

**DISCIPLINE PROCESS FOR SWORN MEMBERS
OFFICERS**

2.07.01 PURPOSE

The purpose of this order is to set forth the Department's disciplinary policies and procedures for **sworn members (members)** ~~officers~~ as **established** ~~prescribed~~ by the City Charter, **San Francisco Administrative Code**, and **Department General Orders**. The policies and procedures outlined below apply to disciplinary cases issued after the effective date of this General Order. ~~Any reference in this order to member or officer shall mean a sworn police officer as defined in Penal Code Section 830.1.~~

2.07.02 DEFINITIONS I. POLICY

- A. ~~BASIS FOR DISCIPLINARY ACTION~~ - Any action that may lead to termination, suspension, or written reprimand.** ~~Department General Order 2.01, General Rules of Conduct, Section 10 (WRITTEN ORDERS) states: Members shall obey all written orders, policies and procedures of the Department, and promptly obey all lawful written or verbal directives of superiors.~~
1. *Admonishment* – *An advisory, corrective, or instructional action by a superior which does not constitute formal discipline. It is a warning only but considered a step in the disciplinary process.*
 2. *Reprimand* – Formal correspondence from the Chief of Police to the member that describes the misconduct and admonishes the member that repeat offenses may result in more severe disciplinary action. The lowest form of disciplinary action.
 3. *Fine* - A fine of an officer's salary not to exceed one month's pay for each sustained offense.
 4. *Suspension* - *Compelled time off without pay.* Not to exceed ninety (90) working days for each violation.
 5. *Termination - Dismissal from the Department.*
- B. Chief's Level Discipline** – Disciplinary action including written reprimand or suspension of ten (10) days or fewer.
- C. Commission Level Discipline** - Disciplinary action including suspension of eleven (11) days or more up to and including termination.
- D. Disciplinary Penalty and Referral Guidelines** – To ensure discipline is imposed in a fair, just, and equitable manner, disciplinary recommendations shall comply with procedures set forth in the *Disciplinary Penalty and Referral Guidelines* adopted by the Police Commission.
- E. Investigative Dispositions** - All investigations shall conclude with one of the following dispositions:

1. **Improper Conduct** - A preponderance of the evidence proves that the alleged conduct occurred and that the conduct violated department policy, procedures, applicable legal principles, or training.
 2. **Insufficient Evidence** - The evidence fails to prove or disprove that the alleged conduct occurred.
 3. **Proper Conduct** - The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.
 4. **Policy Failure** - The evidence proves that the alleged conduct occurred but was justified by department policy or procedures; however, the San Francisco Police Department (“SFPD”) or Department of Police Accountability (“DPA”) recommends that the policy or procedure be changed or modified.
 5. **Supervision Failure** - The evidence proves that the alleged conduct occurred and was the result of inadequate supervision.
 6. **Training Failure** - The evidence proves that the alleged conduct resulted from inadequate or inappropriate training.
 7. **Unfounded** - The evidence proves that the conduct alleged did not occur or that the accused member was not involved.
 8. **Referral to Other Agency** - The evidence proves that the alleged conduct did not involve a member of the Department or that the complaint raised issues, not within the scope of DPA or Internal Affairs Division (“IAD”). Referral to other agency allegations are not counted as complaints against members of the Department.
 9. **Withdrawal** - The complainant failed to provide additional requested evidence, or the complainant requested a withdrawal of the complaint.
 10. **Mediated** - The complainant and member agreed to mediation as a non-disciplinary resolution (DPA finding only).
- F. Preponderance of the Evidence** - The standard of proof in administrative investigations. Preponderance of the evidence means “more than fifty percent” or “more likely than not.”
- G. Just Cause** - Permanent members may only be disciplined for just cause, which means disciplinary action must be just and fair.
- H. Progressive Discipline** - The use of escalating penalties for policy violations is considered progressive discipline. Some disciplinary offenses are so serious that significant disciplinary sanctions, including termination, are justified for the first offense. The Department shall apply principles of progressive discipline consistent with the *Discipline Penalty and Referral Guidelines*.
- I. Double Jeopardy** - Members formally disciplined by the Chief of Police or Police Commission may not be subject to further disciplinary action for the same incident.
- J. Statute of Limitations** - The Department must notify a member by written notice of its intent to discipline within one year of the discovery of the misconduct as prescribed by law unless a tolling provision applies. The notice must be personally served on the member except where personal service is waived. This requirement applies to both Chief’s level and Commission level discipline.

