I. PURPOSE

The appropriate response to complaints of alleged police misconduct is essential to preserving the integrity of, and public confidence in, the Davis Police Department. The Police Department will investigate complaints against its personnel in a prompt and professional manner and in compliance with laws governing the investigation of law enforcement members. Such investigations will compile all pertinent facts and circumstances surrounding any allegation and render a fair and just finding for the complainant and any member(s) of the Police Department.

II. POLICY & PROCEDURE

A. Personnel Complaint Policy

Pursuant to section 832.5 of the Penal Code, the Davis Police Department has adopted this policy that provides a fair, orderly and uniformly applied process for receiving, investigating, and resolving complaints of alleged police misconduct. This policy is a public record and shall be provided to any person upon request.

For the purposes of this policy, a member includes a volunteer.

This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, except as otherwise provided.

B. Supervisors & Professional Standards

1. For the purposes of this policy, a supervisor includes the on duty Watch Commander (regardless of rank), sergeants, civilian supervisors, civilian managers, and sworn administrators.

2. For the purposes of this policy, Deputy Chief means a Deputy Chief assigned to oversee Professional Standards.

3. For the purposes of this policy, Professional Standards includes a Deputy Chief assigned to Professional Standards, the Professional Standards Lieutenant and any other member assigned to Professional Standards by the Police Chief.
C. No Retaliation

No member shall, in any manner, dissuade or impede any person or member from filing a complaint or reporting misconduct, nor shall any member retaliate, threaten, or harass any person or member who has alleged or reported misconduct. Any interference or allegation of retaliatory action by a member shall be immediately reported to the Deputy Chief. Interference and/or retaliation are grounds for discipline.

D. Source & Acceptance of Civilian Personnel Complaints

1. Complaints against members of the Davis Police Department may be filed in a variety of ways, including;
   - By filling out a complaint form and submitting it either in person or by mail to the Davis Police Department located at 2600 Fifth St. Davis, CA 95618.
   - By filling out a complaint form and submitting it either in person or by mail to the City Manager’s Office located at City Hall, 23 Russell Blvd Davis, CA 95616.
   - By speaking directly to a Davis Police Department supervisor either in person or by telephone (530) 747-5400.
   - By sending an email to the Davis Police Department at policeweb@cityofdavis.org or the city manager’s office at CMOWeb@cityofdavis.org.
   - By directly contacting the Independent Police Auditor (information can be located at www.davispd.org).

2. Complaint forms are located at the front counter of the Davis Police Department, the city manager’s office, with the Independent Police Auditor or online at www.davispd.org. Complaint forms in languages other than English may also be provided, as determined necessary or practicable.

3. Language barriers can sometimes inhibit or even prohibit individuals with limited English proficiency, or those with certain disabilities, from gaining meaningful access to, or an understanding of important rights, obligations and services provided under this policy. It is therefore the policy of this Department to take all reasonable steps to ensure timely and equal access to all individuals, regardless of national origin, primary language, or their disability (Title VI of the Civil Rights Act of 1964, § 601, 42 United States Code 2000d, 28 CFR 35.160). The Department will not discriminate or deny any individual access to services, rights, or programs, based upon a person’s disabilities or inability to communicate—in English or at all. Language and disability services shall be provided pursuant to PP 1.34-A, Language Services/Communications with Persons with Disabilities. PP 1.34-A also has a language identifier chart that can be used to help determine what language any complaining party or other person speaks.

4. Filling out a complaint form is not a requirement for making any type of complaint under this policy. All complaints, from any source, in any language or method of communication, whether in writing or verbally received, no matter how received by the Davis Police Department, will be reviewed and processed in accordance with this policy.

5. Anonymous complaints will be investigated to the extent possible, recognizing the inherent limitations of such complaints.

6. A complainant is not required to speak to a police supervisor prior to filing a written complaint. However, complaining parties should generally be referred to a supervisor who
can potentially resolve the complaint, provide a written complaint form, and/or offer assistance to the complainant if necessary.

