

## RENO POLICE DEPARTMENT GENERAL ORDER

This directive is for internal use only and does not enlarge this department's, governmental entity's and/or any of this department's employees' civil or criminal liability in any way. It is not to be construed as the creation of a particular standard of safety or care in an evidentiary sense, with respect to any complaint, demand for settlement, or any other form of grievance or litigation. Violations of this directive, if substantiated, can only form the basis for intra-departmental administrative sanctions.

Chief of Police: Jason Soto /s/		
Approving Deputy Chief: Thomas Robinson V /s/		
General Order No: E-210-05	Issued: July 13, 2001	Revised: Dec 9 <sup>th</sup> , 2021
General Order Title: <b>INVESTIGATIONS OF EMPLOYEES</b>		

### I. POLICY

The Reno Police Department provides a process that its employees and members of the community can have confidence that complaints about departmental procedures, employees, and actions will be fairly investigated. The Department will ensure crimes and questionable incidents involving actions of employees are investigated in an objective manner, while respecting employees' constitutional and statutory rights. When necessary, the department will progressively increase the severity of discipline when employees are repeatedly involved in similar conduct; however, there may be instances where more severe discipline is immediately warranted.

Investigations will be conducted in a manner conducive to good order and discipline. The following guidelines are in accordance with court decisions, laws, employee contracts, and departmental procedure.

### II. DEFINITIONS

**A. Administrative Investigations** – Non-criminal investigations of departmental employee(s) to determine whether or not the employee violated departmental policy, training requirements, or other objectives as required by General Orders, D.C. Directives, Training Bulletins and departmental training. The following are the different types of Administrative Investigations:

- 1. Administrative-Directed Investigation (ADI)** – An Administrative Investigation that results from complaints of non-criminal misconduct, initiated by an employee against another employee.
- 2. Employee Involve Crash Investigation (ACC)** – An Administrative Investigation to determine whether an employee involved in a vehicle crash, violated any policy, procedure or training requirement during the crash.
- 3. Internal Affairs Investigation (IA)** – An Administrative Investigation that results from a complaint of non-criminal misconduct, initiated by a non-employee against an employee.
- 4. Pursuit** – An Administrative Investigation conducted as the result of a police pursuit, to ensure policies, procedures and training requirements were adhered to before, during and after the pursuit.
- 5. Use of Force (UOF)** – An Administrative Investigation conducted after a Use of Force, in accordance with the Use of Force General Order, to ensure policies, procedures and training requirements were adhered to before, during and after a Use of Force.

**B. Cease and Desist Memo** – A written admonishment, issued to an employee as to future job performance expectations that may or may not be related to a potential complaint. This admonishment should be documented in the form of a memo and places the employee on notice that if the conduct is in fact occurring, it is to stop.

**C. Complaint** - A complaint is an act of expressed dissatisfaction relating to department operations, personal conduct, or unlawful, excessive, or unnecessary acts. Complaints may be formal (generally a written, signed personnel complaint form and/or a taped statement of the allegation) or informal (verbal or written, made for informational purposes that can normally be resolved at the time the complaint is made).

**D. Complaint Categories** – Complaint types are categorized in terms of severity and for the purposes of assigning investigations of complaints. The categories are as follows:

- 1. Category I** – Severe complaints of misconduct that are generally investigated by Internal Affairs, including but not limited to: discrimination, dishonesty, excessive force, false arrest, racial/ethnic slurs, sexual harassment and any other complaint as directed by the Chief of Police/designee.
- 2. Category II** – Complaints generally investigated by the employee's immediate supervisor. These include: discourtesy, improper procedure, performance of duty, Use of Force, Pursuit and Pursuit Intervention Technique, improper tactics, improper arrest or any other complaint as directed by the Chief of Police/designee. If, during the supervisor's investigation, it becomes evident that the misconduct fits in Category I, the supervisor shall notify Internal Affairs.
- 3. Category III** – Complaints that generally involve clarifying departmental policy or procedure to the complainant. These complaints are generally handled by the person receiving the complaint but may be forwarded to Internal Affairs at the direction of the Chief of Police/designee.

