

3.01.000

**INVESTIGATION OF PERSONNEL MISCONDUCT**

It is the Department policy to promptly and thoroughly investigate alleged misconduct involving employees.

3.01.005

**REQUIREMENT TO COOPERATE:**

**All employees shall fully cooperate in Department investigations. If an employee has a reasonable belief that they may be the subject of possible disciplinary action they are entitled to be accompanied by a union/guild representative during any interviews. Non represented employees may have a personal representative present.**

3.01.010

**NATURE OF INVESTIGATIONS:**

1. Internal investigations shall be administrative and not criminal in nature.
2. Criminal investigations shall be assigned to the appropriate law enforcement jurisdiction.
  - The Director may assign a criminal investigation to the Internal Investigations Unit (IIU).

3.01.015

**TOPICS OF INVESTIGATION:**

1. Any alleged violations of laws or ordinances.
2. Any alleged violation of Department rules and regulations.
  - a. When an alleged or observed minor infraction does not involve persons outside the Department, a supervisor may resolve these cases and immediately take the necessary corrective action without completing an IIU complaint.

b. Report (DAD Form A-128). Minor infractions may include but are not limited to:

- Tardiness
- Uniform and equipment violations
- Personal appearance infractions
- Minor omissions in assigned duties
- Minor regulations concerned with efficiency or safety

3.01.020

**DISCIPLINE AUTHORITY:**

Except for verbal counseling and letters of corrective counseling, Departmental disciplinary actions shall be approved by the Director.

3.01.025

## **DISCIPLINARY ACTION:**

Disciplinary actions should be corrective and not punitive in nature, with the concept of progressive discipline applied when appropriate.

1. Employees are subject to disciplinary actions consistent with the provisions of the following:
  - a. Standard Operating Procedures
  - b. Post orders
  - c. Training bulletins
  - d. Department directives
  - e. State and federal laws
  - f. Local ordinances
  - g. King County *Personnel Guidelines*
  - h. Collective bargaining agreements
2. Disciplinary actions include but are not limited to:
  - a. Written reprimands
  - b. Suspension from duty
  - c. Demotion
  - d. Termination

The disciplinary action to be taken will be the action considered appropriate for that particular case. Verbal counseling and letters of corrective counseling are not considered discipline.

3. Training and professional counseling are considered corrective in nature and may be recommended either separately or in conjunction with the above disciplinary actions.

3.01.030

## **INVESTIGATION PROCEDURE (GENERAL):**

IIU is responsible for conducting and monitoring complaints of alleged misconduct involving employees. The IIU Captain is responsible for all such investigations and reports directly to the Director or designee.

IIU Shall:

1. Ensure that all alleged misconduct complaints generated by either citizens or internal sources are assigned for investigation.
2. Make an independent investigation of a complaint when required.
3. Monitor all investigations and maintain all records, including disposition and action taken pertaining to investigations according to IIU procedures.
4. Establish methods and procedures to investigate complaints.
5. Ensure, to the extent possible, the expeditious completion of investigations assigned. If the investigation exceeds (90) days the subject person will be notified in writing as to the reason for the delay. They will continue to notify the person every (30) days until the investigation is completed.
6. Assist other Department investigations dealing with complaints when necessary.
7. Conduct an investigation at the request of any employee who justifiably feels threatened by a false accusation or a contrived situation.

- Such employees may report their situations directly to the IIU Captain without reporting to their supervisors.

8. Prepare cases for Department hearings.

3.01.035

**EMERGENCY RELIEF FROM DUTY:**

Any supervisor may relieve an employee from duty in an emergency when it appears that such action is in the best interest of the Department. Conditions for emergency relief from duty may include but are not limited to:

- Commission of a crime
- Appears to be under the influence of either alcohol or drugs; or having alcohol on breath (refer to procedure 3.02.000 Employee Drug & Alcohol Assessment)
- Apparent psychological problem
- Insubordination

The supervisor imposing the emergency relief from duty shall:

- Notify the On Duty Shift Commander, Corrections Program Administrator or the Executive Duty Officer of the action taken.
- Complete a Supervisor's Incident Report (DAD Form F-523) before securing from duty.
  - Forward the original report directly to the Major of the relieved employee.
  - Forward a copy of the report to the Shift Commander/Corrections Program Administrator via the chain of command.
- Instruct the employee to call the Major of their facility before 1000 hours the following business day to make an appointment to meet.
  - Employees who are relieved from duty shall be placed on paid administrative leave pending a decision by the Director to the contrary.
  - Employee should not engage in any Department related activities.
  - The employee shall remain at their residence during their normal duty hours and be accessible to the Department or notify the Major when away from their residence.

