

Introduction to Revised A.R. 75.12 for POA, Local 911, and Local 145

To promote the safety of employee drivers and the public and to reduce the City’s liability exposure related to Vehicle Incidents, A.R. 75.12 has been revised. This revised A.R. for the following Recognized Employee Organizations (REOs) POA, Teamsters Local 911 and Local 145 will go into effect on October 1, 2021. This A.R. addresses how incidents are to be reported, screened, and applicable discipline (if needed). While this document highlights the major changes between the existing and revised A.R., please note that the San Diego Police Department and the San Diego Fire Department will be following their department instructions on the processing of incidents. If you have any immediate questions, you can contact Fire Captain James Laing, SDFD, jlaing@sandiego.gov (L-911 and L-145 members) or Detective Sergeant Brandy Sorbie, SDPD, bsorbie@pdsandiego.gov for POA members.

**A.R. 75.12 Vehicle and Industrial Incident Review, Reporting, and Discipline Program for
 POA, Local 911 and Local 145**

Comparison of Changes for A.R. 75.12 Revision with Effective Date of 10/1/2021

<u>Item</u>	<u>Current</u>	<u>Revised (A.R. Section)</u>
Definition Change	Accident	Incident (3.11.)
Incident History (used to determine discipline)	3 years (LCTYP)	5 years (LCFYP), (3.12.)
Days to process Incident	90 calendar days	125 calendar days (3.4.)
Last Known Driver	N/A	Will, by default, be designated as the driver of a parked or unoccupied vehicle/industrial equipment (3.6.)
Driver Submits CD-1551	24 Hours	48 Hours (3.10.)
No Fault Implied Collision	N/A	If it were determined that the driver could have prevented the

collision by using defensive driving techniques, the incident would be determined to be preventable. (3.16.)

Start Date for Incident Processing

Date of Incident

The 125 calendar day completion requirements starts once CD-1551 and CD-1555 is submitted to the Screener. (4.1.10.)

Volunteers

Falls under this A.R.

Excluded from this A.R. Departments using volunteers for any driving function performed on City business must create a Department Instruction (D.I.) that will define training/restrictions/limitations of their activities. (3.22.)

Significant Additions/Changes to the A.R.

ADDITION. Section 4.3.1.d- No Vehicle/Industrial Incident Preventable occurs when damage to City vehicle/industrial equipment due to the negligent actions such as opening doors, dropping equipment. While this list is not all-inclusive, cases such as those described, will result in a preventable finding being rendered, and appropriate discipline being issued per the Discipline Matrix. *This addition is intended to cover those incidents where damage occurs due to the negligence of the driver but where the vehicle is not in movement.*

ADDITION. Section 4.3.3.d- Category 4. Incident that occurred while the driver (regardless of placement of fault) was under the influence of alcohol or drugs and/or other substance(s) in violation of A.R. 97.00 (Substance Abuse Policy) and/or an applicable CVC, or Federal DOT regulations. *The separation of Category 4 clarifies specific discipline required to address instances where an employee was under the influence of alcohol or drugs and or other substances in violation of A.R. 97.00.*

CHANGE. Sections 4.3-4.5.10 -Screening Process/ Assignment of Discipline/ Disputes.

San Diego Police (SDPD) and Fire-Rescue (FR) Departments follow their respective Standard Instructions/ Department Instructions where noted in this A.R. and in their MOU.

Discipline Matrix Comparison

Discipline for Incidents occurring from February 1, 2015 to October 1, 2021

Accident History	Category 1	Category 2	Category 3
1st Accident	Two-hour class	Reprimand/eight-hour class	Minimum 240-hour suspension/eight-hour class, etc.
2nd Accident	Warning/four-hour class	Up to 32-hour suspension/ Retesting	Minimum 300-hour suspension/eight-hour class, etc.
3rd Accident	Reprimand/eight-hour class	Minimum 40-hour suspension	Minimum 360-hour suspension/eight-hour class, etc.
4th Accident	Up to 32-hour suspension/ Retesting	Minimum 80-hour up to 200- hours suspension	Termination
5th Accident	Minimum 40-hour suspension	Termination	Termination

Discipline categories for Incidents occurring beginning October 1, 2021, and beyond for POA, Locals 911 and 145

Incident History	Category 1	Category 2	Category 3	Category 4
1st Incident	Warning/two-hour class	Reprimand/four and eight- hour classes	Four and eight-hour classes/ 360-hour Suspension, and Mandatory Retesting	Termination
2nd Incident	Reprimand/four-hour class	Four and eight-hour classes/48-hour Suspension Retesting	Termination	Termination
3rd Incident	Eight-hour class/48-hour Suspension/Retesting	Eight-hour class/144-hour Suspension/Retesting	Termination	Termination
4th Incident	Eight-hour class/120-hour Suspension/Retesting	Eight-hour class/240-hour Suspension/Retesting	Termination	Termination
5th Incident	Termination	Termination	Termination	Termination

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1. PURPOSE

- 1.1. To reduce the number of vehicle and industrial incidents by:
 - 1.1.1. Determining the cause and preventability of each incident
 - 1.1.2. Recommending effective corrective actions
 - 1.1.3. Encouraging safe operating practices
 - 1.1.4. Ensuring consistent adherence to City policies and procedures and State and Federal laws
 - 1.1.5. Encouraging all departments to develop policies and procedures which will prevent and reduce vehicle and industrial incidents.

