



ALBUQUERQUE POLICE DEPARTMENT
ADMINISTRATIVE ORDERS

SOP 3-44

Effective: 06/16/16 Expires: 12/13/16 Replaces: 03/16/11

**3-44 REVIEW OF COMPLETED ADMINISTRATIVE INVESTIGATION
CASES**

3-44-1 Purpose

This policy details the process that occurs upon the completion of an administrative misconduct investigation. It also sets out the procedure for reviewing a serious use of force investigation only for the purpose of imposing discipline. For a general review of use of force administrative investigations, refer to the Use of Force Reporting and Supervisory Force Investigation Requirements SOP and the Force Review Board SOP.

3-44-2 Policy

To maintain constitutional and effective policing, and to promote officer safety and accountability, the Department ensures that all findings in administrative misconduct investigations are supported by the appropriate standard of proof. The Department reviews recommendations from the Civilian Police Oversight Agency (CPOA) and the chain of command and ensures that an officer who commits misconduct is held accountable in a fair, consistent system of discipline.



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3-44-3 Definitions

A. Bureau Head

This is a Deputy Chief or Major responsible for overseeing a Bureau within the department.

B. Chart of Sanctions

This is a matrix listing disciplinary sanctions based on the level of offense and the number of offenses committed within a given time period. The Chart of Sanctions is part of the Discipline System SOP. The chart identifies the specific violation and disciplinary penalty if there is culpability.

C. CIRT

Acronym for Critical Incident Response Team

D. Civilian Police Complaints (CPCs)

Civilian police complaints are complaints originating externally from non-Department personnel.

E. Civilian Police Oversight Agency (CPOA)

This is an independent entity created by city of Albuquerque municipal ordinance Section 9-4-1 through 9-4-14 to provide an effective civilian oversight function for the Albuquerque city police so as to promote police officer accountability and to protect rights of Albuquerque's citizens. It maintains operational independence from both the City Council and the City of Albuquerque's administration, and is charged with the responsibility of investigating all citizen complaints concerning police conduct.

F. Clear and Convincing Standard

A fact is established by a clear and convincing standard when the fact is highly and substantially more probable to be true than not and the reviewer must have a firm belief or conviction in its factuality.

G. Division Head

This is a Commander or civilian equivalent responsible for overseeing and operating a Department Division.

H. IAS

Acronym for Internal Affairs Section.



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I. OIS

Acronym for officer involved shooting.

J. Preponderance of Evidence

A fact is established by a preponderance of evidence when it is shown that the fact is more likely true than not true. Preponderance means the greater weight of evidence, taking into consideration the quality and persuasiveness of the evidence, not the number of witnesses or exhibits.



3-44-4 Procedures

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A. Timelines

An investigation conducted by the IAS or the by CPOA is completed within 90 days following initiation of the complaint investigation. The 90-day period does not include review time. An extension of time for completion of the investigation may be granted for a maximum of 30 days. The request for an extension must be in writing and approved by the Chief. Review and final approval of the investigation, and the determination and imposition of the discipline, is made within 30 days following completion of the investigation. An extension may be granted in extenuating circumstances, such as military deployments, officer hospitalizations, and extended absences, upon agreement by the Chief of Police or his designee and the employee or his/her representative.

B. Types of Investigations and Process

The process for review of an investigation depends on the type of complaint and the nature of the investigation.

1. An administrative Investigation of Civilian Police Complaints (CPCs)

CPCs are investigated by the CPOA and forwarded to IAS to initiate a review by the chain of command and if the complaint is sustained, to impose discipline.



2. Administrative Investigations of Misconduct (other than a serious use of force)

An administrative investigation of misconduct that does not involve a serious use of force is investigated by IAS (or the chain of command in cases of minor misconduct) and reviewed by the chain of command before the Chief or designee imposes appropriate discipline, if discipline is warranted.





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3. An administrative Investigation of Serious Use of Force (including OIS)

A serious use of force is investigated by CIRT. The IAS handles all aspects of the investigation relating to the imposition of discipline. A serious use of force investigation is forwarded to the CPOA for review and a recommendation as to discipline if discipline is warranted. The CPOA returns its recommendation to IAS for review by the chain of command and imposition of appropriate discipline by the Chief or designee.



C. Role of Internal Affairs Section in Case Review

IAS is the record-keeper of administrative investigation records. IAS is the point of contact with the CPOA to ensure consistency and proper tracking of the investigation. Upon completing the review of the administrative investigation, IAS updates required information into the early intervention system. Upon receipt of the final decision from the chain of command, IAS takes appropriate steps to impose discipline if discipline is warranted.

