I. INTRODUCTION

A. Purpose of Document

This document was designed to accompany the Model Policy on Grievance Procedures developed by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model policy to the requirements and circumstances of their community and their law enforcement agency.

B. Background

In any law enforcement agency, disputes occur between employees as well as between employees and their supervisors concerning working conditions or situations within the agency. Without an officially sanctioned and organized system to effectively manage these problems, relationships among those who must work together to accomplish the department’s mission may be damaged, and the organization’s effectiveness reduced.

Employee morale may also suffer if management is regarded by line personnel as being insensitive or uncaring about operational issues and problems, or if the concerns of the officers are disregarded or treated with indifference. Employees expect to be heard and to have mechanisms for the official redress of grievances.

This is not to say that employees always expect to prevail in personnel disputes, nor should they be led to believe that they will solely because there is a system for hearing grievances. From the agency’s perspective, perhaps more important than determining which party prevails in a dispute is the existence of an official mechanism to hear the positions and concerns of all parties. The time and effort expended by the agency in attempting to resolve such conflicts indicate the regard that the agency has for its personnel. Employees who perceive that their superior officers and command staff give them professional respect and consideration will be better workers. Time spent dealing with employee grievances effectively may provide substantial rewards through improved morale and performance.

Rumor and allegations of favoritism may sometimes develop and flourish because there is no appropriate method for dealing with employee complaints and grievances. If employees think that others receive preferential treatment from their superiors, the department’s effectiveness may be reduced. Shift assignments, days off, special unit participation, and vacation scheduling are examples of the types of discretionary decisions that superior officers must make, the results of which sometimes lead to a perception of favoritism or improper action. Failing to effectively respond to these and other forms of employee grievances will undoubtedly exacerbate an already undesirable and potentially damaging personnel situation.

It is the purpose of the model policy to provide a fair and responsive mechanism with which agencies may address and respond to personnel grievances and, in so doing, to enhance employee/employer relations and reduce the potential adverse effects of employee grievances on the agency.
From another institutional perspective, it should be recognized that employee grievances often help to identify organizational problems that might have otherwise been overlooked. For example, recurrent grievances concerning the manner in which employees are selected for preferred duty assignments may suggest that the agency’s policy on this subject should be reexamined. Employees who are most closely associated with agency operations in these and other contexts are often in the best position to identify that there is a perceived problem. By so doing, the grievance may point the way toward problem solving and serve as the catalyst for positive change and agency improvement.

Employee grievances can also serve to identify conditions of employment that create undue hazards. For example, failure of a department to provide adequate safety equipment or abide by professionally accepted safety protocols can draw attention to working conditions that could result in injury, death, and possible civil penalties.

While a systematic grievance procedure may serve many positive ends, it must not be abused. All employees must understand the purpose for the grievance procedure and the situations in which it may be appropriately used. It should be made clear, for example, that the grievance procedure is not designed to provide an avenue for lodging purely personal attacks on fellow employees. Similarly, supervisors, who are often the target of personnel grievances, should understand that the system is not designed, nor will it be permitted to become, a mechanism for their harassment or abuse. All employees must understand that using the grievance procedure to resolve petty personal complaints or to exact revenge for perceived personal wrongs will not be tolerated and may even result in independent disciplinary action.

II. PROCEDURES

A. Conditions and Limitations

The model policy provides that all, with the exception of temporary employees, are “eligible” to file grievances. Part-time permanent employees are deemed eligible if they work at least 20 hours per week for six continuous months. Probationary employees are not eligible to use the grievance system.

Under the policy’s guidelines, eligible employees may not use the departmental grievance procedure in addition to other grievance procedures that may be provided by the governing authority’s personnel rules or by a contractual collective bargaining agreement. Employees should not expect to file multiple grievances on any one issue in every available forum. Many jurisdictions provide appeals processes through personnel rules or civil service procedures that apply to all employees of that governmental entity.