2. SCOPE

- 2.1. This Administrative Regulation (A.R.) applies to all Mayoral and Non-Mayoral Departments.
- 2.2. This regulation covers on duty and off duty use of vehicles/industrial equipment utilized to accomplish City purposes, conducting City business, or in the performance of job duties.
- 2.3. This regulation applies to all City employees who drive/operate or ride in or upon any City vehicle/industrial equipment owned, leased, rented, or borrowed by the City, and privately-owned vehicles (POV) utilized to conduct City business.
- 2.4. Off duty use of a POV normally used for City business is not covered by this Administrative Regulation (A.R.)
- 2.5. Volunteers for the City will follow the Department's Instruction (D.I.) and/or policy of the department for which they work.
- 2.6. San Diego Police (SDPD) and Fire-Rescue (FR) Departments follow their respective D.I.s where noted in this A.R.

(Supersedes Administrative Regulation 75.12, Issue 10, effective February 1, 2015)

Authorized By:

CHIEF OPERATING OFFICER

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3. DEFINITIONS

- 3.1. California Vehicle Code (CVC) – The *California Vehicle Code* sets forth the traffic laws for the State of California.
- 3.2. City Equipment Trainer (CET) – The *CET* is authorized to administer the State of California Department of Motor Vehicles Employer Testing Program (ETP) to eligible *drivers*.
- 3.3. Department Head Designee - Department employee at the Appointing Authority level and above selected to assign *discipline* once the *Screener* has made their findings.
- 3.4. Discipline - For purposes of this A.R., *discipline* and the 125-day calendar completion requirement will only be relevant to the *vehicle/industrial incident* being processed under this A.R. and does not include *discipline* taking place beyond the scope of this A.R. Any further investigation or *discipline* relating to the same underlying *incident* is beyond the scope of this A.R.
- 3.5. Discipline Matrix - The *Discipline Matrix* outlines the City’s required *discipline* for the *Incident* category and the frequency of preventable *incidents* by the *driver* in the Last Consecutive Five-Year Period (LCFYP).
- 3.6. Driver(s) – City *employees* who are responsible for the operation of any *vehicle* or *industrial equipment* that is owned, leased, rented, or borrowed for use by City *employees* and *POV* utilized to conduct City business. For purposes of this A.R., the last known *driver* or operator will, by default, be designated as the *driver* of a parked or unoccupied *vehicle/industrial equipment* and will be listed as such in the *incident processing*. The term *driver* will be used throughout this A.R. to represent anyone who meets the above criteria.
- 3.7. Driver Operator Manual (DOM) – City of San Diego policies and procedures related to driving a *vehicle* or operating *industrial equipment* to conduct City business. The manual outlines operational responsibilities, care and maintenance, and safety procedures.
- 3.8. Employees - Elected officials, officers and *employees* of the City as described in the annual Salary Ordinance, the City’s annual compensation setting schedule.
- 3.9. Employee Clinic Passport DOT/FMCSA (CD-1694) – Department of Transportation / Federal Motor Carriers Safety Administration (DOT) – The *DOT* is the Federal government agency responsible for regulating and providing safety oversight of commercial motor vehicles. As part of the *DOT* requirements, City commercial drivers will use form *CD-1694* for post-*incident* or reasonable suspicion drug and alcohol testing. The criteria and procedures for this form’s use are outlined in the City of San Diego’s Drug and Alcohol Testing (*DOT*) Program for Commercial Drivers.

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3.10. **Employee Vehicle/Industrial Incident: Damage Report (CD-1551)** - A driver involved in an *incident* must complete this form and submit it to the supervisor within 48 hours. Completion of this form is the first piece of evidence in an investigation. **FR Department follow their D.I.**

3.11. Incident(s) – *Incidents* include any of the following that results in actual or alleged property damage, and injury or death associated with the operation or placement of any *vehicle/industrial equipment* owned, leased, rented, or borrowed by the City, or similar events involving *POVs* utilized to conduct City business:

- 3.11.1. *Vehicle* collisions
- 3.11.2. *Incidents* involving moving and stationary *industrial equipment*
- 3.11.3. *Incidents* involving stationary *vehicles*
- 3.11.4. All criminal acts including but not limited to Vandalism 594 CA Penal Code, and Arson 451 CA Penal Code (application of City and/or Department approved bumper stickers is not considered vandalism)
- 3.11.5. Intentional acts
- 3.11.6. Equipment malfunctions
- 3.11.7. Unintentional acts, such as trees falling or acts of nature

3.12. **Incident History** – A driver’s *vehicle* and *industrial equipment incident history* for the Last Consecutive Five-Year Period (LCFYP) immediately preceding the *incident* in question. The Compliance Department is the recordkeeper of *vehicle and industrial incidents*.

3.13. Incident Report Envelope (CD-361) - These envelopes are to be placed in all City *vehicles, industrial equipment, or POVs*. The envelopes are available from Central Stores and should contain the following forms: *Employee Vehicle/Industrial Incident Damage Report CD-1551, Supervisor Vehicle/Industrial Incident Investigation Report CD-1555, Employer Notification CD-1666* (Refer to A.R.75.50) and where applicable, *POV* instructions.

3.14. **Incident Review Committee (IRC)** – A departmental review committee that is activated when an employee disputes results. It is appointed by their Department Head/Assistant Director or equivalent and composed of three (3) *employees* at a supervisory level. The *IRC* will review collision related documentation and provide comments on the preventability and classification of the *incident* to the *Department Head designee*. To maintain role segregation, the Department Head/Assistant Director or equivalent, must appoint an alternate *IRC* member if there is a role conflict due to that member’s relationship with the *driver(s)*. For example, if an *IRC* member is the immediate supervisor of an *employee* involved in an *incident*, the *IRC* member will be excused for that review and replaced by an alternate *IRC* member. City recognized employee organizations to follow their MOU on representation. **SDPD and FR Departments follow their respective D.I.s.**