7. A request made to any Department member to speak to a Department supervisor about possible member related misconduct or the possible mishandling of an incident or call for service shall be initially interpreted as a complaint under this policy. Such requests to speak to a supervisor will be accepted and the Watch Commander or a patrol supervisor shall be summoned, if one is available. This type of request takes precedence over routine supervisory duties or lower priority calls for service.

   a. If a supervisor is unable to respond to a field request to speak with a member’s supervisor, the Department member shall provide a business card with their name and their supervisor’s name to the person requesting to speak to a supervisor.
   b. If a supervisor is not immediately available to speak to the person, the name and phone number of the person shall be provided to a patrol supervisor, as soon as one is available. The supervisor should attempt to contact the complainant prior to the end-of-watch, or at the very least, ensure the on-coming supervisor contacts the complainant during the on-coming watch.

8. The initial responding supervisor should assess the initial complaint and interview the complainant, if they are willing to speak to the supervisor. This will provide an initial forum for a person to resolve what may not actually be a complaint about a Department member, but an inquiry or objection to a policy or procedure, a law, or the handling of an incident they witnessed or were involved.

9. With consent, or as otherwise allowed by state and federal law, a supervisor should record the contact or take notes to ensure the statement can be later recalled and documented if the matter is investigated. The recording or notes should be forwarded to the Deputy Chief.

10. All written complaints received by the Police Department, by whatever means, shall be immediately forwarded to the Office of the Police Chief.

11. Records & Communications personnel or any supervisor personally receiving a complaint form shall provide the complainant with a copy of their complaint as required by 832.7(b) P.C. The member receiving the form shall document on the complaint form that a copy was provided to the complainant. If the complainant’s statement is received by mail or other means, the Deputy Chief will mail or e-mail a copy back to the complainant, noting the assigned complaint number on their copy for future reference. The date and fact that copies were made will be noted on the original copy of the complaint.

12. A supervisor receiving a complaint is not responsible for conducting any investigation unless there are exigent circumstances requiring an immediate response. In that instance, the receiving supervisor shall notify the Deputy Chief as soon as possible for further direction. If the Deputy Chief is unavailable, the Police Chief or Professional Standards Lieutenant, in that order, shall be contacted.

E. Independent Police Auditor

The Independent Police Auditor may perform any duty under their contract without impediment from any member of the Police Department. Any member of the public may directly contact the Independent Police Auditor to file a complaint or to discuss the performance of any Department member or the operations of the Davis Police Department. The Independent Police Auditor may meet with complainants and assist them in determining how to proceed with their complaint. To
this end, the Police Auditor may attempt to resolve complaints in any proper manner in conformance with this policy and within law. Professional Standards may facilitate any meeting between the Police Auditor and any Department member. Complaints received by the Independent Police Auditor will be turned over to the Deputy Chief for processing and investigation. Professional Standards will be responsible for generating any reports or memoranda concerning involvement of the Police Auditor in resolving any complaint.

F. Duty to Report Misconduct

When a member who is not a supervisor becomes aware of, or observes what they believe to be misconduct by another Department member they shall, by the end of the member’s current shift, or if off duty within 24 hours, notify their supervisor or in the absence of their supervisor their Division Commander or the Deputy Chief.

Serious allegations, including but not limited to those listed below, shall be reported immediately:

1. Dishonesty.
2. Any act which may constitute the commission of a misdemeanor or felony crime whether committed on or off duty.
3. Improper use of force.
4. Member(s) under the influence of intoxicants while on-duty.
5. Any discrimination or harassment on anyone on the basis of race, color, religion, ancestry, national origin, sexual orientation, gender, marital status, age, political affiliation, family care leave status, physical or mental disability or medical condition.