3.01.040

**RECEIVING CITIZEN COMPLAINTS (GENERAL):**

On occasion, the Department receives a complaint from a citizen regarding either an employee or a Department operation.

- If a complaint is serious and may require emergency relief from duty, the on duty Shift Commander/Corrections Program Administrator, IIU Commander, and Executive Duty Officer shall be notified.

3.01.045

**CITIZEN COMPLAINT PROCEDURE WHEN RECEIVED BY IIU:**

Whenever IIU receives a complaint, the IIU Commander shall determine where the complaint will be investigated.

- If the complaint is to be investigated at the shift level, the complaint report shall be forwarded to the Shift Commander / Corrections Program Administrator with a due date.

3.01.050

**CITIZEN COMPLAINT PROCEDURE WHEN RECEIVED OUTSIDE IIU:**

1. The supervisor receiving the complaint shall:
  - a. Review the complaint and, if possible, resolve to the complainant's satisfaction. No further investigation is required.
  - b. Try to obtain a signed statement from the complainant and attempt to identify all witnesses
  - c. Complete and forward the Complaint Report to the Shift Commander or Corrections Program Administrator.
2. The Shift Commander/Corrections Program Administrator shall review the complaint, gather other pertinent information and resolve, if possible. Forward it to IIU, if necessary.

3.01.055

**COMPLETED CITIZEN COMPLAINT INVESTIGATIONS:**

1. When a complaint investigation is completed, the investigator shall ensure that the completed investigation is in charge sheet format and contains:
  - a. Allegations
  - b. Evidence
  - c. Summary of facts
  - d. Findings or a conclusion
2. A logical conclusion should be drawn from the facts of the investigation following the criteria outlined in 3.01.110 and citing applicable authorities such as:
  - a. Law(s)
  - b. Ordinances
  - c. Standard Operating Procedures
  - d. Collective Bargaining Agreement and Articles
  - e. County Personnel Guidelines

3. The investigator shall forward the completed investigation up the chain of command to the Facility Commander.
4. Upon receipt, the Facility Commander shall:
  - a. Ensure that the investigation is complete.
  - b. Make a comment to indicate agreement or disagreement with the findings.
  - c. Make recommendations regarding discipline.
    - This should address fair and appropriate discipline to the given set of circumstances.
    - The level of discipline shall be consistent with investigations similar in nature.
    - Determine if progressive discipline is applicable.
    - Facility Commander should contact IIU to review the Employee's disciplinary history.
5. IIU Commander shall ensure that a draft letter is addressed to the complainant.
  - a. The letter shall be approved, signed and mailed by the appropriate Facility Commander or designee.
  - b. This letter shall contain the result of the Department investigation only.

3.01.060

**EXCESSIVE USE OF FORCE COMPLAINTS:**

When a complaint alleges excessive use of force by an employee, the on-duty Shift Commander shall assign the matter to be investigated.

The Investigator shall:

1. Take color photographs of the victim's injuries whether visible or not.
2. Obtain a written statement from victim, complainant and witnesses.
3. Request that the victim be examined immediately by a physician.
4. Request that the victim sign a Release of Medical Information form.
5. Identify any unavailable witnesses to the alleged misconduct.
6. Forward the original Complaint Report and copies of supporting documentation directly to IIU.

3.01.065

**CRIMINAL CONDUCT COMPLAINTS:**

It shall be the responsibility of all employees to immediately notify an on-duty supervisor when, by observation or receipt of information, there is cause to suspect that an employee has committed a crime. Normal criminal investigation procedures shall be followed during the investigation of all alleged violations of any law.

When an on duty supervisor receives notification or information that an employee has been arrested, charged, or under investigation for the commission of a crime, the on duty supervisor shall:

1. Immediately notify the Shift Commander/Corrections Program Administrator, IIU Commander, Major or Facility Commander of the employee's status.
  - If the above individuals are not available the Executive Duty Officer (EDO) shall be notified.
2. It is the department policy to ensure that appropriate law enforcement action has been initiated in a manner consistent with the appropriate guidelines in the King County Sheriff's Office/Kent Police Department/DAD or King County Sheriff's Office/Seattle Police Department/DAD Memorandum of Understanding.