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- 3.15. Incident Review Committee Chair (IRC Chair) – A City supervisor or equivalent appointed by the Department Head/Assistant Director or equivalent who coordinates the departmental *IRC* review and presents the final comments to the *Department Head designee*. **SDPD and FR Departments follow their respective D.I.s.**
- 3.16. No Fault Implied Collision – An *Incident* in which fault could not be determined by the investigating law enforcement agency or investigating supervisor for SDPD, unless it can be determined that the *driver* could have prevented the collision by using defensive driving techniques. In those types of cases, the *incident* would be determined to be preventable. If it is determined that the *driver* could not have prevented the collision, the *incident* will be classified as non-preventable.
- 3.17. Privately Owned Vehicle (POV) – Designation for City employees who are authorized to drive their personal vehicle in the performance of City business.
- 3.18. Public Works Dispatch – The Infrastructure/Public Works Branch communications center (aka Station 38) that is operational 24 hours a day, seven (7) days a week. The *Public Works Dispatch* is responsible for handling calls regarding maintenance or obstruction issues in the public right of way. Their services also include reporting of City vehicle *incidents* or breakdowns.
- 3.19. Screener – An Appointing Authority or management designee, appointed by their Department Head/Assistant Director or equivalent, who conducts the investigation of *incidents* and ensures processing timelines are being followed. The *Screener* does not participate in the *IRC* review. **SDPD and FR Departments follow their respective D.I.s.**
- 3.20. Supervisor Vehicle/Industrial Incident: Employee Damage Report (CD-1555) - The responding supervisor to the *incident* must complete Page 1 of this form and submit, along with any other supporting documentation, to the *Screener* within seven (7) calendar days from the *incident* notification date. This form documents the supervisor’s investigation and findings of the *incident*. This form also contains sections to document the approval of the *Screener*, *Department Head designee*, and Department Head/Assistant Director or equivalent.
- 3.21. Vehicle(s)/Industrial Equipment –
- 3.21.1. Vehicle(s) – Any type of motorized equipment, including any apparatus or trailer towed by a *vehicle*, which is generally licensed to operate on the public right-of-way by the State of California and owned, leased, rented, or borrowed and utilized to conduct City business.
- a. This definition includes any licensed *vehicle* having aspects of both *vehicle* and *industrial equipment* while it is being used solely as a *vehicle* (i.e., moving from place to place) at the time of the *incident*.

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3.21.2. *Alternative Vehicles* – Motorcycles, motorized scooters, mopeds, motorized bicycles, electric bicycles, electronically motorized boards, and *POVs* that are owned, leased, rented, or borrowed by the City and utilized to conduct City business.

3.21.3. *Industrial Equipment* – Any equipment owned, leased, rented, or borrowed by the City, wheeled and/or tracked, that is driven/operated. This includes specially designed equipment having aspects of both *vehicle* and *industrial equipment*.

3.22. *Volunteer(s)* – Per Council Policy 300-01, *volunteers* are individuals who perform services without pay authorized by the City. Departments using *volunteers* for any driving function performed on City business must create a D.I. that will define any training/restriction/limitation of their activities or even removal from the *volunteer* program if driving *incidents* occur. All D.I.'s involving *volunteers* must be approved by the CD.

3.23. *Witness* – Any *City employee or volunteer* observing or involved in an *incident*.

4. POLICY

4.1 *Incident Reporting*

4.1.1. *Driver* must follow instructions on the *CD-361*. All *drivers* must keep *CD-361* in all *City vehicles/industrial equipment* and *POVs* used for City business. Notwithstanding any emergency circumstances, *drivers* must immediately notify by radio or telephone the *Public Works Dispatch* (619-527-7660) or their designated dispatch (refer to specific department procedures for reporting guidelines) of all alleged and actual damage to, or caused by, *City vehicles/industrial equipment* or *POV* used for City business. Immediately thereafter, *drivers* must notify the department supervisor, and/or supervisor on-duty who shall report to the incident site.

4.1.2. In any injury collision, *drivers* must keep the *vehicle/industrial equipment* in their position of rest until instructed by law enforcement.

4.1.3. Only if necessary, for collisions resulting only in property damage and when no one is claiming injury, *vehicle(s)/industrial equipment* can be moved for safety reasons or to relieve traffic congestion. All *drivers* of *City vehicles* must stay at the scene of the *incident* until law enforcement has completed their investigation. In cases not requiring law enforcement (i.e. *City vehicle(s)* only on *City property* involved in a non-injury *incident*), *drivers* must stay at the scene until their department supervisor has completed their investigation. *POV drivers* shall follow the City's Instructions for *POV drivers*.

4.1.4. If more than one *City driver* is involved or contributed to the *incident*, all parties shall complete a separate *CD-1551*.

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- 4.1.5. Any *witness(es)* or passenger(s) either in or outside the *vehicle/industrial equipment* who did not contribute to the *incident*, shall have their statement taken by the investigating officer or investigating supervisor to complete the supervisor’s investigation portion of *CD-1555*. Non-City *employee witnesses* will be questioned by the officer.
- 4.1.6. If the circumstances of the *incident* are suspected to involve alcohol or substance abuse, the supervisor’s first duty is to notify law enforcement if they are not already present. If the *incident* is determined by law enforcement to not fall under criminal scrutiny, and the *driver* is still suspected of being under the influence of alcohol or drugs, then the supervisor shall determine which of the following apply and follow the process and procedures therein:
- a. A.R. 97.00 (Substance Abuse Policy) for drug and alcohol testing.
 - b. If the *driver* is a commercial *driver*, refer to *CD-1694* for instructions related to drug and alcohol testing requirements.
- 4.1.7. *Vehicle/industrial equipment* must be turned in to Fleet Operations Department for evaluation after any *incident*. This is to be done as soon as possible after the investigation by law enforcement and/or the supervisor is completed.
- 4.1.8. Unless there are extenuating circumstances, *drivers* must complete and submit the *CD-1551* form to the supervisor within forty-eight (48) hours from the time of the *incident*. **FR Department follow their D.I.**
- 4.1.9. The supervisor must complete and submit all required documentation (photos, *CD-1551* form and the supervisor’s portion of *Supervisor Vehicle and Industrial Incident Investigation Report (CD-1555)*) within seven (7) calendar days from the notification date of the *incident*, to their *Screener* unless there are extenuating circumstances submitted in writing. **SDPD and FR Departments follow their respective D.I.s.**
- 4.1.10. The *Screener* is required to send a copy of the *CD-1551* form to the CD within ten (10) calendar days from when the *incident* was first reported to or discovered by the Department, *Public Works Dispatch* or by any other individual/entity. All *incident* reports (*CD-1551* and *CD-1555*) regarding the *vehicle/industrial incident* will be submitted to the CD within one-hundred and twenty-five (125) calendar days of when the *incident* was first reported to or discovered by the department, *Public Works Dispatch*, or by any other individual/entity (except in the case of a request for an appeal, noticed delays as defined in this A.R., or an extension granted due to extenuating circumstances). **The one-hundred and twenty-five (125) calendar day completion requirement starts once all the *incident* paperwork, (*CD-1551* and *CD-1555*) is submitted to the *Screener* for screening.**