- K. Probationary Reversion** – Members released during a promotive probationary period shall revert to a position in the class from which promoted. Where the release is predicated on grounds other than merit, the released member shall be entitled to Chief’s Hearing.
- L. Command Staff Reversion** - Members of the Command Staff serve at the discretion of the Chief of Police. Members released from the Command Staff shall revert to a position in the class from which they were promoted. Where the release is predicated on punitive grounds, the released member shall be entitled to a Chief’s Hearing.

~~B. DEFINITIONS~~

- ~~1. ADMONISHMENT: An admonishment is an advisory, corrective, or instructional action by a superior which does not constitute formal discipline. It is a warning only and not a punitive action~~
- ~~2. REPRIMAND: A reprimand is a formal written punitive action which shall be noted or included in a member's personnel file. A subsequent violation of a, similar nature invites more serious punitive action.~~
- ~~3. SUSPENSION: Suspension is time off without pay imposed by the Chief of Police or by the Commission after a hearing. Time off by suspension is not counted toward retirement. A record of the suspension shall be included in the officer's personnel file.~~
- ~~4. CHIEF'S DISCIPLINARY SUSPENSION: Based on investigation and recommendations from a unit within the Department, a commanding officer, the Management Control Division, the OCC, etc, the Chief, after a hearing or an opportunity for a hearing may for disciplinary purposes, suspend an officer for a period not to exceed 10 days for violations of Department General Orders, directives, policies or procedures.~~
- ~~5. SUSPENSION PENDING HEARING: An officer may be suspended by the Chief pending a hearing before the Commission as provided herein below.~~
- ~~6. SUSPENSION BY COMMISSION: After a hearing before the Commission, the Commission may suspend an officer for a period not to exceed 90 days for each specification on which the officer is found guilty.~~
- ~~7. FINE: After a hearing before the Commission, the Commission may fine an officer a sum not exceeding one month's salary for each offense as provided by Charter Section 8.343.~~
- ~~8. TERMINATION: Dismissal from the Department.~~

2.07.03 CHIEF'S LEVEL DISCIPLINE PROCESS

- A. Notice** – To initiate Chief's level disciplinary action, IAD must issue a written notice to the member. The notice must include the basis of discipline, the policies violated, and the intended disciplinary action. IAD shall submit to the member a copy of all materials upon which the disciplinary action is based either with the notice or upon the member's request. The notice of discipline shall also include a date for a Chief's Hearing scheduled no earlier than sixty (60) calendar days.
- B. Written Response** – If a member does not submit a written response, the intended discipline shall be imposed. Where a member wishes to appeal, the member shall submit a written response refuting the recommended finding or disciplinary action refuting the allegation(s) or mitigating the penalty, whichever applies. The response shall be submitted no later than thirty (30) calendar days after service of the disciplinary notice. After reviewing the written response, the Chief of Police may opt for an immediate disposition if there is agreement with the member. If there is no agreement, the member's appeal will be heard at a Chief's Hearing.
- C. Chief's Hearing** – The purpose of the Chief's Hearing is to provide the member with an opportunity to respond to the charges and the intended discipline.

The hearing is presided over by a Hearing Officer designated by the Chief of Police. The Hearing Officer shall be a sworn member of the Department, holding the permanent rank of Commander or above, unless conflicts require an outside hearing officer. The Hearing Officer shall have no prior involvement in the disciplinary matter. The Hearing Officer shall consider the argument made by the member and make a written recommendation to the Chief of Police as to whether the disciplinary findings or recommendation are reasonable and should be imposed. The Chief of Police is not bound by the Hearing Officer's recommendation.