3.01.070

**CRIMINAL CONDUCT INVESTIGATIONS:**

Upon notification that an employee is or has been arrested by another jurisdiction, that employee receiving the notification shall immediately notify the on duty Shift Commander.

1. The on duty Shift Commander shall immediately notify the appropriate Corrections Program Administrator, IIU Commander, Major or Facility Commander and EDO.
2. Any employee apprehended after the commission of a crime or criminal traffic offense will be treated in the same manner as any other citizen.
3. Any employee that is involved in a criminal matter that is under investigation shall notify the Director and IIU Commander of any change of status of such investigation in writing.

3.01.075

**INTOXICATION COMPLAINTS:**

If a citizen complaint alleges that on-duty employee is under the influence of either alcohol or drugs, the employee taking the complaint shall immediately contact the accused employee's supervisor.

The accused employee's supervisor shall:

1. Immediately contact the accused to determine if there is a basis for the allegation and if so:
  - Contact the Shift Commander/Corrections Program Administrator and take the accused to their office for administration of employee Alcohol & Drug Assessment Procedure.
2. Pursuant to 3.01.035, suspend the accused if the allegation is supported or if the employee refuses to comply with testing.
3. Notify the employee's Major, Facility Commander or the EDO.
4. Complete a Supervisor's Incident Report before securing from duty.
5. Forward all the original reports directly to IIU via the Major or Facility Commander.
6. Forward a copy of the entire case packet to the Major.

3.01.080

**INTERNAL COMPLAINTS:**

Employees who have knowledge of alleged misconduct committed by other employees shall notify a supervisor.

- Employees who allege misconduct should do so in a timely manner.

The Supervisor shall:

1. Review any internal complaint and, if warranted, complete a Complaint Report.
2. If retained by the Shift Commander/Corrections Program Administrator for investigation, forward a copy of the Complaint Report directly to IIU.

3.01.085

**COMPLAINTS INVOLVING IIU PERSONNEL:**

1. Complaints alleging misconduct involving IIU personnel shall be forwarded directly to the Director.
2. The Director shall appoint personnel from another section or agency to conduct the investigation.
3. Completed investigations shall be maintained in IIU.

3.01.090

**COMPLAINTS AGAINST OTHER AGENCY EMPLOYEES:**

While on duty, employees reporting alleged misconduct involving employees of other agencies shall complete and forward a written report through the chain of command to IIU.

3.01.095

**PERSONAL INTERVIEWS (GENERAL):**

The following rules shall apply to all personal interviews of employees conducted by the Department.

1. Before interviewing the employee, they shall be informed of the name of the person in charge of the investigation and the name of the person conducting the interview.
2. Interviews shall be held during the employee's on-duty hours, unless the off-duty interviews can be justified. Off-duty interviews will be fully compensated.
3. Interviews shall be conducted within a reasonable time.
4. Employees being interviewed shall be allowed reasonable intermissions.
5. The scope of the interview shall relate to the specific allegations only.
6. For investigations involving minor offenses, the investigator may request a report from the employee instead of a personal interview.
  - Employees, who are requested to complete reports, shall forward such reports directly to the requesting supervisor or the assigned IIU investigator.

3.01.100

**PERSONAL INTERVIEW, MAJOR INVESTIGATION:**

A personal interview in a major investigation is an in-person inquiry with the accused employee that is conducted to investigate alleged misconduct that may result in disciplinary action.

**Before interviewing the accused employee, the Investigator shall:**

1. Advise the accused in writing of the allegations.
2. Advise the accused that they are suspected of misconduct that, if sustained, could be grounds for administrative disciplinary action.
3. Advise the accused that they may have representation present during any interview.
4. Advise the accused that they are required to fully cooperate with the Department investigation, failure to cooperate may result in employment termination and the information obtained from the interview cannot be used in a criminal case (Garrity v. N.J. 385 U.S. 493, 1967).
5. Allow the accused to read a copy of the Police Officer's Bill of Rights which under King County Motion No. 7854 applies to all DAD employees. (See Attached Motion)
6. Upon request, provide the accused with a copy of their statement.

3.01.105

**PERSONAL INTERVIEWS, CRIMINAL INVESTIGATION:**

A personal interview in a criminal investigation is an in-person inquiry with the accused employee that is conducted to investigate alleged misconduct that may result in the filing of a criminal charge.