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- 4.1.11. The *Screener* will request the law enforcement report for the *incident* immediately after they receive forms *CD-1551* and *CD-1555*. If the investigative agency report of any law enforcement organization is not received within fourteen (14) calendar days from the request, a day will be added to the one-hundred and twenty-five (125) calendar day completion requirement for each day following the fourteen (14) calendar days. If the *incident* occurred within the jurisdiction of SDPD, contact SDPD Fleet Safety Sergeant at 858-495-7825 to determine the report status.
- 4.1.12. The *Screener* can also request the pre-trip inspection report, photos, GPS reports, videosurveillance, etc., for the date of the *incident* and beyond if this information is deemed relevant and is available.
- 4.2. Special Circumstances - Due to the concentration of job duties or services performed in an office environment and a very minimal need to drive in the performance of their duties, certain City departments or offices have never, or rarely experienced an *incident*. If *drivers* in these departments or offices are involved in an *incident*, they must adhere to this A.R for reporting and completing *CD-1551* and *CD-1555* and then contact the CD @ (619-236-6229) for assistance on the next steps in the process.
- 4.3. *Incident* Investigation – The *Screener* within twenty-one (21) calendar days after receipt of all the *incident* paperwork, shall make a finding and determine the following:
- 4.3.1. Type of *Incident*
- a. *Vehicle* Collision. An *incident* involving City business and/or City property owned, leased, rented, or borrowed by the City and *POV* utilized to conduct City business, that occurs when a *vehicle* in motion strikes, collides, or has any contact with, for example, another *vehicle*, a stationary object, terrain, landscape, vegetation, a pedestrian, an animal, etc., and results in actual or alleged property damage, injury or death and is directly attributable to the movement of the *vehicle* or parts of the *vehicle*.
 - b. *Industrial Incident*. An *incident* involving City business and/or City property owned, leased, rented, or borrowed by the City that occurs when a piece of *industrial equipment* strikes, collides or has any contact with, for example, another piece of *industrial equipment*, a *vehicle*, a stationary object, terrain, landscape, vegetation, a pedestrian, an animal, or any other object that results in actual or alleged property damage, injury, and/or death and is directly attributable to the operation of the equipment. If the equipment is specially designed having aspects of both *vehicle* and *industrial equipment*, when the automated appendage is in operation and an *incident* occurs, it is an *industrial*

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incident. This excludes *incidents* where the automated appendage is not secured by the operator, and the equipment moves backward and forward and causes damage, injury, or death. These types of *incidents* will be classified as *vehicle collisions*. Examples of *Industrial incidents* are, but are not limited to the following types of equipment:

- i. Backhoe and similar construction equipment
 - ii. Forklift
 - iii. All-Terrain *Vehicles* (Surface street operation resulting in property damage, injury or death will be carried as a *vehicle collision*).
 - iv. Electric Cart
 - v. Boat Trailers
- c. No *Vehicle/Industrial Incident Non-Preventable*. This occurs when damage to City *vehicle/industrial equipment* was the result of damage from City, or non-City actions, for example, potholes, road debris, acts of nature, faulty equipment (as verified by the Fleet Operations Department), etc.
- d. No *Vehicle/Industrial Incident Preventable*. This occurs when damage to City *vehicle/industrial equipment* or other property results from the negligent actions of the operator of, person in control of, or person responsible for a City *vehicle/industrial equipment*, during instances, for example, opening doors, dropping equipment, etc., which cause property damage and/or injury. While this list is not all-inclusive, cases such as those described, will result in a preventable finding being rendered, and appropriate *discipline* being issued per the *Discipline Matrix*.
- e. Vandalism or Crime. Action or omission directly intended to cause unlawful property damage, injury, theft, or death.

4.3.2. Preventability

- a. Preventable: An *Incident* in which the *driver* was at fault and/or:
 - i. could have prevented the *Incident* by utilizing defensive driving/operating techniques
 - ii. Violated City Municipal Code
 - iii. Violated *CVC*
 - iv. violated the *Driver Operator Manual*, A.R.'s or City policy
 - v. violated D.I. and/or any Standard Operating Procedures
- b. Non-Preventable: An *incident* in which the *driver* was not at fault or could not reasonably have foreseen or prevented the *incident* by using defensive driving/operating techniques.

