employer is limited to clarifying responses. Employers must follow up on / re-open the investigation pursuant applicable labor agreements if new / relevant information or facts come to light.

Member/Employee: Any person whether paid, unpaid, temporary, permanent, probationary, volunteer, appointed, non-appointed, commissioned, or non-commissioned, who is employed or

supervised by VPD. The terms "Member" and "Employee" have the same meaning in this manual.

Misconduct: Employee conduct which includes violation of laws, ordinances, Department policies, rules or procedures, code of ethics, oath of office, or violations of the state or federal constitution.

Office of the Chief: The Chiefs Office includes the Chief of Police, Deputy Chief and the Assistant Chief(s).

Preliminary Review: Review of basic information conducted by, or on behalf of, the Department to evaluate:

1. whether, if true, an act or omission would reasonably constitute Misconduct,
2. whether a Complaint is capable of being proven true, or
3. whether a more appropriate means of redress is already being utilized.

Preponderance of the Evidence: is that evidence which, when fairly considered, produces the stronger impression, has the greater weight, and is the more convincing as to its truth when weighted against the evidence in opposition thereto (WAC 192-100-065).

Professional Standards Unit (PSU): The Professional Standards Unit includes all Employees assigned to the unit by the Chief of Police.

PSU RMS: The Professional Standards Unit Report Management System. This is currently IA-Pro and Blue Team software systems.

Supervisor: Any commissioned employee of the rank of Corporal, or above, or any professional staff employee with assigned supervisory responsibilities.

Third Party: Any person other than the individual alleged to have been injured, offended or aggrieved by an employee of this Department. The term "third-party" specifically includes witnesses, uninvolved bystanders and others who learn about the incident or conduct indirectly.

Time/Time Frames: All references to time or time frames are calendar days.

Weingarten Rights: The right to representation in an administrative investigation or proceeding.

DISCIPLINE GUIDE



OFFENSE CLASSES

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MITIGATING AND AGGRAVATING CIRCUMSTANCES

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Mitigating and Aggravating Circumstances.pdf

MITIGATING AND AGGRAVATING CIRCUMSTANCES

VPD recognizes that every situation is different. Based on such, the table below outlines both mitigating and aggravating circumstances that will be considered in determining the most appropriate level of discipline within the standard range for sustained allegations of misconduct.

Commendations	Documented incidents of outstanding performance and service to the department/community. Commendations within the five years prior to the date the IA was opened should be considered.
Prior Corrective and/or Disciplinary Action	<p>Includes Corrective Action, prior sustained allegations and associated levels of discipline and any other behaviors documented in supervisory notes. Corrective and/or disciplinary actions within the following time limits should be considered:</p> <p>Corrective Action - One Year Written Reprimand - Three Years 1-5 Day Suspension - Five Years More Severe Discipline - While employed with VPD</p> <p>Time limits are based on when the incident occurred and not the date the IA was opened.</p>
Seniority	Seniority will be weighed against the behavior in question based upon the factors surrounding the incident, such as experience, training, culpability and circumstances of the event.
Rank	Employees of higher rank may be held to a higher standard of conduct and knowledge of departmental policies based on the virtue of their positions.
Circumstances (of the incident)	<ul style="list-style-type: none"> •Was the employee involved in legitimate City business (performing assigned job duties)? •Was the employee acting in the best interest of the Department and/or community with due regard for safety? •Did the employee's actions create a negative impact on the professional image of the Department?
Culpability	An evaluation of the behavior should consider whether the employee acted intentionally or with knowledge that the behavior amounted to a violation of the law, City or Department policy, or job expectations.
Employee Attitude	<p>Did the employee recklessly disregard factors that a reasonable person would have considered or did the employee act negligently? What is the employee's attitude toward the behavior?</p> <p>Discipline can only be effective if employees understand why their actions resulted in corrective and/or disciplinary action and accept responsibility for continually striving to conduct themselves within the guidelines of the law, policy and job expectations.</p>
Performance Evaluations	Information in any performance evaluation may be considered.
Training	<p>Any training specific to the behavior in question should be considered. This may be as simple as a review of policy or as formalized as a structured classroom or other job related training.</p> <p>To be considered, training must be documented in supervisory notes, training records, previous corrective and/or disciplinary action or performance evaluations.</p>

*Prior Corrective Action should only be considered as listed in the Discipline Guide (Appendix B).

Discipline Matrix.pdf

DISCIPLINE GUIDE

The following lists are causes for disciplinary action. The list is representative only and should not be considered to be all-inclusive. The list of disciplinary actions is intended as a guide only and should not be imposed automatically in relation to findings that warrant discipline.

Decision-Makers will use this Guide when determining the appropriate level of discipline when allegations of misconduct are sustained. The standard range is intended to be the appropriate discipline for misconduct most likely to occur in each category. Therefore, any such actions are expected to be in the standard range as outlined in this Guide. The mitigating and aggravating circumstances articulated in the Decision-Maker's letter of discipline will be used to determine the most appropriate level of discipline within the range.

