
Personnel Complaints

1020.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of employees of the Elk Grove Police Department. This policy shall not apply to any questioning, counseling, instruction, intervention meeting, informal verbal admonishment or other routine or unplanned contact of an employee in the normal course of duty, by a supervisor or any other employee, nor shall this policy apply to a criminal investigation.

Nothing in this policy is intended to extend any statutory rights available to peace officers to unsworn employees, including, without limitation, those rights available to peace officers under the Public Safety Officers Procedural Bill of Rights Act (Gov. Code section 3300, et seq.).

The Elk Grove Police Department Personnel Complaint Guideline will serve as a reference for corrective action.

1020.1.1 DEFINITIONS

For the purposes of this Policy 1020, the following terms shall have these assigned meaning:

Bureau Manager – Civilian Managers (Dispatch, Property/Evidence, Records, Information Technology, Animal Services) and Lieutenants (Patrol Watch Commanders, Traffic, Professional Standards, Investigations, Community Resources)

Division Commander – Captain of Operations, Captain of Specialized Services, and Captain of Administrative Services

Departmental Review Committee - The Departmental Review Committee shall be comprised of a Legal Advisor (optional, non-voting), two Captains, and a Bureau Manager. In the event a member of the Departmental Review Committee is unavailable, or a position vacancy exists, the department may appoint a substitute member to fill the vacancy or proceed with the remaining committee members, provided that the committee consists of at least two voting members. Any member of the department who initiated the complaint or was directly involved in the investigation may be excluded as a member of the Departmental Review Committee.

1020.2 POLICY

The Elk Grove Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its employees.

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

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

Elk Grove Police Department

Elk Grove PD Policy Manual

Personnel Complaints

1020.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of Department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate Department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

1020.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the Bureau Manager is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused employee.

Formal - A matter in which a supervisor or Bureau Manager determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused employee or referred to the Professional Standards Bureau, depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Professional Standards Bureau, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

1020.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

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

1020.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1020.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the Department website. Forms may also be available at other City facilities.

Elk Grove Police Department

Elk Grove PD Policy Manual

Personnel Complaints

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1020.4.2 ACCEPTANCE

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

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

The Department shall release to the complaining party a copy of the complaining party's own statements at the time it is filed with the Department (Penal Code § 832.7).

1020.4.3 AVAILABILITY OF WRITTEN PROCEDURES

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

1020.4.4 HATE COMPLAINTS AGAINST PEACE OFFICERS

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

1020.5 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the Department should audit the log and send an audit report to the Chief of Police or the authorized designee.

1020.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1020.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement

Elk Grove Police Department

Elk Grove PD Policy Manual

Personnel Complaints

regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor investigates any complaint.

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

The responsibilities of supervisors include but are not limited to:

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

Elk Grove Police Department

Elk Grove PD Policy Manual

Personnel Complaints

1020.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Professional Standards Bureau, or another investigator authorized by the City, the following applies to employees covered by the Public Safety Officers Procedural Bill of Rights Act (POBR) (Government Code § 3303):

- (a) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, they shall be compensated.
- (b) Unless waived by the employee, interviews of an accused employee shall be at the Elk Grove Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused employee.
- (d) Prior to any interview, an employee shall be informed of the nature of the investigation, the name, rank, and command of the officer in charge of the investigation, the interviewing officers, and all other persons to be present during the interview.
- (e) All interviews shall be for a reasonable period and the employee's personal needs should be accommodated.
- (f) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
 - (a) An employee should be given an order to answer questions in an administrative investigation that might incriminate the employee in a criminal matter only after the employee has been given a *Lybarger* advisement. Administrative investigators should consider the impact that compelling a statement from the employee may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
 - (b) No information or evidence administratively coerced from an employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer should record all interviews with employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview.
- (i) All employees subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.

Elk Grove Police Department

Elk Grove PD Policy Manual

Personnel Complaints

- (j) All employees shall provide complete and truthful responses to questions posed during interviews.
- (k) No employee may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

1020.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

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

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

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

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

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

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

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

1020.6.4 DISPOSITIONS

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

Unfounded - When the investigation clearly establishes that the allegation is not true. Complaints that are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.8).

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

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

Sustained - A final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to Government Code § 3304 and Government Code § 3304.5 that the actions of an officer were found to violate law or department policy (Penal Code § 832.8).

Elk Grove Police Department

Elk Grove PD Policy Manual

Personnel Complaints

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

1020.6.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation (Government Code § 3304).

In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1.

1020.6.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The employee conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

1020.6.7 LIMITATIONS ON INVESTIGATIONS

Investigations shall not be undertaken against any officer in the following limited circumstances:

- (a) The officer has been placed on a prosecutor's *Brady* list, or the name of the officer may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).
 - 1. An investigation may be initiated based on the underlying acts or omissions for which the officer has been placed on a *Brady* list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland*.
- (b) A court finding against an officer in a challenge brought under Penal Code § 745 (California Racial Justice Act of 2020) (Government Code § 3305.6).
 - 1. An investigation may be Initiated based on the underlying acts or omissions which formed the basis of the action brought pursuant to Penal Code § 745 (Government Code § 3305.6).