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- 4.3.3. Classification as Category 1, 2, 3 or 4. Once an *incident* is classified as Preventable, it is then assigned a Category by the *Screener*, which denotes the level of severity. **The SDPD and FR Departments will consider extenuating emergency circumstances when evaluating incidents and are to follow their respective D.I.s.**
- a. Category 1 – An *incident* that occurred while the *driver* failed to drive/operate *vehicle/industrial equipment* defensively (actions, maneuvers, or adjustments a licensed driver/operator would be expected to take or make to avoid an *incident* from occurring) and/or failed to prepare the *vehicle/industrial equipment* properly for operation.
 - b. Category 2 – An *incident* occurred while the *driver* was negligent and/or violated City policies or procedures, D.I.s, Standard Operating Procedures, state or federal regulations.
 - c. Category 3 – An *incident* that occurred while the *driver* by their actions demonstrated a flagrant, willful, or deliberate disregard for safety and/or the law.
 - d. Category 4 – An *incident* that occurred while the *driver* (regardless of placement of fault) was under the influence of alcohol, drugs and/or other substance(s), in violation of A.R 97.00 (Substance Abuse Policy) and/or an applicable *CVC*, or *Federal DOT regulations*.
- 4.3.4. Exceptions for Training and Testing *Incidents*. *Employees* who drive/operate City *vehicle/industrial equipment* during authorized training programs and testing situations, remain responsible for the consequences of their actions and must follow proper reporting procedures. The *incidents* occurring under the conditions indicated below may be deemed Non-Preventable if pre-authorized by the Department as a training or testing exercise:
- a. A *driver* is in a controlled and supervised training environment; and/or
 - b. A *driver* is testing new equipment under direct supervision
- 4.3.5. If there is any question regarding the law enforcement findings/report, the *Screener* shall contact SDPD Fleet Safety Sergeant at 858-495-7825 for technical assistance prior to finalizing their findings. This is especially important when the investigating report indicates “*No Fault Implied Collision*”.
- 4.3.6. The *Screener* will contact CD to request the *driver’s Incident History* for the LCFYP and include that information on *CD-1555*.

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4.3.7. The *Screener* will forward their findings and the *incident* investigation documents (*CD-1551*, *CD-1555*, law enforcement reports, findings, etc.) to the *Department Head designee* for review.

4.4. *Incident Determination*

4.4.1. The *Department Head designee* will review the *incident* investigation documents (*CD-1551*, *CD-1555*, and supporting documents) to confirm that the recommendations are consistent with the intent of this and other related regulations and determine the appropriate *discipline* (if any) for the *incident* under this A.R., per the *Discipline Matrix*. The ten (10) calendar days are a recommended guideline in the determination of a decision by the *Department Head designee* and used in meeting the one-hundred and twenty-five (125) calendar day completion requirement. The *Department Head designee* will determine the following:

- a. If the *Department Head designee* **agrees** with the *Screener*'s findings and also agrees with the appropriate *discipline* (if any) for the *incident* under this A.R., per the *Discipline Matrix*, they sign *CD-1555* and forward the package to the Department Head/Assistant Director or equivalent for review and signature.
- b. If the *Department Head designee* **disagrees** with the *Screener*'s findings, the *Department Head designee* meets with the *Screener* and if needed, SDPD Fleet Safety representative to review the *incident* and discuss the findings. The *Department Head designee* determines the findings and appropriate *discipline* (if any) for the *incident* under this A.R., per the *Discipline Matrix* and forwards the package to the Department Head/Assistant Director or equivalent.
- c. If the *Department Head designee* **disagrees** with the appropriate *discipline* (if any) for the *incident* under this A.R., per the *Discipline Matrix* and identifies extenuating circumstances to justify the *discipline* deviation (increase, decrease, or elimination) for this *incident* under this A.R., they must present their justifications in writing to the Department Head/Assistant Director or equivalent.

4.4.2. The Department Head/Assistant Director or equivalent will review the *incident* investigation documents (*CD-1551*, *CD-1555*, and supporting documents) sent by the *Department Head designee*, to confirm that the recommendations are consistent with the intent of this and other related regulations and confirm the appropriate *discipline* (if any) for the *incident* under this A.R., per the *Discipline Matrix*. The Department Head/Assistant Director or equivalent will determine the following:

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- a. If the Department Head/Assistant Director or equivalent **agrees** with the findings and the appropriate *discipline* (if any) for the *incident* under this A.R., per the *Discipline Matrix*, they sign *CD-1555* and return the document to the *Department Head designee*.
- b. If the Department Head/Assistant Director or equivalent **disagrees** that the facts of the case do not sufficiently support the results of the findings of the *incident* investigation by the *Department Head designee*, they must request additional information from the *Screener* and *Department Head designee* prior to making their final determination of the findings and discipline.
- c. If the Department Head/Assistant Director or equivalent (except for **SDPD and FR Departments where the Chief will make the final determination of discipline**) **disagrees** with the appropriate *discipline* (if any) for the *incident* under this A.R., per the *Discipline Matrix* and identifies extenuating circumstances to justify the *discipline* deviation (increase, decrease, or elimination) for this *incident* under this A.R., they must document the deviation via a City of San Diego Memorandum to the Deputy Chief Operating Officer (DCOO) or Chief Financial Officer (CFO) with a copy to the CD.

The DCOO or CFO shall review the memorandum and appropriate paperwork and will determine acceptance or rejection in the request for change of discipline by signing the memorandum prior to issuance of any *discipline* for this *incident* under this A.R.

The DCOO or CFO will return the signed memorandum to the Department Head/Assistant Director or equivalent who shall forward a copy to the CD and the original to the *Department Head designee*. This approval process will occur outside of the one-hundred and twenty-five (125) calendar day completion requirement.

- 4.4.3. At the completion of the determination of the *discipline*, the *Department Head designee* will then forward the *incident* and *discipline* determination to the *driver* and their supervisor following MOUs and other internal procedures, within fourteen (14) calendar days of the decision by the Department Head/Assistant Director or equivalent. The fourteen (14) calendar days are a recommended guideline to be used in meeting the one-hundred and twenty-five (125) calendar day completion requirement.
- 4.4.4. The *driver* has seven (7) calendar days from the date they received notice of the *incident* and *discipline* determination to accept or reject the findings. If there is acceptance of the findings and *discipline* for the *incident* under this A.R., the *driver* signs the paperwork and is provided instructions on the next steps (i.e., trainings, written warnings, written reprimands, suspensions, etc.).