**E. Corrective Action** – Actions a supervisor may take with an employee to correct their performance and/or prevent them from further misconduct. These are non-disciplinary actions:

- 1. Employee Performance Comment/Outcome Sheet (EPCO)** – See Employee Performance Comment/Outcome Training Bulletin.
- 2. Oral Counseling** – A conversation between a supervisor and employee about the employee's competence or conduct.
- 3. Training** – Employee development that can be prescribed independently or in conjunction with other forms of corrective action and which is intended to correct a specific deficiency in an employee's competence.

**F. Disciplinary Action** - Directed action, resulting from an Administrative Investigation, documenting an act of misconduct by an employee. Types of disciplinary action include:

- 1. Demotion** – Relegating a Principal to a position of lower responsibility and pay.
- 2. Documented Oral Counseling** – This action requires the Principal's supervisor to meet with the employee and counsel the employee regarding the misconduct.
- 3. Written Reprimand** – A memo intended to provide the Principal with a written record outlining specific corrective action that must be taken to avoid further discipline.
- 4. Training** – Employee development that can be prescribed in conjunction with other forms of disciplinary action.
- 5. Suspension** – Relieving an employee from duty for a specified period of time, without pay.
- 6. Termination** – Terminating one's employment with the Reno Police Department.

**G. Disposition Classifications** – Whenever an Administrative Investigation is conducted, the case must be closed and classified with one of the following dispositions:

1. **Closed** – When an Administrative Investigation cannot be processed further due to a lack of cooperation by a complainant or when the Chief/designee determines that the action in the complaint does not fall with the administrative jurisdiction of the department. Closed investigations may only be re-opened when directed by the Chief/designee.
2. **Exonerated** – When an Administrative Investigation indicates that the allegation is true but the employee's involvement was lawful, proper, justified and/or complied with departmental policies, procedures, training requirements and/or rules and regulations.
3. **Misconduct not Based on the Complaint** – When Administrative Investigations uncovers misconduct that was not alleged in the original complaint.
4. **Not Sustained** – When an Administrative Investigation discloses that there was not sufficient evidence to prove or disprove the allegations.
5. **Sustained** – When, by a Preponderance of Evidence, an Administrative Investigation reveals that the allegation(s) did occur and were a violation of departmental policy, procedures, training requirements and/or rules and regulations. Sustained findings may include misconduct which falls within the broad outlines of the original allegation(s).
6. **Unfounded** – The investigation reveals that the alleged misconduct did not occur.

**H. Preponderance of Evidence** – The standard of proof required to sustain a Principal for a violation of departmental policies, procedures or training requirements.

**I. Principal** – An employee who is the primary subject of an Administrative Investigation or the employee who has been identified in a complaint.

### **III. COMPLAINT TAKING PROCEDURES**

**A. Responsibilities of an Employee Taking Complaint of Misconduct** – All department employees, regardless of rank or assignment, will take complaints of alleged misconduct from citizens and have the following responsibilities:

1. Document the details of the complaint and the contact information of the complainant.
2. Take complaints from any person regardless of race, color, religion, age or standing in a criminal case, and through any means, whether in person, by mail, by telephone, or by electronic mail.
3. Ensure the anonymity of those complainants who wish to remain anonymous.
4. Review complaints from a juvenile to determine whether an adult responsible for the juvenile should be notified.
5. Notify a supervisor as soon as practicable.
6. Make notification at the next level within the chain of command, when a complaint involves a supervisor.

**B. Supervisor's Responsibilities upon Receiving a Complaint of Misconduct** – Once a supervisor has been notified of a complaint, the supervisor has the following responsibilities:

1. Make every effort to contact the complainant in order to assess the veracity of the complaint, mediate lesser complaints, determine whether immediate action is appropriate and notify the chain of command if such action is required.
2. Ensure that those complainants wanting to remain anonymous retain their anonymity and gather enough information from the anonymous complainant in order to make an Administrative Investigation feasible.
3. Make every effort to immediately resolve Category II and Category III complaints, so long as the complainant agrees with the resolution proposed. Whenever practicable the

supervisor resolving complaints in such manner will document the resolution with Internal Affairs to update the Internal Affairs files.