1020.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct. Such areas may also be searched at any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

No officer shall have his or her locker, or other space for storage that may be assigned to him or her searched except in his or her presence, or with his or her consent, or unless a valid search warrant has been obtained or where the officer has been notified that a search will be conducted. This section shall apply only to lockers or other space for storage that are owned or leased by the employing agency. (Government Code § 3309).

Elk Grove Police Department

Elk Grove PD Policy Manual

Personnel Complaints

1020.7.1 DISCLOSURE OF FINANCIAL INFORMATION

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

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

1020.8 ADMINISTRATIVE LEAVE

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

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1020.9 CRIMINAL INVESTIGATION

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

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

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

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

1020.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the review process. Each reviewer should include their comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

Elk Grove Police Department

Elk Grove PD Policy Manual

Personnel Complaints

At any time during the formal investigation and review process, the Police Chief, or the Police Chief's designee, may dispense with any interview, formal investigation report, and/or recommendation by the Bureau Manager and/or the Departmental Review Committee, and issue a final notice of disciplinary action imposing a written reprimand upon a determination that sufficient evidence has been established to impose that level of discipline. Notwithstanding the foregoing, an employee receiving a written reprimand shall maintain all applicable rights as set forth in any collective bargaining agreement, Memorandum of Understanding, personnel rules and policies, and as otherwise provided for by law.

[See attachment: 2022 Administrative Investigation Routing.pdf](#)

Upon receipt of any completed personnel investigation, the Bureau Manager of the involved employee shall review the entire investigative file, the employee's personnel file, and any other relevant materials.

The Bureau Manager shall make recommendations regarding the disposition of any allegations contained in the investigation.

Prior to forwarding the recommendations to the Professional Standards Bureau Commander, the Bureau Manager may return the entire investigation to the assigned investigator for further investigation or action.

When forwarding any written recommendation to the Professional Standards Bureau Commander, the Bureau Manager shall include all relevant materials supporting the recommendation. Actual copies of a employee's existing personnel file need not be provided and may be incorporated by reference.

Upon receipt of the written recommendations, the Professional Standards Bureau Commander will coordinate and schedule the meeting of the Departmental Review Committee. Prior to the meeting, each member will review the entire investigation.

The first portion of the Departmental Review Committee meeting will be a discussion surrounding the facts of the investigation and will include the investigator. The second portion of the meeting will exclude the investigator and the Departmental Review Committee members will make a determination as to whether they concur with the Bureau Manager's recommendation regarding the disposition or have an alternate recommendation. If necessary, the complaint may be sent back to the Bureau Manager for further investigation or action prior to further review.

Once the review is complete, the Captain of the Departmental Review Committee will prepare a memorandum to the Professional Standards Bureau Commander, documenting the Departmental Review Committee's findings along with any identified training issues. If there is a finding of Sustained, a recommendation of disciplinary action is required from the committee.

If the Departmental Review Committee is unable to reach a consensus either on the complaint findings or on the level of disciplinary action, it will be documented by the Captain of the

Elk Grove Police Department

Elk Grove PD Policy Manual

Personnel Complaints

Departmental Review Committee in a memorandum to the Professional Standards Bureau Commander.

In the event disciplinary action is proposed, the Professional Standards Bureau Commander shall provide the employee with a pre-disciplinary procedural due process hearing (Skelly) by providing written notice of the charges, proposed action and reasons for the proposed action ("Notice of Proposed Discipline"). The Notice of Proposed Discipline shall be provided within one year from the date of discovery by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct, except as otherwise provided for herein and/or by law (Government Code § 3304(d); Government Code § 3508.1), and include the following:

- (a) A statement of the nature of the disciplinary action;
- (b) The effective date of the disciplinary action;
- (c) A statement of the cause(s) for disciplinary action citing the item(s) under Department Policy Section 340 which have been violated;
- (d) Any supporting material or documentation;
- (e) A statement advising the employee of the right to appeal the action, the manner and time of which the appeal must be made, and the required content of the appeal; and
- (f) The name and address of the person to whom all written communication regarding the appeal shall be sent.

A copy of the Notice of Proposed Discipline shall be served upon the employee personally, unless the employee is unable to come to the department to receive the notice or is otherwise unavailable within 24 hours of the Department's attempted contact to the employee to report to PSB to receive the notice. Under this circumstance, the notice may be served by first class mail and certified mail, return receipt requested, to the last known address of the employee. The last known address shall be deemed to be the address that is within the employee's official personnel file. If notice is provided by mail, the employee shall be deemed to have received the notice ten (10) work days after the date of mailing.

- (a) An employee who is subject to disciplinary action shall have the option, within five (5) work days after receiving a Notice of Proposed Discipline, to request a Skelly Meeting. The proposed discipline shall become final if the employee fails to request or participate in the Skelly Meeting. Failure to request or participate in a Skelly Meeting shall not preclude the employee's right to proceed to arbitration, if the Chief of Police or designee imposes discipline.
- (a) If the employee elects to respond orally, the presentation may be recorded by the Department. Upon request, the employee shall be provided with a copy of the recording. There is no requirement that the Skelly hearing be recorded.