1. Criminal investigation interviews shall be conducted by the appropriate law enforcement agency, unless the Director assigns the investigation to IIU.
2. Before being interviewed the accused, shall be advised that they are suspected of committing a criminal offense and be advised of their Constitutional Rights.
3. Accused employees have a right to have legal counsel present during all criminal interviews.

3.01.110

**INTERNAL INVESTIGATION CLASSIFICATIONS (GENERAL):**

All investigations shall be completed as thoroughly as possible. When completed, the investigation is classified into one of the following categories based upon the preponderance of the evidence:

1. **UNFOUNDED**
  - The allegation is false or not factual.
2. **EXONERATED**
  - The incident investigated substantially occurred, but was lawful and proper.
3. **NON-SUSTAINED**
  - There is insufficient factual evidence either to prove or disprove the allegation.
4. **SUSTAINED**
  - The allegation is supported by sufficient factual evidence.

5. **UNDETERMINED**

- a. The complainant withdraws the complaint.
- b. The complainant cannot be located.
- c. The complainant is uncooperative.
- d. The accused employee separates from the Department before the conclusion of the investigation.

3.01.115

**REVIEW AND PROCESSING OF COMPLETED REPORTS:**

**For every complaint, the IIU Commander shall:**

1. Review Complaint Reports for completeness and ensure that Department and legal guidelines are followed. This may include making recommendations or conducting additional investigation.
2. Forward the completed investigation to the Facility Commander, via the Major, for review in the facility where the alleged behavior occurred.
3. Ensure that the accused employee and their Shift Commander, Corrections Program Administrator and Section Supervisor are notified in writing within five (5) days of the disposition of the complaint.
4. Ensure that the complainant has been notified in writing within (15) days of the disposition. The identity of the accused employee and the specific nature of any action taken against them shall not be revealed to the complainant.
5. Ensure that the completed investigation is properly maintained in IIU.

**The Facility Major shall:**

1. Review the completed analysis to ensure thoroughness and fair review.
2. If appropriate, refer the case back to IIU.
3. Forward to the Facility Commander for disposition.

**The Facility Commander shall:**

1. Review the completed investigation and make recommendations regarding the administrative actions to be taken.
2. If additional information is needed, refer the case back to IIU.
3. In appropriate cases, notify the employee that they have a right to meet with the Director pursuant to Loudermill v. Cleveland Board of Education, 470 U.S. 532 (1985).
  - This meeting is at the request of the employee or collective bargaining unit.
  - This meeting is not mandatory and no overtime shall be paid.
4. Forward the report to the Director within ten (10) days after receipt.

**The Director shall:**

1. Conduct Loudermill Hearings, or designate a representative to conduct such hearings, when requested by the employee or by their collective bargaining unit.
2. Review the completed investigation and make a decision regarding the action to be taken within 15 days and provide formal written notification to the employee and their collective bargaining unit.

3.01.120

**GRIEVANCE PROCEDURE:**

Employees who feel aggrieved shall follow the grievance procedure outlined in either the applicable collective bargaining agreement or K.C. Career Service *Guidelines*.

3.01.125

**CORRECTIVE COUNSELING MEMORANDUM:**

A Corrective Counseling Memorandum is a written notification from a supervisor to a employee addressing training or performance deficiencies. The supervisor issuing the Corrective Counseling should confer with IJU to determine if there were prior incidents of a similar nature which may effect the nature of progressive discipline. A line supervisor may issue a Corrective Counseling Memorandum on approval by their Shift Commander/Corrections Program Administrator.

1. Corrective Counseling is:
  - a. Not disciplinary action.
  - b. Notification of undesirable conduct.
  - c. Documentation for evaluations.
  - d. If mentioned in an evaluation, the incident, itself, must be specifically stated.
  - e. Documentation for subsequent disciplinary action.
2. The memorandum shall contain:
  - a. A description of the conduct or behavior requiring counseling.
  - b. The steps taken to prevent Recurrence.
  - c. Expectations of future performance.
3. A memorandum of Corrective Counseling serves as documentation of the corrective counseling given and is not disciplinary action. Corrective Counseling Memoranda shall be retained in the employee's personnel file for one (1) year from the date of issuance. It is the responsibility of the employee to contact the Major of their facility to have the document removed presuming no recurrence of a similar nature has taken place during the (12) month period.