4. For Category I complaints or for Category II or III complaints that cannot be resolved, the supervisor will request a written statement from the complainant, complete a summary of the complaint and actions taken and forward the information to Internal Affairs.
5. When appropriate and when it won't compromise the integrity of an investigation, notify involved employees of the complaint and advise them to refrain from discussing the matter with anyone beside their representative.
6. Evaluate the use of Administrative Leave or Cease and Desist Memo and obtain approval from chain-of-command if either action is appropriate.

**C. Internal Affairs Responsibilities upon Receiving a Complaint of Misconduct** – Internal Affairs will be the central repository of all personnel complaints, sworn and professional. Additionally, Internal Affairs has the following responsibilities:

1. Initiate investigation into complaints as soon as practicable.
2. Update a citizen complainant of the status of the investigation every 30 days until the completion of the investigation and maintain copies of notifications in the case file.
3. Conduct the Administrative Investigation in compliance with NRS 289.
4. Conclude the investigation and reach a disposition classification within 90 days upon receiving a complaint, unless an extension is approved by the Chief of Police.
5. Upon concluding a citizen generated investigation, send the involved citizen complainant a letter advising of the outcome of the investigation, limited to the disposition classification. No details shall be provided detailing whether disciplinary action was imposed.

#### **IV. ADMINISTRATIVE INVESTIGATION PROCEDURES**

This section applies both to Administrative Investigations initiated by a complaint and those required by policy. Whether an Administrative Investigation is completed by an employee's supervisor or by Internal Affairs, the investigation will be conducted in compliance with NRS 289 (where applicable), whether or not the Principal is sworn and regardless of the Principal's rank or assignment.

**A. Supervisor's Responsibilities** – Supervisors or members of Internal Affairs who are conducting an Administrative Investigation may:

1. Respond to the scene of the incident and conduct an initial assessment. This is required by other general orders such as traffic crashes, UOF, Pursuit investigations, etc.
2. Obtain a statement from the non-departmental witnesses and any involved.
3. Without interrogating departmental personnel and after ensuring all body cameras have been powered down, conduct an initial assessment of what occurred. Employees have the right to invoke certain rights. If they do so, refrain from continuing any interviews.
4. Ensure employee's have a representative present during any interview, if they so desire.
5. At the scene of an incident where a Principal invokes, supervisors and officers arriving have the responsibility of assuring public safety and identifying and protecting relevant evidence. In order to fulfill that responsibility, the Principal will be required to answer questions directly related to public safety and evidentiary matters. The scope of the questioning will vary according to the specific conditions of the incident and will include, but not necessarily be limited to, questions concerning fleeing suspects, injured persons, and the location of relevant evidence. Principals will be directed by a supervisor on scene to provide a compelled statement concerning only those issues identified above.
6. Ensure photographs are taken whenever they would assist the Administrative

Investigation.

7. When necessary or appropriate, interview Principals in compliance with legal and contractual standards.
8. Review all facts related to the case and come to an investigative conclusion in accordance with the Preponderance of Evidence.
9. For Administrative Investigations conducted by an employee's supervisors, supervisors will forward the completed case to Internal Affairs.

## **B. Principal's Responsibility**

1. **Evidentiary Tests** – Upon order of the Chief/designee, employees will submit to medical, ballistics, chemical or other tests, photographs, a breath test, voice print, handwriting examination, line-ups, or any other evidentiary test as determined by the investigator. Procedures will conform to departmental policies, procedures and rules and must be specifically directed and narrowly related to the particular investigation being conducted by the department. The report will contain articulated reasons for requesting any physical test.

## **V. RESTRICTED ACTIVITIES**

**A. Property Searches** – An employee's personal property will not be subjected to search or seizure without a warrant or probable cause. Only an employee's departmentally assigned property may be examined, including but not limited to lockers, vehicles, computers, electronic devices, etc.

**B. Communication Monitoring** – Departmental communications, communicated on departmentally issued devices may only be monitored under conditions permitted by law.

**C. News Media** – In the context of an Administrative Investigation, the department will not cause an employee to be subjected to visits by the news media, nor will the employee's home address, phone number or photograph(s) be released without the employee's express consent.