The hearing is informal and non-evidentiary. Witnesses are not called, and evidence is not taken subject to formal rules. The member is entitled to the representative of their choice. In addition, the member may make an audio recording of the proceeding.

The hearing shall take place no later than 180 calendar days after service of the disciplinary notice. Once the hearing date has been set, there shall be no continuances absent good cause. More than one continuance per side is not permitted absent an emergency. The 180 days shall be tolled if the appealing member is on a protected leave (such as, FMLA, military, or injury leaves). The Hearing Officer's written recommendation shall be submitted to the Chief of Police no longer than 90 days after the hearing date.

Failure to comply with these deadlines may subject the Hearing Officer to disciplinary action but shall have no bearing on the outcome of the appeal. The deadlines contained herein shall apply to members individually, even if multiple members in the same matter appeal.

- D. Final Discipline** – Should the Chief of Police decide to impose discipline following Chief's hearing IAD shall issue a written final notice within thirty (30) days of the Chief of Police's decision to the member.

- E. Commission Appeal** – A member may appeal a Chief’s level suspension to the Police Commission. Members who wish to appeal to the Police Commission must notify the Police Commission Secretary in writing within ten (10) calendar days of receiving the final notice of discipline. Such appeals are subject to the Police Commission’s *Procedural Rules Governing Trial of Disciplinary Cases*.

The appeal must be heard within thirty calendar days unless the member waives time.

- F. Reprimand Appeal** – The Police Commission lacks jurisdiction over appeals of written reprimands. Therefore, members seeking to appeal the imposition of a written reprimand shall notify IAD within ten (10) days of receipt of the reprimand. These appeals shall be governed by the *Letter of Agreement Between the San Francisco Police Department and the San Francisco Police Officers Association Regarding Administrative Appeals of Disciplinary Reprimands*.

- G. DPA Notification** – IAD shall send copies of all disciplinary and procedural letters and notices related to DPA cases to the DPA.

2.07.04 POLICE COMMISSION DISCIPLINE PROCESS

Notice - The Chief of Police or the Director of the Department of Police Accountability may file charges of misconduct against a member with the Police Commission. The charges must detail the basis of misconduct, the rules violated, and the recommended disciplinary action.

Following service on the member, IAD shall forward proofs of service to the Police Commission Secretary for filing. IAD shall also forward copies of signed proofs of service to DPA for cases investigated by that agency.

Following a hearing, the Commission may impose disciplinary action from reprimand through termination.

- A. Hearing Procedure** – Police Commission proceedings are governed by the *Police Commission’s Procedural Rules Governing Trial of Disciplinary Cases*.

Police Commission Appeal - Members may appeal final discipline imposed by the Police Commission to an Administrative Law Judge (“ALJ”) designated by the California Office of Administrative Hearings. Members must provide written notice to the Police Commission Secretary of their intent to appeal within thirty (30) calendar days from when both the Commission’s determination to impose discipline and its findings of fact are served on the member by a superior officer. The rules of the appeal before the ALJ are governed by the Police Commission’s *Rules for Administrative Appeals per Commission Resolution 19-15*.

2.07.05 SUSPENSION PENDING HEARING

- A. Paid Administrative Leave** – The Chief of Police may place a member on paid administrative leave for a period of up to thirty (30) days. This thirty-day period may be extended to sixty (60) days with the approval of the Director of Human Resources. The Chief of Police may place a member on paid administrative leave for any reason.
- B. Unpaid Administrative Leave** – In select circumstances, the Chief of Police may place a member on unpaid administrative leave. This unpaid leave is not subject to the thirty and sixty-day requirements in section A.

Members may only be placed on unpaid administrative leave for investigations involving misappropriation of public funds or property, misuse or destruction of public property, drug addiction or habitual intemperance, mistreatment of persons, immorality, acts which would constitute a felony or misdemeanor involving moral turpitude, or acts which present an immediate danger to the public health and safety.

- C. Return to Duty Hearing** – When a member is placed on unpaid administrative leave, they may request a return to duty hearing to be held within five (5) working days. The return to duty hearing is an informal hearing before a Hearing Officer appointed by the Chief of Police. The member is entitled to the representative of their choice during the meeting.