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4.4.5. If the driver does not sign the paperwork within seven (7) calendar days (except for extenuation circumstances), the findings and discipline will default to the determination by the Department Head/Assistant Director or equivalent and discipline (if any) will be imposed.

4.5. Disputes

4.5.1. If the *driver* disagrees with the determination, they must notify the *Department Head designee* (with a copy to their supervisor), in writing, within seven (7) calendar days from the date they received notice of the determination. Disputed determinations will be addressed in an *IRC* review meeting. **SDPD and Fire-Rescue Departments follow their respective D.I.s.**

4.5.2. The *IRC Chair* shall schedule a review meeting of the *IRC* to review any Preventable *Incidents* which have been challenged in writing by a *driver*. The *IRC* shall have access to, and use of, all law enforcement reports, investigation material, and testimony it deems appropriate.

4.5.3. The *IRC Chair* will determine if City Witness(es) are required to attend the *IRC* review meeting. If the employee requests or *IRC Chair* determines investigating agency testimony is required, the *IRC Chair* will coordinate those arrangements with the SDPD Fleet Safety Sergeant at 858-495-7825. The investigating Supervisor for the incident is required to attend the *IRC*.

4.5.4. Scheduling of the *IRC* review meeting will take place within thirty (30) calendar days of the review meeting request unless there are documented extenuating circumstances approved by the *Department Head designee*. In those cases, for each day following the thirty (30) calendar days the review meeting is delayed, a day will be added to the one-hundred and twenty-five (125) calendar day completion requirement.

4.5.5. All documentation regarding the *incident* will be provided at least seven (7) calendar days prior to the review meeting to the *driver* and their designated *employee* representative.

4.5.6. After the review meeting the *IRC chair* will prepare written comments to be forwarded to the *Department Head designee*, the *driver*, and their designated employee representative.

4.5.7. The *Department Head designee* shall review the *Incident* package (*CD-1551*, *CD-1555*, and supporting documents) with the comments from *IRC*. The *Department Head designee* will determine the following:

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- a. Based on the IRC’s comments, if the *Department Head designee* confirms the previously determined findings and discipline, they will be forwarded per the instructions in 4.5.9.
 - b. Based on the IRC’s comments, if the *Department Head designee* identifies extenuating circumstances to justify the *discipline* deviation (increase, decrease, or elimination) for this *incident* under this A.R., from the *Discipline Matrix*, they must present their justification in writing to the Department Head/Assistant Director or equivalent.
- 4.5.8. The Department Head/Assistant Director or equivalent (except for **SDPD and FR Departments where the Chief will make the final determination of discipline**) will in cases of the *Department Head designee*’s request for discipline deviation, determine the following:
- a. Disagrees with the *Department Head designee*’s justification for deviation, from the appropriate *discipline* for this *incident* under this A.R., per the *Discipline Matrix* and returns their final decision back to the Department Head designee for issuance of findings and discipline per instructions in 4.5.9.
 - b. Agrees with the *Department Head designee*’s justification for deviation and identifies extenuating circumstances to justify the *discipline* deviation (increase, decrease, or elimination) for this *incident* under this A.R. They must document the deviation via a City of San Diego Memorandum to the Deputy Chief Operating Officer (DCOO) or Chief Financial Officer (CFO) with a copy to CD. The DCOO or CFO shall review the memorandum and appropriate paperwork and will determine acceptance or rejection in the request for change of discipline by signing the memorandum prior to issuance of any *discipline* for this *incident* under this A.R.

The DCOO or CFO will return the signed memorandum to the Department Head/Assistant Director or equivalent who shall forward a copy to the CD and the original to the *Department Head designee*. This approval process will occur outside of the one-hundred and twenty-five (125) calendar day completion requirement.

- 4.5.9. The *Department Head designee* will forward the final determination in writing to the *driver* and their supervisor following MOUs and other internal procedures, within fourteen (14) calendar days from the date of the *IRC* review. The fourteen (14) calendar days are a recommended guideline to be used in meeting the one-hundred and twenty-five (125) calendar day completion requirement.

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If there is acceptance of the findings and *discipline* for the *incident* under this A.R., stemming from this same *incident*, the *driver* signs the paperwork and is provided instructions on the next steps (i.e. trainings, written warnings, written reprimands, suspensions, etc.).

- 4.5.10. If the driver does not sign the paperwork within seven (7) calendar days (except for extenuation circumstances), the findings and discipline will default to the final determination by the Department Head/Assistant Director or equivalent and discipline will be imposed.
- a. If the driver wishes to appeal the *disciplinary* action, the department shall follow the appeal procedures per the provisions set forth in the Personnel Manual, appropriate MOU, or City policies for unclassified personnel. Appeals will not be counted in the one-hundred and twenty-five (125) calendar day completion requirement.
- 4.5.11. The *Department Head designee* will provide the completed *CD-1555*, indicating final *discipline* for this *incident* under this A.R., and all appropriate paperwork to the CD.
- 4.5.12. All records regarding *vehicle/industrial incidents* are personnel records and will be maintained in the corresponding department's personnel and confidential *incident* files. These documents will be made available to the *employee* who is the subject of the investigation upon request. Only those records for Preventable *Incidents* will be recorded in the *employee's* personnel file. Completion of any disciplinary action does not trigger elimination of these documents from the *employee's* personnel or confidential *incident* file. **SDPD to follow their D.I.**
- 4.6. Special Circumstances
- 4.6.1. New Evidence.
- a. If the *driver* discovers pertinent new evidence within fourteen (14) calendar days of being presented with the findings, they may request a meeting to present the new evidence to the *Department Head designee*. The time to schedule and hold the meeting is excluded from the one-hundred and twenty-five (125) calendar day completion requirement.
- 4.6.2. No *Incident* Ruling
- a. Failure to complete the process (excluding a request for a review, a delay for receipt of paperwork from law enforcement, delay in *IRC* review by the *driver*, process to change the *discipline* from the *Discipline Matrix*, or any other

