

 El Paso Police Department Procedures Manual	Chapter 9: Personnel Policies
901 Administrative Investigations	Effective Date: 05/05/2022 Previous Version: 06/23/2008

901 ADMINISTRATIVE INVESTIGATIONS

Employees are subject to disciplinary action for any deviations from or violations of law, the Code of Ethics, Civil Service Rules and Regulations, EPPD policies and procedures, rules, and verbal or written orders or directives of supervisory personnel.

Supervisors of this Department will take appropriate action whenever they learn of any such violation. All incidents needing documentation will be noted in the Supervisor's Blue Team Log.

901.1 INTERNAL AFFAIRS DIVISION (IAD)

The Internal Affairs Division provides oversight for all disciplinary actions taken by the El Paso Police Department. The Internal Affairs Division will conduct all investigations involving sexual harassment, use of force, discrimination, claims against the Department and shooting review. Incidents that are determined to be complex, involve employees from different units or shifts, or are of criminal or serious nature will also be investigated by IAD. The Internal Affairs Division maintains disciplinary statistics for training and reporting purposes. The Internal Affairs Division Director reports directly to the Chief of Police or designee.

- A. Investigative Authority. Each member of the Internal Affairs Division, regardless of rank and status as a uniform or civilian employee, is acting on behalf of the Chief of Police or designee and is authorized to issue direct orders on behalf of the Chief of Police or designee in any aspect of an administrative investigation. Employees will cooperate fully with the Internal Affairs Division during an administrative investigation. Employees who withhold information from, or fail to cooperate with Internal Affairs or who fail to report misconduct of employees, are subject to disciplinary action.
- B. Complaint/Discipline Records. The Internal Affairs Division will act as the repository for all records of complaints and disciplinary actions against the Department and its employees. This includes all cases completed at the divisional level.
- C. Access to Files. All administrative investigation reports will be considered confidential and the records of these investigations will be maintained at or by Internal Affairs in a secure area. The Internal Affairs Director or designee will control access to these files. Records will be released to the public only when required by law.

901.2 ADMINISTRATIVE INVESTIGATIONS

Administrative investigations may be initiated by Commanders, Division Managers or above or the Internal Affairs Division (IAD).

- A. Investigation indicated. If, upon review of the Blue Team report, Commanders, Division Managers or above determine a possible need for disciplinary or corrective action, they will direct the employee's supervisor to prepare a Preliminary Information Document (PID), First Notice, and The Notification of Rights and Responsibility form if the case will be handled at the Division level. If the case will be handled by Internal Affairs, Commanders, Division Managers or

above will note that a PID and investigation by Internal Affairs is desired and will electronically forward the Blue Team report to Internal Affairs. In such cases, Internal Affairs will be responsible for drafting the PID. The PID is the instrument used to initiate an administrative investigation into allegations of misconduct. A PID can only be authorized by Commanders, Division Managers or above or the Internal Affairs Division (IAD). All documentation will be submitted via the chain of command to the Commander, or Division Manager or above for the necessary action.

1. Division Level. Incidents that will likely result in Division training or a Formal Counseling may be handled at the Division level.
 - a. Notifications
 - i. The investigating supervisor shall inform the complainant in writing that the complaint is being handled at the division level.
 - ii. The Commander, Division Manager, or above shall notify the complainant in writing of the results of the investigation and final disposition.
 - b. Investigations must include all appropriate statements, forms and back-up documentation. All sworn statements by any party must be notarized.
 - c. Investigations handled divisionally will receive disposition at the Division level and adjudication by the appropriate Assistant Chief or Executive Level Manager.
 - d. When a formal investigation is conducted at the Division level, it is the responsibility of the Division Commander or Division Manager to ensure all documentation is uploaded to the Blue Team log for proper record documentation.
2. Internal Affairs Division. If further investigation by the Internal Affairs Division is necessary, the case file will be forwarded to the Internal Affairs Division. Any required notifications per this policy will then be the responsibility of IAD.

901.3 CONDUCTING ADMINISTRATIVE INVESTIGATIONS

The following guidelines will be followed when conducting administrative investigations of Department employees, both uniform and civilian. The Internal Affairs Division investigations of sworn personnel will be conducted in accordance with applicable provisions of the Collective Bargaining Agreement. Human Resources will oversee and handle investigations of civilian employees and in accordance with applicable Civil Service Rules and Regulations.

- A. Statement of Allegations. The investigating supervisor or Internal Affairs investigator shall provide the affected employee a written statement of the allegations and information concerning the employee's rights and responsibilities relative to the investigation. When confidentiality is necessary because of the sensitivity of the investigation, the employee will not be notified until immediately before the initial interview. The Notification of Allegations and Rights and Responsibilities form for sworn and non-sworn personnel will be completed by the employee and submitted to the investigator.
- B. Interviews. The most involved portion of a personnel complaint investigation is the interview process. Investigators must determine who will be interviewed and the order in which the interviews will take place. A normal sequence is:
 1. Complainant
 2. Civilian (non-employee) witnesses
 3. Other Department employees
 4. Other involved agency employees
 5. The accused employee

- C. Investigators. When more than one investigator is involved in the interview process, roles should be clearly defined and strictly followed. One investigator will be designated as the primary investigator. A second investigator may only provide support and guidance to the primary investigator during the interview.
- D. Materials Relevant to Investigation. The Chief of Police may require employees, when deemed necessary, to submit to the following investigative techniques:
 - 1. Submit to a medical or laboratory examination
 - 2. Be photographed
 - 3. Participate in a physical line up
 - 4. Submit financial disclosure statements
 - 5. Submit cell phone records
 - 6. Submit to a polygraph examination
- E. Adjudication Disposition. The disposition classifications below will be used in the Adjudication Report. Each separate allegation will be classified individually. Each allegation shall be designated with one of the following dispositions based on a finding of fact and considering the totality of circumstances. The standard of proof used to arrive at a final disposition is a “preponderance of evidence.”