G. Misconduct – Supervisory Responsibilities.

Supervisors and corporals with knowledge of, or who are made aware of, alleged acts of improper conduct or incidents where improper conduct may occur have an affirmative duty to stop or prevent improper conduct, if there is a realistic opportunity to intervene (Rule and Regulation 7.21). This provision also applies to Field Training Officers and any trainee or assigned mentee.

H. Initiation of Internal Investigation

1. Any Watch Commander or supervisor may request an internal investigation when there is cause to believe that a member has engaged in conduct that is in violation of City or Department Rules and Regulations or in violation of a criminal or civil statute.

When choosing whether to initiate an internal investigation, the Watch Commander or supervisor should consider whether the conduct warrants a formal investigation or can be handled through immediate counseling or training, or through the imposition of minor discipline by the member’s supervisor or Division Commander.

Serious allegations or those that may warrant major discipline, as specified under the Personnel Rules & Regulations of the City of Davis, shall be formally investigated. Serious allegations, including but not limited to those listed below, shall be immediately reported to a Division Commander or the Deputy Chief.

a. Dishonesty.
b. Improper use of force.
c. Member(s) under the influence of intoxicants while on-duty.
d. Any discrimination or harassment of anyone on the basis of race, color, religion, ancestry, national origin, sexual orientation, gender, marital status, age, political
2. A Watch Commander or supervisor requesting an internal investigation shall notify their Division Commander who shall notify the Deputy Chief. The Deputy Chief may reject the request, recommend an alternate disposition, or assign the matter to be investigated pursuant to this policy.

3. No investigation shall be undertaken against any officer solely because the officer has been placed on a prosecutor’s Brady list or the name of the officer may otherwise be subject to disclosure pursuant to Brady v. Maryland. However, an investigation may be based on the underlying acts or omissions for which the officer has been placed on a Brady list or may otherwise be subject to disclosure pursuant to Brady v. Maryland (Government Code § 3305.5).

4. Generally, internal investigations will be initiated because of tort claims and lawsuits.

I. Initiation of Criminal Investigation

1. Whenever a Watch Commander or supervisor becomes aware of any allegation of criminal misconduct by a member who is either on or off duty, the Watch Commander or supervisor shall immediately notify either in person or by phone the Deputy Chief. In their absence, the Police Chief, the Professional Standards Lieutenant, the Investigations Lieutenant or the Patrol Commander, in that order, shall be notified of the allegation. In order to maintain the integrity of any resulting investigation, the Watch Commander or supervisor shall keep the information strictly confidential and shall not share the information with others, including their regular chain-of-command.

2. If there are exigent circumstances requiring an immediate police response or investigation of the criminal acts, or alleged criminal acts, the Watch Commander or an available sworn police administrator shall be responsible for conducting the preliminary criminal investigation. In the absence of exigent circumstances, the Deputy Chief shall direct any criminal investigation and/or any internal investigation of criminal misconduct by a member. Non-supervisors and non-sworn personnel shall not conduct criminal investigations on a member without express permission of the Police Chief.

3. The Deputy Chief, in consultation with the Police Chief, may request the Yolo County District Attorney’s Office or another law enforcement agency conduct any criminal investigation against a member.

4. Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation conducted pursuant to this policy. Any separate administrative investigation may parallel a criminal investigation.

5. A member accused of criminal conduct shall be advised of their constitutional rights (Government Code § 3303(h)). The member should not be administratively ordered to provide any information in the criminal investigation.

6. The Davis Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.
J. Complaint Processing

All personnel complaints, in any form, shall be immediately forwarded to the Deputy Chief for review and processing. The Deputy Chief shall classify the complaint as a personnel complaint, a complaint about department policy or procedure, or a complaint without merit. All complaints will be numbered and recorded in the complaint database.