The Notice of Proposed Discipline and pre-disciplinary procedural due process hearing (Skelly) shall not apply to disciplinary action resulting in the issuance of a written reprimand. Employees may appeal a written reprimand as set forth in any collective bargaining agreement, Memorandum of Understanding and/or personnel rules.

Elk Grove Police Department

Elk Grove PD Policy Manual

Personnel Complaints

Notwithstanding the foregoing, complaints made by a current or former Department employee, or an applicant for employment with the Department, alleging discrimination, harassment, and/or retaliation, may be investigated and reviewed in accordance with City of Elk Grove Personnel Rules and Regulations, except that any investigation resulting in a sustained finding of misconduct shall be reviewed by the Departmental Review Committee and the employee shall receive the Notice of Proposed Discipline and Skelly Meeting as provided for herein, with the Department's Professional Standards Bureau administering the disciplinary process.

Complaints involving the Police Chief or Assistant Police Chief shall be referred to the City Manager, and investigated in accordance with applicable policy and state law. Unless otherwise directed by the City Manager, no Department employee in the Police Chief's or Assistant Chief's subordination chain of command shall conduct, or review, an administrative investigation into allegations of misconduct committed by the Police Chief or Assistant Police Chief. The City Manager, or their authorized designee, shall issue any final notice of disciplinary action pertaining to the Police Chief; the Police Chief, or their authorized designee, shall issue any final notice of disciplinary action pertaining to the Assistant Police Chief.

1020.10.1 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

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

1020.10.2 NOTICE REQUIREMENTS

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

1020.11 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Skelly Officer after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The Skelly Officer should be a Division Commander that was uninvolved in the administrative investigation prior to this point. The employee shall consider the following:

- (a) The Skelly Officer shall meet with the employee and the employee's representative, if any, listen to their response and receive documents presented by the employee. The Skelly Officer may recommend to the Chief of Police or designee that the proposed action be dismissed, modified, or sustained.
- (b) The response is not intended to be an adversarial or formal hearing.
- (c) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.

Elk Grove Police Department

Elk Grove PD Policy Manual

Personnel Complaints

- (d) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Skelly Officer to consider.
- (e) In the event that the Skelly Officer elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
- (f) The employee may thereafter have the opportunity to further respond orally or in writing to the Skelly Officer on the limited issues of information raised in any subsequent materials.

Once the employee has completed his/her response or if the employee has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline, including the recommendation made by the Skelly Officer. Within ten (10) calendar days of receiving the Skelly Officer's recommendation, the Chief of Police shall render a written decision to the employee and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall be implemented. A Final Notice of Disciplinary Action shall be served in the same manner as the preliminary Notice of Proposed Discipline.

Upon mutual agreement, the employee and the Skelly Officer may agree to modify the timelines contained in the Skelly process.

1020.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

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

1020.13 POST-DISCIPLINE APPEAL RIGHTS

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

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

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

Additionally, any evidence of a court finding that an officer violated Penal Code § 745 (California Racial Justice Act of 2020) shall not be introduced for any purpose in any administration appeal of a punitive action (Government Code § 3305.6).

Elk Grove Police Department

Elk Grove PD Policy Manual

Personnel Complaints

1020.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

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

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

1020.15 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

1020.16 REQUIRED REPORTING TO POST

Beginning January 1, 2023, the Department shall report to the Commission on Peace Officer Standards and Training (POST) within 10 days, in a form specified by POST, any of the following events:

1. The employment, appointment, termination, or separation from employment or appointment, by the Department, of any peace officer. Separation from employment or appointment includes any involuntary termination, resignation, or retirement.
2. Any complaint, charge, or allegation of conduct against a peace officer employed by the Department that could render a peace officer subject to suspension or revocation of certification by POST pursuant to Penal Code section 13510.8.
3. Any finding or recommendation by the Police Chief, or civilian inspector general, that a peace officer employed by the Department engaged in conduct that could render a peace officer subject to suspension or revocation of certification by POST pursuant to Section 13510.8.
4. The final disposition of any investigation that determines a peace officer engaged in conduct that could render a peace officer subject to suspension or revocation of certification by POST pursuant to Penal Code section 13510.8, regardless of the discipline imposed.
5. Any civil judgment or court finding against a peace officer based on conduct, or settlement of a civil claim against a peace officer or an agency based on allegations of officer conduct that could render a peace officer subject to suspension or revocation of certification by POST pursuant to Penal Code section 13510.8.

Elk Grove Police Department

Elk Grove PD Policy Manual

Personnel Complaints

6. By July 1, 2023, the Department shall report to POST any events described in subdivision (a) that occurred between January 1, 2020, and January 1, 2023.
7. The Chief of Police or the authorized designee shall be responsible for providing POST access to or duplication of investigation documentation (e.g., physical or documentary evidence, witness statements, analysis, conclusions) for up to two years after reporting of the disposition of an investigation (Penal Code § 13510.9).
8. A POST affidavit-of-separation form shall be executed and maintained by the Department and submitted to POST as required by Penal Code § 13510.9

Attachments

2022 Administrative Investigation Routing.pdf

