

DISCIPLINARY ACTION AND PROCEDURES	Document Number	GO 302
	Effective Date	04-20-2012
	Revisions	Underlined
	Page Number	1 of 7
	Approval:	HSK

1. PURPOSE

The purpose of this policy is to establish procedures for the proper application of disciplinary action toward members of the department.

- a. To recognize discipline, directly influences the quality of police service and is essential in a police department in order to control its performance and to achieve satisfactory objectives.
- b. To recognize it is a form of training, dependent for its success on the ability of superiors to train subordinates to obey and conform to department rules and procedures.
- c. To understand the rewards of effective discipline are prestige and public confidence in the department and its leadership.

2. PERSONS AFFECTED

All department personnel.

3. POLICY

Members of the department, regardless of rank, shall be subject to disciplinary action according to the nature or aggravation of the offense; for failure, either willfully, or through negligence or incompetence, to perform the duties of their rank or assignment; or for violation of any general order or rule of the department; or for failure to obey any lawful instruction, order or command of a superior officer; or upon conviction in a court having criminal jurisdiction.

- a. Police supervisory personnel of the rank of sergeant and above are authorized to counsel, caution, or reprimand any subordinate for violations of departmental orders, policies, rules or directives.
- b. All police personnel designated as temporarily acting in the capacity of police supervisor shall have the same authority as the incumbent in such position.

4. DEFINITIONS

- a. **Charge** – A charge is the designation of a specific offense committed by the accused member, each distinct offense being the subject of a separate charge. If there are several charges, they will be numbered consecutively in the same

DISCIPLINARY ACTION AND PROCEDURES	Document Number	GO 302
	Effective Date	04-20-2012
	Revisions	Underlined
	Page Number	2 of 7
	Approval:	HSK

report. Violations charged should be qualified by indicating the number or section of the rules of the department which have been violated. When charges are brought against two or more officers, separate misconduct charges shall be prepared for each officer.

- b. **Specification** – A specification is a statement of facts which constitute the offense charged. It shall be drawn in clear and concise language. If the offense has been committed more than once, or in more than one way, there should be distinct specifications. Each specification shall be complete in itself and contained in one paragraph. The specifications under each charge shall be numbered consecutively.
- c. **Unfounded** – A complaint is "unfounded" when the investigation indicated that the act or acts complained of did not occur.
- d. **Exonerated** – A complaint is referred to as "exonerated" when the investigation indicates that the act or acts complained of did occur but that they were justified lawful and proper.
- e. **Not Sustained** – A complaint is referred to as "not sustained" when the investigation fails to discover sufficient evidence to clearly prove or disprove the allegations made in the complaint.
- f. **Sustained** – A complaint is referred to as "sustained" when the investigation discloses sufficient evidence to clearly prove the allegations made in the complaint to indicate that the act or acts complained of merit disciplinary action.

5. LIMITATIONS

- 5.1. Except as provided herein, disciplinary actions by the aforementioned authorized supervisors shall be limited to:
 - a. Written reprimand
 - b. Caution
 - c. Counseling
- 5.2. Once it has been determined that an employee is in fact in violation of a departmental order, policy or rule of conduct, the supervisor shall be guided by the following:

DISCIPLINARY ACTION AND PROCEDURES	Document Number	GO 302
	Effective Date	04-20-2012
	Revisions	Underlined
	Page Number	3 of 7
	Approval:	HSK

- a. If he is going to take immediate action himself, he shall assure himself that the contemplated action is fair, impartial and consistent with the circumstances of the case.
- b. The member being disciplined shall be notified of the reason(s) in writing within 48 hours after the action is taken by delivering to the member the original copy of Complaint Report GO 302-B.
- c. Forward to the Police Chief, via channels, the original investigative report and one copy of Complaint Form GO 302-B by the next working day.

5.3. Whenever circumstances are of such a nature as to warrant immediate relief from duty, an employee may be placed on suspension for an indefinite period pending the outcome of any investigation being conducted.

6. INTERNAL/EXTERNAL COMPLAINTS

Complaints against members of the department shall be processed in the following manner:

6.1. Internal Complaints

a. Complaints by Members

Any member receiving a complaint or making a complaint against another member shall communicate with the complainant's commanding officer, and shall be guided by his instructions.

b. Complaints Against Superior Officers

Complaints against superior officers by subordinate members of the department shall be prepared in writing and forwarded to the commander of the superior officer, thence through official channels to the Police Chief.

6.2 External Complaints

All personnel are to courteously receive any complaint lodged against the department or any member or employee thereof for alleged misconduct in the performance of an official police action, whether on or off duty.

DISCIPLINARY ACTION AND PROCEDURES	Document Number	GO 302
	Effective Date	04-20-2012
	Revisions	Underlined
	Page Number	4 <i>of</i> 7
	Approval:	HSK

- 6.2.1. During normal working hours (0745 hours to 1630 hours, excluding holidays and weekends), the person receiving the complaint shall refer the complainant to the commanding officer of the accused member.
- 6.2.2. In the event a complaint is received outside of normal working hours, or the commanding officer is unavailable or the complaint is received in a district other than where the accused member is assigned, or the alleged offense occurred in a location other than where it is reported, the person receiving the complaint shall complete Form PO/FORM GO 302 (Public Complaint Against Department Personnel), and direct the complainant to appear in person at the office of the commanding officer during normal working hours.
- 6.2.3. Form PO/FORM GO 302 shall be completed in quadruplicate and distributed as follows:
- a. Original : Police Chief
 - cc : Bureau Commander
 - : District/Division Commander
 - : Complainant
 - b. The original shall be filed with the Personnel Officer.
 - c. Should the complainant fail to appear within 30 days, the commander of the accused shall make an appropriate notation on his copy and shall forward it through channels to the Chief's Office.
- 6.2.4. If the complaint is of sufficient gravity or is of such a nature that immediate action must be taken, the appropriate bureau, district or division commanding officer shall be notified immediately by telephone or other direct means at any hour of the day or night.
- 6.2.5. Allegations of criminal law offenses shall be referred to the commander of the Criminal Investigation Division, South Hilo.