K. Classification of Complaints and Internal Investigations

1. Category I Formal Investigations

   a. Category I investigations involve allegations of a serious nature, which will be formally investigated and could result in major discipline under the Personnel Rules & Regulations of the City of Davis. The Deputy Chief may classify any investigation, regardless of the nature of the allegations, as a Category I investigation.

   b. Professional Standards is generally responsible for investigating all Category I investigations. However, at the direction of the Deputy Chief, an investigation can be assigned to any supervisor to investigate. The assigned investigator shall have had no direct involvement in the incident being investigated. In rare instances, the Police Chief and City Attorney may order an investigation to be conducted by an outside independent person.

   c. Examples of category I complaints include, but are not limited to, significant violations of Department policy and procedure, such as:

      1. The application of force and/or the use of excessive force or brutality.
      2. Corruption/dishonesty.
      3. False arrest, allegations of bad faith Fourth Amendment violations, or other civil rights violations.
      4. Bias policing, racial/ethnic slurs or complaints of serious discourtesy.
      5. Criminal misconduct.
      6. Any discrimination or harassment on anyone on the basis of race, color, religion, ancestry, national origin, sexual orientation, gender, marital status, age, political affiliation, family care leave status, physical or mental disability or medical condition.

2. Category II Investigation

   a. Category II investigations involve allegations of a minor nature that, if found to be true, would likely result in counselling, training or minor discipline.

   b. If Professional Standards is not assigned to complete the investigation, the complaint will be assigned to the Division Commander overseeing the members(s) being investigated. Generally, only one investigator will be assigned even if multiple Department members from several divisions are involved. The assigned investigator shall have had no direct involvement in the incident being investigated.

   c. Some examples of minor complaints include those where the allegations are:

      1. Improper procedure.
      2. Poor or inadequate service.
      3. Rude conduct.
      4. Use of improper language.
5. Discourteous operation of a Department vehicle.

3. Complaints Regarding Department Policy & Procedure
   a. Complaints regarding policy & procedure shall be assigned a complaint number and be forwarded to an appropriate Division Commander for review.
   b. The Division Commander shall review the complaint, conduct any needed investigation or follow-up and, when appropriate, make recommendations to the Police Chief regarding any changes to Department policy or procedure that need to be made.

4. Frivolous Complaints or those “Without Merit”
   a. A complaint that is determined to be frivolous or without merit may be closed at intake.
   b. A complaint that is frivolous, or without merit, means the allegations are totally and completely without merit or for the sole purpose of harassing an opposing party, or the complaint is completely lacking information that describes an actual allegation that would constitute misconduct, even if the information were true.
   c. Professional Standards should document on the complaint why it was determined to be without merit and closed.

5. Alternative Resolutions
   a. Withdrawn Complaints
      1. Formal complaints may be “Withdrawn” at any time or handled as informal complaints at the request the complainant.
      2. When this procedure is used, the formal written complaint shall be kept in the complaint file and shall have the notation “Withdrawn” placed in the findings section.
      3. A memorandum will be attached giving a summary of the withdrawal request. If possible, the complainant should sign the request.
      4. The Department retains the ability to investigate regardless of whether the complaining party agrees to cooperate in investigating the allegation or not.
   b. Informal Complaint or Inquiry (Category III)
      1. In those cases where a) the initial receiving supervisor receives an inquiry or complaint directly from a complaining party or b) when a complaint notates on the complaint form they would like to speak to a supervisor before making a formal complaint, and that after speaking to the complainant, it is determined that the complainant will be satisfied with having the supervisor relay any feedback or concern directly to a Department member, without a formal investigation, a complaint may be classified as an “informal complaint.” An informal complaint will be documented subject to the provisions of this policy; however, an informal complaint will not result in discipline.
      2. As a general rule, allegations of dishonesty, excessive force, bias policing, and serious constitutional violations will be formally investigated pursuant to this policy. A supervisor retains the ability to request an internal investigation if the alleged conduct is serious, may result in major discipline or is criminal in nature, regardless
of whether the complaining party agrees to cooperate in investigating the allegation or not.