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documented extenuating circumstances) in a total of one-hundred and twenty-five (125) calendar days, from the date the *incident* paperwork is provided to the *Screener*, will result in a “No *Incident Ruling*” which ends all investigation and *discipline* for this *incident* under this A.R. The one-hundred and twenty-five (125) calendar days includes all signatures by the *driver* and management. The No *Incident Ruling* decision will be investigated by the CD and results communicated in writing to the appropriate Department Head/ Assistant Director or equivalent, CD Director, Human Resources Director, SDPD and FR Chiefs, and DCOO/CFO.

4.6.3. Failure to comply with A.R. 75.12

- a. After receipt of the completed *CD-1555*, if the CD believes the department failed to comply with the provisions of A.R. 75.12, the CD will contact the *Department Head designee* for a copy of all documents related to the *incident*. After its evaluation, the CD will provide a written summary of issues for further review to the department. If the CD still believes the violation has not been addressed by the department, it will send a memorandum outlining the issues to the appropriate Department Head/ Assistant Director or equivalent, CD Director, Human Resources Director, SDPD and FR Chiefs, and DCOO/CFO. SDPD to follow their D.I.

4.6.4. Notification of Delays

- a. *Department Head designee* must provide written notice of any delay for an *IRC* review meeting, an appeal, if the process of changing the *discipline* from the *Discipline Matrix* is being exercised, or any other extenuating circumstances to the CD. The *Screener* and *IRC Chair* are responsible for keeping the *Department Head designee* informed of any delays that require notice to the CD.

4.6.5. Suspensions for Non-Compliance with A.R. 75.12. - The following infractions shall result in an eight (8) hour suspension unless the Department Head/Assistant Director or equivalent finds that there are extenuating circumstances.

- a. *Driver* if they fail to:
 - i. Properly report an *Incident* as defined in this A.R.
 - ii. Appear before the *IRC* once the meeting has been set, without an approved justification.
 - iii. Complete the required training and/or testing indicated in the *Discipline Matrix* and within the designated timeframe.

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- b. Supervisor/Manager if they fail to:
 - i. Complete and file the *RM-1555* within the timeframe and to the appropriate parties as defined in this A.R.
 - ii. Appear before the *IRC* when required without an approved justification.
- c. *Witness(s)* if they fail to:
 - i. Properly report an *Incident* as defined in this A.R.
 - ii. Appear before the *IRC* and provide testimony when required by the *IRC* without an approved justification.
 - iii. Provide a statement to the investigating officer or supervisor investigating the *Incident*.

Note: Complete failure to report an *incident* or reporting a set of circumstances proven to be false, may result in more severe *discipline*, up to and including termination.

4.7. *Discipline Matrix*

- 4.7.1. All *Appointing Authorities*, Deputy Directors or equivalent and above are required to follow the *Discipline Matrix*. The *Discipline Matrix* outlines the City’s required *discipline* for the *Incident* categories noted below, unless a discipline deviation has been processed per Section 4.5.8. The COO, ACOO, DCOO, CFO, **SDPD or FR Department Chiefs, may adjust the discipline for an incident under this A.R.** The final *discipline* for an *incident* under this A.R., shall be administered and documented on the *CD-1555* after any of the following has occurred: Department Head/Assistant Director or equivalent approval, *IRC* review meeting, appeal, **or unless there are documented extenuating circumstances approved by either the COO, ACOO, DCOO, CFO, SDPD or FR Department Chiefs.**
- 4.7.2. All departments/supervisors must schedule the *Vehicle Collision/Industrial Incident* prevention classes and mandatory retesting for their *employee(s)* within fourteen (14) calendar days after the final report/appeal is completed.
- 4.7.3. When using the *Discipline Matrix*, first locate the number of the *incident* (1st, 2nd, 3rd, etc.) in the *Incident History* column on the left side of the chart, then locate the Category assigned to the *Incident* on the top of the chart. Where they intersect on the *Discipline Matrix* will determine the *discipline* for that *incident*, unless a discipline deviation has been processed per Section 4.5.8.

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DISCIPLINE MATRIX FOR PUBLIC SAFETY DEPARTMENTS FOR ALL TYPES PREVENTABLE VEHICLE AND INDUSTRIAL INCIDENTS OCCURRING IN THE LAST CONTINUOUS FIVE-YEAR PERIOD (LCFYP), SUBJECT TO APPROVED DEVIATIONS PER SECTION 4.5.8.

When using the *Discipline Matrix*, first locate the number of the *incident* (1st, 2nd, 3rd, etc.) in the *Incident History* column on the left side of the chart, then locate the Category assigned to the *Incident* on the top of the chart. Where they intersect on the *Discipline Matrix* will determine the *discipline* for that *incident*, unless a discipline deviation has been processed per Section 4.5.8. The *Matrix* below applies to employees represented by the POA, Teamsters Local 911 and Local 145.

For employees represented by Local 145 only: Where the *incident* and the Category intersect on the *Discipline Matrix* that will determine the discipline for a 56-hour per week employee for that incident, unless a discipline deviation has been processed per Section 4.5.8. For a 40-hour per week employee, divide the suspension hours as noted in the *Matrix* by 1.4 to determine 40-hour employee equivalent for the suspension.