D. Review by CPOA Executive Director

1. The CPOA's review of investigations is not governed by this policy but instead by Section 9-4-1 Revised Ordinance of Albuquerque (1994) and CPOA Policies & Procedures. This policy discusses CPOA's review process for informational purposes and because of how that process impacts APD's functions and responsibilities.
2. The CPOA Executive Director reviews CPC investigations by CPOA investigators and CIRT investigations of serious use of force (including OIS cases).
3. The CPOA Executive Director proposes findings and recommendations regarding discipline against an officer involved in the incident. The Police Oversight Board reviews and makes a final decision adopting or rejecting the proposed findings and recommendation for discipline to the Chief.
4. The CPOA Executive Director routes the case and Police Oversight Board's decision and recommendation to IAS.

E. Review by Chain of Command

1. All investigatory cases, once completed by a supervisor, IAS and/or CPOA, will be forwarded to the investigated employee's Division Head for review.
2. The Division Head reviews the SOP sections which refer to the alleged misconduct and may add additional SOP sections if appropriate.



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3. The investigated employee's Division Head notes whether the Division Head does or does not concur that the findings are supported by a preponderance of the evidence (or for findings that allegations are unfounded, a clear and convincing standard). For investigations in which CPOA recommends discipline, the Division Head notes whether he or she agrees with the CPOA's recommended discipline. For other cases, the Division Head recommends discipline based on the Chart of Sanctions. The Division Head consults with other members of investigated employee's chain of command regarding recommendations.
 - a. The Division Head lists and considers all mitigating and aggravating circumstances.
 - b. If the Division Head recommends discipline that deviates from the Chart of Sanctions, the Division Head includes a detailed justification for the recommended deviation.
 - c. The Division Head considers whether non-disciplinary corrective action, such as counseling or re-training is also appropriate.
 - d. The Division Head ensures that the investigation and report is complete, thorough, and impartial. If it is not, the Division Head will articulate any problems and send the case back to the investigator to address deficiencies.
 - e. The Division Head forwards this recommendation, attached to the completed file, to the appropriate Bureau Head.
 - f. The Bureau Head reviews the file and recommendation regarding findings and discipline.
 - g. The Bureau Head ensures that the investigation and report is complete, thorough, and impartial. If it is not, the Bureau Head will articulate any problems and send the case back to the Division Head to address deficiencies.
 - h. The Bureau Head makes the final decision regarding findings and discipline if he/she determines that the appropriate level of discipline is a level less than or equal to a 39-hour suspension, unless this decision is inconsistent with the IAS's findings or with CPOA's findings and recommendation.
 - i. If the appropriate level of discipline is equal to or greater than a 40-hour suspension, or if the Bureau Head's decision is inconsistent with the findings of IAS or with the findings and recommendation of the CPOA, the final decision is made by the Chief or Assistance Chief, as explained below.
 - j. If the Bureau Head issues a final decision, he/she routes the file and decision to IAS for its records and imposition of discipline if warranted.
 - k. If the Bureau Head does not issue a final decision, he/she indicates concurrence or non-concurrence with the proposed findings and recommendation and forwards the file to the Chief or Assistant Chief for final disposition. The Bureau Head ensures that the file includes appropriate documentation regarding any mitigating and aggravating circumstances, deviations from the Chart of Sanctions, and any disagreement with IAS's or CPOA's findings or recommendation for discipline.



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F. Review by the Chief or Assistant Chief

1. For all cases in which the Bureau Chief does not issue a final decision, the Chief or Assistant Chief reviews the complete file and recommendations regarding findings and discipline. The Chief or Assistant Chief makes the final determination about findings and the appropriate level of discipline.
2. The Chief or Assistant Chief ensures that any mitigating and aggravating circumstances and any deviations from the Chart of Sanctions are documented appropriately.
3. The Chief or Assistant Chief ensures that the investigation and report is complete, thorough, and impartial. If it is not, the Chief or Assistant Chief will articulate any problems and send the case back to the Bureau Head to address deficiencies.
4. The Chief or Assistant Chief routes the file and decision to IAS for its records and imposition of discipline.
5. The Chief has discretion over, and whether, and at what level to impose discipline. If the Chief's decision differs from the CPOA's recommendation, the Chief sends a memo to the CPOA Executive Director within 30 days of the CPOA's recommendation, explaining the reasons the recommendation was not followed.

G. Confidentiality and Access

1. Supervisors are responsible for the security and confidentiality cases reviewed which are in their possession.
 - a. The cases and records are stored in secure area, such as a locked drawer or locked office, when not being reviewed.
 - b. Individuals outside the chain of command are prohibited from viewing cases and records. Employees are prohibited from releasing information about these cases outside the chain of command, except for IAS and Records employees who consult with the Legal Department.
2. An employee may review his/her own case file in IAS by contacting IAS.