3. A supervisor should, absent extenuating circumstances or in those cases where the allegations made are such that there is no reasonable basis for believing that any misconduct occurred, conduct a performance review of the matter.

4. A performance review, for the purposes of this policy, is defined as an informal examination of the incident complained about, with an emphasis on the manner in which the member performed their job tasks and how that manner may have contributed to the allegation of misconduct.

5. A supervisor may counsel any Department member regarding any informal complaint. For the purposes of this policy, personnel counseling is defined as a process in which command or supervisory staff meets with a Department member in a non-punitive setting to discuss performance. Counseling sessions employ techniques designed to reinforce good performance, improve poor performance, and when appropriate, correct behaviors that precipitate or contribute to complaints and/or allegations of misconduct. The counseling defined in this policy is intended to be a positive tool to help members in reaching a higher level of effectiveness. Supervisors are encouraged to use counseling sessions to help improve communication with Department members. A member may bring a representative with them to a scheduled counseling session. If documented counseling is appropriate, it will be documented in the member’s performance file as part of the performance review.

6. A supervisor may provide or recommend training to a member. Training is a non-punitive tool used to make members more efficient/effective by providing instruction and practice. Training can be either in-house or outside training, specific to the needs of the member and the Department. Training should be documented in a member’s performance or personnel file, as appropriate, in order to have a regular record of any training received.

7. A supervisor shall, prior to placing any document created pursuant to this policy, provide a copy to the member’s Division Commander for review. A copy shall also be provided to the member, who should initial the document before it is placed in any file. Should the member refuse to initial the document, the supervisor shall make a notation on the document that the member had an opportunity to review it and they refused to initial it. A member may respond in writing within 30 days to any document which is placed in any file.

8. A copy of the performance review will be maintained in the member’s performance file and may be used pursuant to the provisions of PP 1.03-C, Personnel Files. Documentation shall be in the form of a short summary of the incident and what actions, if any, were taken. The memorandum shall contain the complainant’s name, address, phone number, and any other identifying information that may be needed. The original copy of the document shall be forwarded, through the chain-of-command, to Professional Standards who will be responsible for filing and maintaining the document in the appropriate internal file for the required statutory period. A performance review and any documentation of such is a non-punitive action.
c. The Alternative Conflict Resolution (ACR) Program (mediation) is an option for resolving complaints or conflict involving members of the Davis Police Department.

1. Participation shall be voluntary on the part of all involved parties. There shall be no consequences for a member electing to not participate.

2. Complaints referred to and accepted for mediation shall preclude formal corrective action being taken against a member.

3. Professional Standards will be responsible for documenting the mediation and properly filing all paperwork associated with the original complaint.

6. Whenever the Police Chief determines that it is in the best interest of the City to not have a member at the workplace, either prior to or during, any investigation or the disciplinary process, said member may be placed on paid administrative leave subject to such reasonable conditions as may be determined by the Police Chief given the circumstances of the situation.

L. Investigation Process

1. Investigations of sworn officers shall be in compliance with section 3300 et seq. of the Government Code, commonly known as the Peace Officer’s Bill of Rights (POBR), which specifies that when any public safety officer is under investigation and subjected to interrogation by his or her commanding officer, or any other member of the employing public safety department, that could lead to punitive action, the interrogation shall be conducted under the following conditions. For the purpose of POBR, punitive action means any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.

Investigations of all other personnel shall be in compliance with all applicable statutory and case law and in compliance with the City Personnel Rules.

a. Upon the filing of a formal written statement of charges, or whenever an interrogation focuses on matters that are likely to result in punitive action against any public safety officer, that officer, at his or her request, shall have the right to be represented by a representative of their choice who may be present at all times during the interrogation. The representative shall not be a person subject to the same investigation. The representative shall not be required to disclose, nor be subject to any punitive action for refusing to disclose, any information received from the officer under investigation for noncriminal matters. This section shall not apply to any interrogation of a public safety officer in the normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other public safety officer, nor shall this section apply to an investigation concerned solely and directly with alleged criminal activities (Government Code § 3303).

b. Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty. If the member is off-duty, they shall be compensated.

c. Unless waived by the member, interviews of an accused member shall be at the Davis Police Department or other reasonable and appropriate place.

d. No more than two interviewers should ask questions of an accused member.
e. Prior to any interview, a member shall be informed of the nature of the investigation, the name, rank and command of the officer in charge of the investigation, the interviewing officers and all other persons to be present during the interview.

f. All interviews shall be for a reasonable period and the member’s personal needs should be accommodated.

g. No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.

h. Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.

i. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a Lybarger advisement. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).

j. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor unless otherwise specified by law.

k. The interviewer should record all interviews of members and witnesses. The member may also record the interview. If the member has been previously interviewed, a copy of that recorded interview shall be provided to the member prior to any subsequent interview.

l. In order to maintain the integrity of each individual’s statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.

m. No member may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

2. Members who are interviewed or interrogated shall not provide misleading, untruthful, inaccurate, or partially misleading, untruthful, or inaccurate information to any supervisor or investigator, nor shall any member fail to disclose any pertinent facts or information within their knowledge to any supervisor or investigator.

3. The investigator shall, subject to consent or pursuant to law, record all interrogations or interviews conducted as part of an investigation.

4. Most complaints should be resolved within 60 days, absent extenuating circumstances. The Deputy Chief may extend the deadline for good cause, but the good cause shall be specified in writing as part of the investigation.

5. All assignments will be documented on the Internal Investigation Face Sheet.

6. The assigned investigator is responsible for conducting an investigation into the incident. When a supervisor is investigating a complaint in which unusual circumstances exist, or where points of policy and procedure clarification are necessary, they shall consult with Professional Standards to maintain consistency in the investigative process. For Category II investigations, if new or additional facts become known to the investigator which would
likely move the investigation to a Category I investigation, the investigator should temporarily stop the investigation and immediately notify the Deputy Chief. The investigation may be re-assigned to Professional Standards.

7. Investigation Format

Formal investigations shall be complete, thorough and essentially follow this format:

The investigator is responsible for:

I. Introduction/Background - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint or allegation of misconduct.

II. Synopsis - Provide a brief summary of the facts giving rise to the investigation. List any allegations of misconduct separately, including applicable Rules & Regulations or Policies & Procedures.

III. Investigation/Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section. Evidence may include:

   i. CAD Information
   ii. Radio Information
   iii. In-Car Camera/BWC information
   iv. Statements of complaining parties
   v. Statements of witnesses, including Department members
   vi. Statements of personnel subject to the investigation

IV. Exhibits - A separate list of exhibits (e.g., recordings, photos, documents, transcripts) should be attached to the report.

8. The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

9. Any evidence, recordings, photographs, or original documents not attached to the investigation shall be placed in evidence and recorded using the complaint number.

M. Administrative Findings

After an investigation has been completed, the report shall be forwarded to the Deputy Chief. The Deputy Chief is responsible for reviewing the completed report, providing the analysis of evidence and making the final finding. Alternatively, the Police Chief may make any findings pursuant to this policy.

1. A Chief will render one of the following findings:

   a. Unfounded – The investigation clearly established that the allegation is not true (Penal Code § 13012).

   b. Not Sustained – The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation in the complaint (Penal Code § 13012).
c. Sustained – The investigation disclosed sufficient evidence to prove the truth of allegation in the complaint by the preponderance of evidence (Penal Code § 13012).

d. Exonerated – The investigation clearly established that the actions of the personnel that formed the basis of the complaint are not a violation of law or agency policy (Penal Code § 13012).

e. Frivolous – Means totally and completely without merit or for the sole purpose of harassing an opposing party (Penal Code § 832.5 & Code of Civil Procedure § 128.5(b)(2)).

f. Alternative Conflict Resolution – The complaint is resolved in accordance with the ACR Program. Resolved complaints are not reportable as complaints pursuant to Penal Code § 13012.

g. Withdrawn – The investigation is withdrawn at the request of the complaining party. Withdrawn complaints are not reportable as complaints pursuant to Penal Code § 13012.