Incident History	Category 1	Category 2	Category 3	Category 4
1st Incident	Written Warning and Mandatory two-hour class	Written Reprimand and Mandatory four and eight-hour classes	Mandatory four and eight-hour classes, 360-hour Suspension, and Mandatory Retesting	Termination
2nd Incident	Written Reprimand and Mandatory four-hour class	Mandatory four and eight-hour classes with 48-hour Suspension and Mandatory Retesting	Termination	Termination
3rd Incident	Mandatory eight-hour class with 48-hour Suspension and Mandatory Retesting	Mandatory eight-hour class with 144-hour Suspension and Mandatory Retesting	Termination	Termination
4th Incident	Mandatory eight-hour class with 120-hour Suspension and Mandatory Retesting	Mandatory eight-hour class with 240-hour Suspension and Mandatory Retesting	Termination	Termination
5th Incident	Termination	Termination	Termination	Termination

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2 Hour Class: CD/*CET* approved two (2) hour classroom training must be scheduled within fourteen (14) calendar days from the final determination of *discipline* for this *incident* under this A.R. unless prior written approval for an extension of time is given by the CD. *Employee* must register and complete the first available class. Training is coordinated through the CD and the *employee's* department. Training will be completed by the *Employee* on City time and paid for by the City.

4 Hour Class: CD/*CET* approved four (4) hour training must be scheduled within fourteen (14) calendar days from the final determination of *discipline* for this *incident* under this A.R. Training will be coordinated through the CD and the *employee's* department. This training must be completed within sixty (60) calendar days from the date of the final determination of *discipline*. Training will be completed by the *Employee* on City time and paid for by the City.

8 Hour Class: CD/*CET* approved six (6) hour training and a two (2) hour review and skill assessment by the department. The six (6) hour training must be scheduled within fourteen (14) calendar days from the final determination of *discipline* for this *incident* under this A.R. The six (6) hour training must be completed at the next offering from the date of the final determination of *discipline* for this *incident* under this A.R. unless prior approval for an extension of time is given by the CD. The two (2) hour review and skill assessment will be performed by the department within sixty (60) calendar days from the date of the final determination of *discipline* for this *incident* under this A.R. Training will be completed by the *Employee* on City time and paid for by the City.

Mandatory Retesting: *CET* or *CET* approved trainer must provide mandatory behind the wheel retesting prior to resuming driving duties.

Written Warning and Written Reprimand: Filed per the Personnel Manual, MOU or D.I.

5. RESPONSIBILITY

5.1 City *Drivers* are responsible for:

5.1.1 Keeping *CD-361, CD-1551, CD-1555, and CD-1666* in all City *vehicles* and in *POVs* used to conduct City business. *POVs* will have additional instructions to follow.

5.1.2 Reporting all alleged and actual damage, to or caused by any City *vehicle/industrial equipment* owned, leased, rented, or borrowed by the City, and *POV* utilized to conduct City business. This also includes the reporting of any injury or death associated with the operation of any City *vehicle/industrial equipment* owned, leased, rented, or borrowed by the City, and *POV* utilized to conduct City business. Failure to comply with this A.R. may result in *disciplinary* action up to and including termination.

5.1.5 Report any issues to their supervisor and/or Fleet Maintenance Department that were found during the pre/post trip inspections and at any time when driving/operating the

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vehicle/industrial equipment. Respond in a timely manner to all routine maintenance requests.

5.2. Department Heads/Assistant Directors or equivalent are responsible for ensuring:

5.2.1. Compliance with all recognized *employee* organizations and state law (such as, Public Safety Officers Procedural Bill of Rights Act and Firefighters Procedural Bill of Rights Act).

5.2.2. Training *employees* on local, state, and federal vehicle regulations as well as safe defensive driving/operating practices to safely drive/operate City *vehicles/industrial equipment*. Acknowledgement of that training is placed in either their personnel file or their City electronic training record.

5.2.3. That all *drivers* have a current City of San Diego Driver/Operator Proficiency Record (CD-1576) or other City department approved certifications. These records document the *vehicle/industrial equipment* training conducted and shall be issued upon hiring or when the *driver* is certified to drive/operate a *vehicle/industrial equipment* after the hiring date. The signature of the *driver* and supervisor certifies that the *driver* was informed on this regulation, as well as other local, state, or federal regulations related to driving or operating a City *vehicle/industrial equipment*.

5.2.4. Consistent enforcement of all City policies and procedures to prevent and reduce *vehicle/industrial equipment incidents*.

5.2.5. Selection and training of the Department *Screener, Department Head designee* or equivalent, and Assistant Director where applicable.

5.3. *IRC* is responsible for the review collision related documentation and provide comments on the preventability and classification of the *incident* to the *Department Head designee*.

5.4. Compliance Department is responsible for capturing all the *vehicle/industrial incident* data and ensuring *discipline* is being addressed.

5.5. *Screeners* are responsible for conducting the screening of *incidents* and ensure processing timelines are being followed.

5.6. Supervisors are responsible for turning in any *vehicle/industrial equipment* to Fleet Operations Department for repairs as soon as reasonably possible or after the conclusion of the investigation.

5.7. *Witness(es)* are responsible for reporting an *incident* involving City business and/or City property, where they were a *witness*, to their supervisor.

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Legal References

California Vehicle Code (CVC)
Code of Federal Regulations (49)
Council Policy 300-01
City of San Diego Drug and Alcohol Testing (*DOT*) Program for Commercial Drivers
A.R. 75.50 Driver License Certification, Training, and Verification Requirements
A.R. 97.00 Substance Abuse Policy
City of San Diego Driver/Operator Manual

Forms

CD-361, Incident Report Envelope
CD-1551, Employee Vehicle/Industrial Incident Damage Report
CD-1555, Supervisor Vehicle/Industrial Incident Investigation Report
CD-1576, City of San Diego Driver/Operator Identification Card
CD-1666, Employer Notification Form
CD-1694, City of San Diego, Employee Clinic Passport, DOT/FMCSA Test Only

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