DISCIPLINARY ACTION AND PROCEDURES	Document Number	GO 302
	Effective Date	04-20-2012
	Revisions	Underlined
	Page Number	5 of 7
	Approval:	HSK

7. RESPONSIBILITY OF COMMANDING OFFICER

A commanding officer receiving an external complaint shall be responsible for:

- 7.1. Obtaining and recording all pertinent facts and details pertaining to the complaint from the complainant.
- 7.2. Obtaining a written statement sworn to by the complainant utilizing PO/FORM GO 302-A (Written Complaint) whenever possible.
- 7.3. Forwarding without delay all pertinent information relative to the complaint, to include but not limited to the complainant's written statement, to the Office of the Police Chief for further action.
- 7.4. When a complaint is received or comes to the attention of a commanding officer other than the one to whom such member is assigned, the commanding officer to whom the member is assigned shall be notified without delay and shall be furnished with a copy of the complaint.

8. DISPOSITION OF MINOR COMPLAINTS

- 8.1. Commanding officers of a bureau, district, division or section may dispose of minor complaints against members of the department, and are authorized to take non-punitive disciplinary action when in their judgment no other course is indicated or that repetitions can be prevented by proper admonition or warning. A full explanation of the circumstances and action taken shall be prepared and directed to the Police Chief.
 - a. Training- Supervisors should adopt a philosophy of training members in response to isolated minor policy violations. Supervisors may consider training a subordinate in such cases when the member's attitude and demeanor indicate a lack of understanding rather than a clear disregard for regulations. A full explanation of the circumstances and action taken shall be prepared and directed to the Police Chief.
 - b. Counseling- Supervisors are responsible for providing appropriate counseling when there is a recognizable problem with a member's performance or behavior. Effective counseling provided in a timely manner can prevent future disciplinary action. Counseling should include the correcting of the inappropriate conduct. A full explanation

DISCIPLINARY ACTION AND PROCEDURES	Document Number	GO 302
	Effective Date	04-20-2012
	Revisions	Underlined
	Page Number	6 of 7
	Approval:	HSK

of the circumstances and action taken shall be prepared and directed to the Police Chief.

8.2. When in doubt as to the status of a complaint, commanding officers shall withhold action and refer the matter to the Police Chief for decision.

9. INVESTIGATIONS OF COMPLAINTS

9.1. Complaints against any member of the department shall be promptly and thoroughly investigated.

9.2. The Police Chief may direct a special investigator designated by him to investigate complaints against members of the department.

9.3. All investigations and all action taken shall be in accordance with the requirements of statutory law, departmental policies and procedures and bargaining unit contracts in effect at the time.

10. RESPONSIBILITY OF INVESTIGATOR

10.1. The member conducting the investigation shall be responsible for the thoroughness and accuracy of the investigation.

10.2. Prior to interrogating the accused member, the investigating officer shall prepare PO/FORM 302-B (Complaint Report) and inform the accused member of the nature of the investigation or interrogation and give said member a copy of the Complaint Report and a copy of the Written Complaint sworn to by the complainant. The member shall then be afforded a reasonable time to answer the complaint in writing.

10.3. Upon completion of his investigation, the investigating officer shall forward the complete file to the Police Chief via the superior officer who made the assignment and the Bureau Commander.

11. DUTIES AND RESPONSIBILITIES OF DEPARTMENT MEMBERS

During any departmental investigation, board hearing, or any authorized departmental proceeding, it shall be the duty and responsibility of each member of the department to truthfully, fully and directly answer any and all questions specifically, directly and narrowly relating to his or her duties and actions as a member of the department.

DISCIPLINARY ACTION AND PROCEDURES	Document Number	GO 302
	Effective Date	04-20-2012
	Revisions	Underlined
	Page Number	7 of 7
	Approval:	HSK

12. DETERMINATION TO BE MADE

In reporting the results of personnel investigations and evaluating the complaints made against members, one of the following determinations listed below shall be established.

- a. Unfounded
- b. Exonerated
- c. Not Sustained
- d. Sustained

13. APPEAL PROCESS

13.1. Any member subjected to disciplinary action may appeal the ruling if the member so desires.

13.2. Any appeal filed shall be in accordance with the grievance procedures specified in the governing collective bargaining contract for that member.

14. MAINTENANCE OF DISCIPLINARY RECORDS

14.1. Records of a member's disciplinary action shall be maintained in the member's personnel file in Administration and may also be kept with the Office of Professional Standards. Records shall be kept in a secure file with access to authorized personnel.

14.2. Disciplinary records kept in a member's personnel file shall be purged as prescribed by the most current Collective Bargaining Agreement.