“Actionable grievances” under the model policy fall into four categories: interpretation or application of (1) local, state, or federal employment law; (2) terms and conditions of the employee’s collective bargaining agreement; (3) department policy, procedures, rules, customs, or practices; or (4) employment rules or practices of the jurisdiction. Grievances may also be brought with respect to the working conditions or practices that have a bearing on employee effectiveness, efficiency, safety, or health. By contrast, there are matters that are not suited for and should not be resolved through a departmental grievance procedure. These involve matters that would normally involve investigation by internal affairs or other investigative and enforcement bodies such as federal civil rights and employment discrimination agencies.1 For example, complaints involving civil rights violations, acts by officers or other employees that could lead to significant disciplinary action, and retaliatory conduct against any employee who files these types of allegations.2

This grievance procedure is not intended to concede any traditional management rights and responsibilities. Management must retain the right to supervise its employees, make various assignments in a fair and equitable manner, discipline when required and direct emergency operations and the daily activities of the agency, among other matters. Rather, the procedure is intended to provide a forum by which employee disputes or complaints can be addressed in a complete and fair manner. Central to the effectiveness of the grievance process is the requirement that the facts upon which the grievance is founded be fully documented. A description of the wrongful act or omission and a factual, detailed explanation of the harm caused must be provided. For the grievance to be accepted, it must address an issue that (1) arises out of an act or failure to act that directly relates to the working conditions of the employee, (2) defines a matter within the control of the police department, and (3) identifies the redress sought that is within the power of the department to grant. While it is not addressed in the model policy, departments may consider allowing grievances to be filed in a class action format. In this manner, two or more officers may be permitted to file an action that bears directly on their combined and collective interests. Such cases often arise, and the ability to deal with the issue as a singular grievance rather than forcing each officer to file individually may save a department significant time and personnel resources. In an opposite manner, departments

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1 See the IACP Model Policy and Concepts and Issues Paper on Harassment and Discrimination in the Workplace.

2 See the IACP Model Policy on Retaliatory Conduct.
should disallow officers from bringing actions on behalf of another officer or group of officers. In order to bring an action, an officer or group of officers should be required to demonstrate a real and articulable harm that has been caused to them personally through the actions or inactions of a fellow officer or the employing agency.

B. Grievance Procedure

The grievance procedure provides for multiple levels of review. This is important because it prevents individuals from arbitrarily denying a grievance without being accountable for their decisions.

The first step in the procedure can be taken in a very informal manner. The aggrieved employee may request a meeting with his or her immediate supervisor where the problem can be discussed and, hopefully, a solution identified. The grievance is not required to be in writing at this initial step, but the conference must take place within seven days of the action or event in question if the issue is to be dealt with under the grievance procedure. This requirement of timeliness is necessary if a full discussion of the issue is to take place. Delayed grievances often cannot be successfully resolved because proper documentation of the matter was not prepared in a timely manner and the memories of those involved may have faded in the interim.

From the informal discussion of the issue, the supervisor will determine the apparent legitimacy of the grievance, conduct such inquiries as necessary and take any remedial action that appears appropriate and that are within his or her authority. The grievant may then either accept the decision and action of the supervisor to resolve the issue and terminate the grievance or may choose to pursue a formal grievance.

If the employee chooses to file a formal grievance, it must be submitted in writing to the employee’s intermediate-level supervisor, such as a bureau or division commander, within seven days of the decision of the employee’s immediate supervisor in order to conform with the model policy. This formalizes the procedure and ensures that all decisions are fully documented, justified, and formally approved. The employee must clearly define the situation in question, specifying the wrongful act or circumstance, the harm done, and the facts upon which the grievance is based. It must also describe the informal efforts that have been employed to resolve the grievance and the employee’s response to the decision of his or her immediate supervisor.

This procedure is based on the presumption that each department will develop a form for submitting processing and recording grievances. The form should include questions designed to document the substance of the grievance, the various persons who have made decisions or taken action in response to the grievance, and the result of those actions. Files should be created to document the processing of grievances, and these files should be maintained confidentially in accordance with the agency’s records retention plan.