**D. Personal Information** – Employees will not be required to disclose their assets, debts, sources of income or other financial information unless that information is necessary to the Administrative Investigation.

**E. Polygraph Tests** – A polygraph may be administered in accordance with NRS 289 and NRS 648 and any contractual provision.

1. The Principal is not required to submit to a polygraph but may do so if they so desire. If the employee declines to submit to a polygraph examination:
  - a) The Department will not take disciplinary action against the employee, and;
  - b) The assigned investigator will not make a note of such declination in the report;
  - c) Evidence of an employee's declination of a polygraph examination under this subsection is not admissible at any subsequent hearing, trial, or other judicial or administrative proceeding regarding this investigation.
2. When a polygraph examination is given pursuant to this subsection, an audio or video recording must be made of the examination, the preliminary interview, and the post-examination interview. Before the opinion of the examiner regarding the employee's veracity may be considered in a disciplinary action, all records, documents and recordings resulting from the examination must be made available for review by one or more examiners licensed or qualified to be licensed in this State who are acceptable to

the law enforcement agency and the employee being investigated. If the opinion of the reviewing examiner does not agree with the initial examiner's opinion, the employee must be allowed to be re-examined by an examiner of his/her choice who is licensed or qualified to be licensed in this State. In any event, the department shall not use a polygraph examiner's opinion regarding the veracity of the employee under investigation as the sole basis for disciplinary action against the employee. (NRS 289.070)

3. The following guidelines will be used when administering a polygraph exam to an employee under investigation. The employee will be:
  - a) Given ample advance notification prior to scheduling of the polygraph examination;
  - b) Advised of the circumstances and purpose of the examination; and
  - c) Provided with a list of questions to be asked prior to the polygraph examination.
4. A person who makes a complaint may not be required to submit to a polygraph examination as a condition of the Administrative Investigation, but may request or agree to a polygraph examination. If the complainant requests or agrees to a polygraph examination, such examination must be given.

## **VI. ADMINISTRATIVE INVESTIGATIONS ADJUDICATION PROCESS**

**A. Internal Affairs (IA) Responsibilities** – Upon completing an investigation or upon receiving a completed investigation from a Principal's supervisor, IA is responsible for the following:

1. **Sustained Findings** – Notifying the Principal of the sustained finding and allowing the employee or their representative to write a response. Then, initiating the discipline progress by soliciting the Principal's chain-of-command for a recommendation of discipline. Once the recommendation has been completed, the case will be forwarded to the Chief/designee for review.
2. **Other than Sustained Findings** – Forwarding all cases with any disposition other than sustained, to the Chief/designee for review. When Internal Affairs is notified that the Chief of Police has approved the recommended disposition of other than sustained, Internal Affairs will notify the employee via memorandum within 14 calendar days.
3. **After the Chief's Review** – After the Chief/designee has reviewed the case as delineated below in section B., IA will issue a memo to the Principal. This memo will include:
  - a) The date(s) when and place(s) where the alleged act(s) occurred;
  - b) A statement of the alleged acts or omissions;
  - c) A statement of the findings and disposition;
  - d) The recommended disciplinary action; and,
  - e) The charged employee's rights to appeal through the administrative appeals hearing process.

**B. Chief of Police Review** – The Chief/designee will review completed Administrative Investigations, including the reports and accompanying documents and recommendations.

1. If the Chief/designee concurs with the recommendations, he/she will forward the Administrative Investigation and accompanying documents, with his/her written concurrence, to Internal Affairs for implementation.
2. If the Chief/designee does not concur with the recommendations, the Chief may:
  - a) Return the investigation and accompanying documents to Internal Affairs for re-evaluation and/or follow-up investigations.
  - b) Modify any recommended corrective or disciplinary action, absent arbitration, court, or civil service limitations, for the good of the department.

**C. Principal's Right to Review** – The Principal of any Administrative Investigation that results in a sustained disposition may review the investigations report upon completion. The Principal has the right to respond, in writing, to any document placed in their personnel file so long as they are done in accordance with NRS 289.

**D. Appeal** – Principals have the right to appeal discipline pursuant to their collective bargaining agreements or civil service rules, however only one appeals process may be pursued.