At the conclusion of the hearing, the Hearing Officer shall make a recommendation to the Chief of Police regarding whether the member should be returned to duty or should remain on unpaid leave. The Chief of Police is not bound by the Hearing Officer's recommendation.

2.07.06 PROBATIONARY MEMBERS

- A. No Cause Discipline** – Probationary members may be disciplined without cause.
- B. Interrogation Rights** – Probationary members shall be afforded the interrogation rights outlined in Department General Order 2.08 *Peace Officer Rights in Disciplinary Investigations*.
- C. Liberty Hearing** – Probationary members may not avail themselves of the disciplinary appeal procedures outlined above. However, where a probationary member is discharged for reasons that stigmatize the member's reputation or negatively impact future employment, the probationary member is entitled to a post-discharge "Liberty Hearing."

Liberty hearings are conducted in the same manner as Chief's Hearings. The issue at the hearing is whether the findings should remain sustained. Not at issue is whether the probationary member is entitled to reinstatement.

~~C. ADMINISTRATION OF CORRECTIVE ACTION~~

- ~~1. DISPOSING OF MINOR VIOLATIONS. Subject to the prior approval of the Chief, a commanding officer may dispose of a minor violation of orders, policy, and procedures by an officer of his/her command by retraining or admonishment.~~
- ~~2. CHIEF'S DISCIPLINARY HEARING. The Chief may impose a disciplinary suspension or may order a disciplinary hearing. The Chief may in the alternative, give an officer notice of intended punitive action. The notice shall inform the officer of the nature of the charge or allegation of misconduct, the basis for the charge or allegation and shall state that the material on which the charges shall be based are available for inspection. The officer shall be advised that he/she has 10 days after signed receipt to request a hearing before the Chief. If a request for a hearing is not received within the prescribed time, the punitive action will be imposed.~~
- ~~3. FINDINGS. At the conclusion of the Chief's Disciplinary Hearing, the Chief may impose any of the following: Suspend the officer up to 10 days, reprimand, admonish, prescribe corrective action, find not sustained, or exonerate.~~
- ~~4. APPEAL. Any sworn officer suspended by the Chief pursuant to Paragraph I. B. 4. of this order shall have the right to appeal such suspension to the Police Commission, and have a hearing on such suspension. Notice of this right to appeal and the procedure for effecting such appeal shall be included with the notice of suspension.~~
- ~~5. NOTIFICATION. Written notice of appeal must be filed within 10 days after signed receipt of notice of such suspension. The hearing of such appeal must be heard within 30 days after filing, unless waived in writing by the officer.~~
- ~~6. EXONERATION. If the Police Commission reverses or alters the finding of the Chief then the officer affected shall be paid his/her salary for the time of suspension which the Police Commission set aside.~~
- ~~7. STATEMENT OF SUSPENSION. In every suspension imposed as a result of a Chief's disciplinary hearing, a statement in writing shall be given to the suspended officer, giving notice of the authority by which it is made, the basis of the action, the length of suspension, and the right of appeal. A copy of the notice shall be forwarded to the Commission, to the officer's commanding officer, the Personnel Division, Management Control Division, and other City departments, as required.~~
- ~~8. SUSPENSION PENDING HEARING: Under exigent circumstances the Chief is authorized to suspend temporarily any officer pending a hearing before the Commission. In all such cases of suspension, the Chief shall immediately report the same to the Commission with the reasons therefore in writing.~~

~~9. ADMINISTRATIVE HEARING. When an officer is suspended as described in 1. C. 8., of this order, the officer is entitled to an administrative hearing. This hearing shall be held within 5 working days of such suspension. The purpose of this hearing is to determine whether the officer should remain suspended pending a hearing before the Police Commission.~~

~~10. FILING CHARGES. When an officer is suspended pending a hearing before the Commission, charges shall be filed with the Commission within 7 calendar days after the date of such suspension, whether personally served on said officer or otherwise and shall be immediately served as provided herein. If service has not been effected within the 7 day period, the charges shall be filed with the Police Commission, and the proof of service returned after service.~~