NOTE This subsection does not apply to SRT administrative investigations.

- 1. Sustained. When the investigation discloses sufficient evidence or facts to establish that the act at issue occurred and that said act constituted misconduct.
 - 2. Not Sustained/Inconclusive. When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.
 - 3. Exonerated. When the investigation/fact finding discloses that the act at issue occurred but that said act was justified, lawful and/or proper according to Departmental policy.
 - 4. Unfounded. When the investigation/fact finding discloses that the act(s) at issue did not occur.
- F. Investigation Period. Complaints against employees received by the El Paso Police Department shall be thoroughly investigated and completed within the time limits prescribed in the Civil Service Rules for civilian employees and the Collective Bargaining Agreement for sworn employees. Investigations are to be conducted in a timely manner to allow for proper review and disposition within the prescribed time limits.
 - G. Conclusion of Fact. When an investigation is handled at the Divisional level, the Commander or Division manager shall provide the employee and the immediate supervisor with a written notification of the final results of the investigation. All original forms will be forwarded to IAD through Blue Team. When an investigation is handled at the Internal Affairs Division, the IAD commander shall provide the written notification of the final results of the investigation.
 - H. Suspected Criminal Offenses. If, during the course of an administrative investigation, it is suspected that a criminal offense may have occurred, the Chief of Police will be notified immediately. The Chief will determine if the case will be referred to the Special Investigations Unit (SIU).

901.4 POSSIBLE DISCIPLINARY ACTIONS

The following list of actions may be taken by the Department. This list is not complete, but may be used as a guide.

- A. Divisional Counseling
- B. Formal Counseling
- C. Suspension
- D. Demotion in rank or job classification
- E. Termination

901.5 POSSIBLE ADMINISTRATIVE ACTIONS

At the discretion of the Chief of Police, the following measures may be imposed for the betterment of the Department and its employees. This list is not complete, but may be used as a guide.

- A. Training
- B. Supervised field observations for a designated period
- C. Professional counseling
- D. Fitness for duty evaluation
- E. Reassignment not resulting in a change in pay status
- F. Education Based Discipline (E.B.D.). E.B.D. is an available alternative in instances of lower level violations (that would result in up to eight hours suspension) that provides a focus on correcting behavior rather than being punitive in nature

901.6 DISCIPLINARY AUTHORITY

The following describes the authority each level of command has in imposing disciplinary actions upon employees. Investigations may be conducted at any level; however, disciplinary action is limited by authority level.

- A. Sergeants and First Line Supervisors. Sergeants and first line supervisors may recommend the need for an administrative investigation by documenting an incident on a Blue Team report, but may not make recommendations for disciplinary action.
- B. Lieutenants and Mid-Level Managers. Lieutenants and Mid-Level Managers will review the supervisor's Blue Team log and note concurrence or non-concurrence with the supervisor's recommendation. They will recommend a formal investigation or an appropriate alternative action and electronically forward the documentation to the Commander or Division Manager. Lieutenants and Mid-Level Managers do not have the authority to determine adjudication disposition or discipline.
- C. Commanders and Division Managers. Commanders and Division Managers are primarily responsible for recommending that an administrative investigation be initiated by Internal Affairs. At that time, the Blue Team Log and supporting documentation will be sent to Internal Affairs for the generation of a PID. If a case is handled divisionally, the Commander or Division Manager will review a completed case and make a recommendation as to discipline, if any as follows:
 - 1. In cases that would ordinarily result in a Divisional or Formal Counseling, or an administrative action, Commanders and Division Managers will make an adjudication disposition and determine the administrative action or discipline up to and including departmental counseling and/or a formal counseling. They will forward the case to IAD via the Assistant Chief. If the recommended discipline is above a Formal Counseling, then the final disposition needs to be made by the Assistant Chief for the bureau at issue, with the final decision resting with the Chief of Police.
 - 2. In cases that would ordinarily result in a suspension, demotion in rank or job classification or termination, Commander and Division Managers will forward cases to IAD for investigation.

Commanders and Division Managers shall never conduct an administrative investigation involving allegations of misconduct that fall within such disciplinary action. The appropriate action for such is to document the relevant facts in a Blue Team Log, notify Internal Affairs and forward all documentation to Internal Affairs. Commanders and Division Managers do not determine adjudication disposition or discipline in such cases.

- D. Assistant Chiefs and Executive Staff. Assistant Chiefs and Executive Staff may direct Internal Affairs to initiate an investigation and also have the following authority and responsibility:
 - 1. In cases ordinarily resulting in divisional counseling or formal counseling or an administrative action, Assistant Chiefs and Executive Staff will review each case and make a final recommendation as to discipline. Upon determination, the case will be forwarded to IAD for filing.
 - 2. In cases ordinarily resulting in suspension, demotion in rank or job classification or termination, Assistant Chiefs and Executive Level Managers will review the case and determine adjudication disposition and, if sustained, the appropriate level of discipline. The case will then be forwarded to IAD for filing and record-keeping.
- E. Chief of Police. The Chief of Police may direct initiation of an investigation. At the Chief's discretion, cases will be disposed and adjudicated by the affected bureau Assistant Chief, the Executive Level Manager, the Discipline Review Board, or the Special Discipline Review Board. The Chief of Police will receive the case from IAD with pre-disciplinary paperwork and will approve and sign all disciplinary decisions. Termination and suspensions of employees will be decided only by the Chief of Police after receiving such recommendations from the Discipline Review Board or Special Discipline Review Board.