If there are more than three offenses in the same offense class, the offense class can be increased to the third offense of the next level. For example, on the fourth offense of an offense class two, the standard range of discipline will be third offense in offense class three (1 day-5 day suspension).

	First Offense		Second Offense		Third Offense	
Offense Class	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
1	<i>NIA</i>	Corrective Action	<i>NIA</i>	Written Reprimand	Corrective Action	1 Day Suspension
2	Corrective Action	Written Reprimand	Corrective Action	1 Day Suspension	Written Reprimand	3 Day Suspension
3	Corrective Action	1 Day Suspension	Written Reprimand	3 Day Suspension	1 Day Suspension	5 Day Suspension
4	Written Reprimand	3 Day Suspension	1 Day Suspension	5 Day Suspension	3 Day Suspension	15 Day Suspension
5	1 Day Suspension	5 Day Suspension	3 Day Suspension	15 Day Suspension	10 Day Suspension	Termination of Employment
6	5 Day Suspension	Termination of Employment	15 Day Suspension	Termination of Employment	Termination of Employment	<i>NIA</i>
7	15 Day Suspension	Termination of Employment	Termination of Employment	<i>NIA</i>	<i>NIA</i>	<i>NIA</i>

No member may be disciplined for alleged misconduct if the City has known of the allegations for more than 12 months.

In those instances where Corrective Action or a Written Reprimand is deemed appropriate, the person imposing Corrective Action will consider the source of the Complaint. In those incidences where the complainant is considered to be a Third or Anonymous Party, or the incident they are complaining about is older than 30 days, discipline in the form of a Written Reprimand cannot be imposed. Corrective Action can still take place; however, it cannot be used as a predicate offense to Impose a higher level of discipline (e.g., 2nd offense) in subsequent actions. Nothing in this section precludes the imposition of Formal Discipline in incidents where the complaining party is a third party, anonymous party or makes the complaint outside of 30 days.

*Discipline should serve to correct behavior. Discipline should emphasize training and remediation along with more creative interventions designed to correct deficiencies in performance and guide future performance by Department members. Education, training and/or a performance improvement plan can be suggested or required in conjunction with any level of corrective or disciplinary action listed in this Discipline Guide.

Offense Classes Updated.pdf

OFFENSE CLASSES

This is not a comprehensive list of misconduct, but some specific examples of the different classes of misconduct. It is impractical to develop a list that includes all behaviors that may result in corrective and/or disciplinary action.

Offense Class	Behavior
1	<ul style="list-style-type: none"> a. Not prepared for duty b. Conducting personal business on duty c. Leaving the City without authorization d. Failure to provide name and ID number to any person e. Meal or coffee break exceeding allowed time f. Becoming involved in a neighborhood dispute while off duty
2	<ul style="list-style-type: none"> a. Unexcused tardiness b. Failure to report for court c. Neglect of or inattentiveness to duty d. Criticizing the instructions of a supervisor e. Speaking critically of the nationality, race, sex or beliefs of another person while on duty f. Losing or damaging department property g. Using position as a department employee to seek favors
3	<ul style="list-style-type: none"> a. Sleeping on duty b. Use of rude or insulting language or conduct offensive to the public or department employees c. Failure to properly complete an investigation and necessary reports d. Failure to properly process property or evidence e. Feigning illness/injury for the purpose of escaping duty or assignment f. Failure to submit reports within time limits g. Failure to properly perform required supervisory responsibilities h. Failure to comply with policies, orders, or regulations when such violation does not involve a misuse of authority or an ethical offense and has minimal adverse impact on public safety.
4	<ul style="list-style-type: none"> a. Failure to obey a direct and lawful order b. Absent from duty without approved leave c. Failure to respond to an assigned call for service d. Failure to take police action when necessary e. Failure to report illegal or detrimental activity of another employee f. Accepting or soliciting money or any gratuity for performing job duties g. Through carelessness or omission, creating or causing to be created a false, inaccurate, or misleading departmental report or record h. Failure to comply with policies, orders, or regulations when such violation involves a misuse of authority, or an ethical offense that creates a clear, serious adverse impact on public safety
5	<ul style="list-style-type: none"> a. Knowingly issuing an unlawful order b. Willfully damaging department property c. Driving intoxicated while off duty d. Failure to comply with policies, orders, or regulations when such violation involves a misuse or abuse of authority, or an ethical offense that creates a clear, serious adverse impact on public safety. e. Gross neglect or inattentiveness to duty.

6	<ul style="list-style-type: none">a. Failure to reply truthfully to any question or request for information in any investigation, hearing or procedureb. Accepting or soliciting a bribe or gratuity for permitting an illegal actc. Illegal use of drugs prescribed by a physiciand. Failure to comply with policies, orders, or regulations when such violation involves untruthfulness or ethical offenses, or offenses that create or potentially create, a critical adverse impact on public safety
7	<ul style="list-style-type: none">a. Abandonment of positionb. Commission of a felonyc. Driving on duty with the presence of an alcoholic beverage in their systemd. Willfully under the influence of illegal drugs while on duty