~~11. CONTINUANCES. When an officer is temporarily suspended pending the hearing of charges, the charges shall be heard by the Commission not more than 90 days after the date of suspension. The Police Commission may, in its discretion, grant a continuance for a period of time which exceeds the 90 day period. If a hearing shall be delayed beyond such time by the act of or at the request of the accused officer, the additional time requested shall be construed to be "Leave of Absence Without Pay" and the request for additional time and request for leave of absence without pay shall be in writing and processed in accordance with applicable law or rules subject to Section 8.344 of the Charter.~~

~~12. ORDERS/POLICIES/PROCEDURES. An officer under suspension shall remain subject to the order of the Chief and the orders, directives, and procedures of the Department.~~

~~D. FORMAL CHARGES.~~

~~1. DEFINITION. A charge is a formal written accusation, alleging misconduct on the part of an officer. Charges must be definite, clear, and specific.~~

~~2. FORM. Charges shall state the first name, middle initial, and surname of the accused. Charges must contain a statement of facts constituting the grounds of the complaint in ordinary concise language, subscribed by the party making said charges and verified under oath.~~

~~3. FILING. After service on the accused officer, the original copy of said charges shall be filed with the Secretary of the Police Commission together with proof of service.~~

~~E. SERVICE OF CHARGES SHALL BE ACCOMPLISHED AS FOLLOWS:~~

- ~~1. FILING. By serving a copy of the charges on the accused, the original copy of the charges and the proof of service showing date, time and place of service shall be filed with the Police Commission~~
 - ~~2. PERSONAL SERVICE. If the personal service cannot be made after reasonable diligence, then by leaving a copy of the charges at the officer's usual place of abode or dwelling house in the presence of a competent member of the household at least 18 years of age who shall be informed of the contents thereof.~~
 - ~~3. POSTING A COPY. If personal service cannot be made or if a copy cannot be left with some competent person over the age of 18 years at the last known residence of the accused, then by posting a copy of the charges conspicuously in the station, bureau, or unit to which the accused is attached at least 6 days before the date set for trial and mailing a copy by certified mail to the officer's last known address.~~
 - ~~4. DATE OF SERVICE. Charges shall be served at least 6 days before the setting _____ date for hearing. In computing said period of six days, the date of service shall be excluded and the date of setting included.~~
 - ~~5. REPORT. When charges are served under the provisions of either Sections 2. or 3. above, the officer serving same shall submit a report stating how service was made, the time of service, and file same with the original set of charges.~~
 - ~~6. FILING. The original proof of service shall be filed with the Police Commission as soon as practicable after service is accomplished.~~
 - ~~7. ATTENDANCE. The subject officer, or his/her designated representative, shall attend each session of the Police Commission at which the pending charges appear on the agenda.~~
- ~~F. PENALTIES AFTER TRIAL. Any officer who, after a trial by the Commission, is found guilty of violating any order, policy, or procedure of the Department or any order of instruction issued by competent authority may be punished by reprimand, by fine, by suspension, or by dismissal from the Department as provided in Charter Section 8.343.~~
- ~~G. INDIVIDUAL RIGHTS/LIMITATIONS ON CORRECTIVE ACTION. Once an officer has been formally punished for a violation(s), such officer shall not receive any other punishment for the same incident.~~

References:

DGO 2.08 – Peace Officer Rights in Disciplinary Investigations
DGO 2.04 – Complaints Against Officers
California Government Code 3304

San Francisco Police Department
GENERAL ORDER

2.07
Rev. xx/xx/xx
Eff. xx/xx/xx

San Francisco City Charter § A8.344
Procedural Rules Governing Trial of Disciplinary Cases
Police Commission Rules for Administrative Appeals
Letter of Agreement Between the San Francisco Police Department and the San Francisco Police Officers
Association Regarding Administrative Appeals of Disciplinary Reprimands
~~SFPD Disciplinary Penalty & Referral Guidelines.~~