Many agencies do not have sufficient personnel to warrant intermediate levels of supervision. In such cases, an employee should be permitted to appeal a personnel grievance directly to the agency chief executive or a similar high-ranking executive.

The intermediate-level supervisor or similar authority will complete an independent assessment of the situation within seven calendar days or receiving the grievance and provide a written response to the aggrieved officer, identifying any actions that have been or will be taken to resolve the matter. In all written responses to grievances, the reporting officer should note (1) the time, date, and person who received the grievance; (2) an analysis of the facts or allegations in the grievance; (3) affirmation or denial of the allegations; and (4) identification of the remedies or adjustments, if any, to be made. A copy of this report and all supporting documentation should be forwarded to the department’s office of professional standards or similar authority.

If the matter cannot be resolved at this second level of review and appeal, it may then be submitted to the agency’s chief executive officer for resolution. The chief must be given all documentation developed at preceding stages of the review process, findings of investigations, recommendations for remedial action, and any statements made by the grievant in response to investigative findings and recommendations. Additionally, the chief should meet with the aggrieved employee and a personnel representative if the employee so desires and discuss the issue in order to identify a fair and reasonable resolution. Following the meeting, the chief has, according to the model policy, seven days to provide a written response to the grievance.

The policy requires complete documentation at all steps of the process following the initial officer-supervisor contact. Carefully noting the dates and times that the various documents are submitted and of the responses and actions taken is very important.

The policy provides precise time limits for various actions in order to ensure that grievances are acted on in a timely manner and are not allowed to languish or be overlooked. However, it is recommended that employees make reasonable accommodations for unavoidable delays, as well as for sick leave, scheduled vacations, or other authorized leave necessary for the effective operation of the department. The policy provides for one extension on the time limits imposed if notice is provided to all involved parties before the time limit established for that step of the process expires. The request for extension must be
provided in writing and may not exceed seven days.

If a grievance is not processed by the aggrieved employee within the specified time limits, the grievance is considered void. However, if the department fails to process the grievance within the imposed time limits, the employee may initiate action by proceeding to the next step. At any time during the grievance process, the employee may withdraw the grievance by making a written notification to all parties involved.

The procedure also requires the chief executive to designate one person within the agency to act as coordinator for the grievance process. This person maintains all records of grievance procedures in a manner that ensures confidentiality. Confidentiality of personnel grievances is important to the real and perceived integrity of the process. Officers must have assurance that they may bring problems to the attention of management and, if warranted, file grievances without fear that information provided will be open to unauthorized members of the agency.

The grievance coordinator is also responsible for analyzing the substance and nature of grievances filed by employees and for preparing analytical reports to the chief executive that identify areas of organizational concern. Once identified, these issue areas may form the basis for organizational change that will correct areas of personnel concern or organizational dysfunction and thus avoid similar problems in the future. This aspect of the grievance procedure may be viewed as “closing the loop.” It is a by-product of the grievance procedure that provides valuable information for management and the basis of action plans for potential agency improvement.

C. Appeal Hearing

The model policy provides for one final level of appeal beyond the chief executive. This hearing body should consist of appointed members from the law enforcement agency’s parent jurisdiction (such as personnel specialists); a department representative who can explain the department’s position; and any other city employee selected by the aggrieved party to serve as his or her representative. This hearing is designed to be informal in nature, and records are not kept of the proceedings. However, once employed to resolve a grievance, findings of the body are binding on all parties concerned. These findings should be provided within 15 days of the hearing.

The exact structure and procedures used by this final appeals panel should be determined by individual jurisdictions after consulting with elected officials and legal counsel. However, the importance of such a body should be recognized. In some cases, it simply may not appear possible for an officer to feel that he or she is being fairly and impartially heard by peer panels that, while they should not, may have vested interests and biases that unduly influence their opinions and decisions. Appeals to arbitrating bodies composed of officials outside the agency can be beneficial in resolving difficult cases fairly and helping to ensure that a just settlement is reached. However, to avoid potential abuse of this relatively time-consuming undertaking, local agencies may wish to impose reasonable limitations on the types of grievances that may be brought to this final level of negotiation.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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