## **VII. SUSPENSION AND TERMINATION PROCEDURES**

**A. Suspensions** – While on Suspension, employees will not be considered to have authority or responsibility conferred upon them by the privileges of being employed by the City. Sworn personnel will not take any law enforcement action representing the Reno Police Department. Employees are still responsible for adhering to policies and procedures from which they have not been specifically relieved. When an employee is suspended, the employee is responsible for:

1. Providing payroll with the completed required documents, including a memorandum and approval of the employee's supervisor listing the Suspension dates, with intended completion date. The employee may not deviate from this planned discipline schedule unless approved in advance by their supervisor.
2. If directed to do so by a supervisor, leaving their assigned departmental identification (including ID card, entry key, badge and gun if applicable) with the supervisor designated, at the beginning of the Suspension. Upon completion of the Suspension, the employee may retrieve said items.

**B. Suspension Days** – The Chief/designee may only extend the time frame in which Suspensions must be served and only after written request by the Principal. Generally such requests shall only be considered in cases where Suspensions exceed 10 days, in order to not put undue financial hardship on the Principal. Otherwise, Suspensions will be served as follows:

1. Three (3) days or less, will normally be served within 90 calendar days.
2. Four (4) days to eight (8) days, will normally be served within 180 calendar days.
3. Nine (9) days or greater, will normally be served within 360 calendar days.

**C. Terminations** – When the disciplinary action is termination, IA will send an informational memorandum to the Principal. This memo shall inform the Principal of:

1. The reasons for termination.
2. The effective date of termination.
3. Directions to contact City of Reno Human Resources for the status of benefits.
4. A statement as to the content of the employee's employment record relating to the termination.

**D. Pre-Disciplinary Hearing** – An employee who receives a pre-disciplinary hearing, as required by their collective bargaining agreement, shall not be removed from pay status until the outcome of the hearing. The purpose for this hearing is for the Principal to respond to specific charges and present evidence on his/her behalf. The Principal has the right to representation during this hearing.



**Addendum A**

**APPEALS PROCESS GUIDELINE**

- 1. = Review by next level supervisor.
  - 2. = Written Response Right (30 Days).
  - 3. = Administrative Appeals Hearing.
  - 4. = Contract Grievance/Arbitration Procedures.
  - 5. = Civil Service Commission.
  - \* = If it reduces pay.
  - \*\* = If equal to one of the above types of disciplinary actions or combinations thereof.
- Those applicable processes may be utilized, i.e., two-day suspension of 4 days or more.

Note: OR means either contract grievance procedure OR Civil Service Commission, not both.

<u>Levels of Disciplinary Action</u>	<u>Applicable Appeal Process</u>				
	1.	2.	3.	4.	5.
Documented Oral Counseling (1st Step)	Yes	Yes	Yes	No	No
Written Reprimand (2nd Step)	Yes	Yes	Yes	No	No
Suspensions of 3 Days or Less (3 <sup>rd</sup> Step)	Yes	Yes	Yes	Yes	Yes
Suspensions of 4 Days or More (3 <sup>rd</sup> or 4 <sup>th</sup> Step)	Yes	Yes	<u>OR</u> Yes	Yes	Yes
Demotion (Not Confirmed)	Yes	Yes	Yes	Yes	No
Demotion (Confirmed)	Yes	Yes	<u>OR</u> Yes	Yes	Yes
Termination (Not Confirmed) (5 <sup>th</sup> & Final Step)	Yes	Yes	Yes	Yes	No
Termination (Confirmed) (5 <sup>th</sup> & Final Step)	Yes	Yes	<u>OR</u> Yes	Yes	Yes
Supplemental Performance Appraisal Form	Yes	Yes	Yes	*	No
Other**	**	**	<u>OR</u> **	**	**

## **Addendum B**

### Field Admonition

You are being ordered to provide answers to questions narrowly related to the public safety and evidentiary concerns of the incident that just occurred. Your answers constitute a compelled statement and cannot be used against you in any criminal proceeding. If you refuse to answer, your refusal will be considered insubordination and you will be subject to disciplinary action, up to and including termination.

At the completion of this limited questioning, you will be segregated from the other officers and will not be questioned further until your representative, if desired, has arrived.