2. Written Findings

Members who are the subject of an investigation will receive written notification of the administrative finding within 30 days of the finding being made. If the investigation results in a sustained finding, the member shall receive a copy of the investigation prior to formal corrective action being imposed, except those portions deemed to be confidential. A record shall be kept when any person receives a copy of an investigation. That record shall be kept with the original investigation.

3. The complainant will be advised of the finding of the investigation as permitted by Section 832.7 P.C.

N. Grounds for Discipline/Training

1. Pursuant to the Personnel Rules & Regulations of the City of Davis, discipline may be taken against a member for “good cause.” Good cause is defined as any facts which, based upon relevant circumstances, may be reasonably relied upon in the exercise of discretion as a basis for disciplinary action.

2. For sustained allegations, once a Chief is satisfied that no further investigation or action is required, they will consult with appropriate staff to determine the amount of discipline, if any, that should be imposed.

   a. Generally, the appropriate Division Commander or supervisor of the member is responsible for carrying out any imposed counselling, training or minor discipline.

   b. In the event major disciplinary action, as defined in the Personnel Rules & Regulations of the City of Davis, is proposed, a Chief shall provide the member with written notice of the charges, proposed action and reasons for the proposed action. Written notice shall be provided within one year from the date of discovery of the misconduct (Government Code § 3304(d)).

3. In some instances, an investigation may fail to disclose sufficient evidence to meet the burden of proof to sustain the allegation of misconduct, but the matter may warrant further
training or counselling. The appropriate Division Commander or supervisor of the member is responsible for carrying out any counselling or training.

4. Corrective action/training may include, but is not limited to:
   a. Oral Warning or Counseling
   b. Training
   c. Documented Counseling

   These actions are not discipline and are not subject to appeal.

5. Discipline may include, but is not limited to:
   a. Written Reprimand
   b. Suspension
   c. Demotion
   d. Discharge
   e. Criminal complaint

6. In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

O. Right to Respond to Adverse Comment

Any employee may respond to any adverse comment placed in any file. The response shall be submitted within 30 days of the entry of the adverse comment to the file.

P. Appeal from Discipline

Discipline may be appealed in accordance with the Personnel Rules and Regulations of the City of Davis and also, in the event of punitive action against an employee covered by the POBR, the appeal process shall be in compliance with Government Code § 3304 and Government Code § 3304.5.

During any administrative appeal, evidence that an officer has been placed on a Brady list or is otherwise subject to Brady restrictions may not be introduced unless the underlying allegations of misconduct have been independently established. Thereafter, such Brady evidence shall be limited to determining the appropriateness of the penalty (Government Code § 3305.5).

Q. Member Review

The member’s Division Commander and Assistant or Deputy Chief shall meet with any member who receives 3 or more internal or personnel complaints within any 18 month period, regardless of the findings of those investigations. The meeting shall not constitute discipline and shall be for the purpose of determining whether the member needs additional training, guidance, or resources to aid them in their position.

Darren Pytel
Police Chief
1/93
Reviewed 12/00, 1/02, 1/03, 2/10, 10/11, 12/17
Revised 4/93
11/94 (2)
8/96
7/97
9/99
12/99
10/01, references to Professional Standards Lt. added and changes to III, 2, a, 5.
9/03, section VI added
7/07 updated Police Captain to Assistant Police Chief
2/08 Category II complaints added and changes made for all categories and disposition.
04/10 new finding added
11/11 Category II handled by Division Commanders or Professional Standards. Bureau Commander will do final finding.
02/15 ACR Pilot Program added
03/16 Assistant Chief changed to Deputy Chief
01/18 Changes to policy
4/18 Clarification to Category III
5/19