



DEPARTMENTAL
GENERAL
ORDER

Effective Date:
10 Nov 08

Evaluation Coordinator:
IAD Commander

M-3.1

NSA Task: 4

Index as:

Evaluation Due Date:
11 May 09

Informal Complaint Resolution Process

Automatic Revision Cycle:
1 Year

INFORMAL COMPLAINT RESOLUTION PROCESS

I. PURPOSE

- A. The purpose of this order is to set forth Departmental policy and procedures for initiating, administering, and reviewing the appropriateness of the Informal Complaint Resolution (ICR) process.
- B. The ICR process may be used to informally address service complaints or alleged acts of Class II misconduct against Departmental personnel that do not indicate a pattern of misconduct.
- C. The intent of the ICR process is to expedite the resolution of less serious types of complaints against members and employees.

II. POLICY

- A. Members and employees shall explain to all persons making a complaint the formal complaint and ICR process, as well as their right to file a complaint with the CPRB.
- B. OPD personnel shall not unduly influence persons making a complaint to consent to the ICR process.
- C. The ICR process may only be offered by a supervisor, commander, manager, or authorized IAD member.
- D. Supervisors, commanders, and managers shall be held accountable for the proper use of the ICR process.
- E. Complainants shall be notified of the ICR resolution in-person, by phone, mail, or email.

- F. The following allegations may be considered for the ICR process:
1. Service complaints; or
 2. Any Class II violation that does not indicate a pattern of misconduct.
- G. The formal complaint process shall be initiated in accordance with the provisions of Departmental General Order (DGO) M-3, COMPLAINTS AGAINST DEPARTMENTAL PERSONNEL OR PROCEDURES if any of the following conditions occur:
1. The complainant does not consent to the ICR process;
 2. The subject received a sustained finding for any Class I offense within the past 12 months;
 3. The alleged offense is a Class I offense;
 4. At the discretion of an IAD Commander; or
 5. The subject's complaint history indicates a pattern of misconduct involving any Class II offenses.
- H. All service complaints (unresolved and resolved) shall be forwarded to the appropriate Bureau Deputy Chief/Director for any additional follow-up and/or resolution, if necessary.
- I. A resolution achieved through the ICR process:
1. Does not constitute an admission of guilt or wrongdoing;
 2. Shall not be considered a factor (considered a prior offense or an aggravating circumstance) in determining progressive discipline;
 3. Shall not be considered a 'sustained' finding;
 4. Shall not limit the discretion of a supervisor, commander, or manager to provide training or take non-disciplinary corrective action; and

5. Is incorporated into the subject member/employee's complaint history.

- J. The provisions of the Public Safety Officer's Procedural Bill of Rights Act (commonly known as "AB 301") are in effect only where interviewing or taking a statement from the subject may lead to punitive action (discipline). Discipline does not result from the ICR process. Therefore, the provisions of AB 301 do not apply during the ICR process.

III. PROCEDURES

Timelines for processing, investigating, and reviewing ICR cases shall be the same as the timeframes for formal internal investigations, as set out in DGO M-3.

- A. Processing complaints
 1. Received by IAD
 - a. IAD personnel shall receive and process complaints in accordance with the provisions of DGO M-3.
 - b. In instances where the complainant does not agree to the ICR process, an IAD Commander shall make the final determination whether the ICR process will be utilized to resolve the complaint.
 - c. If the ICR process is utilized, the IAD shall:
 - 1) Complete an Informal Complaint Resolution Form (TF-3132) (hereinafter referred to as Form) in accordance with Part III, B-D of this order; or
 - 2) Hand-deliver the investigative file to the appropriate Bureau Deputy Chief/Director to prepare the Form and to complete the follow-up.
 2. Received by an organizational unit other than IAD
 - a. The person receiving the complaint shall receive and process the complaint in accordance with the provisions of DGO M-3.

- b. The investigating supervisor, commander, or manager advised of the complaint shall:
 - 1) Assess and determine if the complaint meets the criteria for the ICR process in accordance with the provisions of Part II, F of this order.
 - 2) Offer the ICR process to the complainant and, if accepted, complete a Form in accordance with the provisions of Part III, B-D of this order.

B. Determining a resolution

- 1. Resolutions may include but are not limited to measures such as:
 - a. Explaining to the complainant relevant Departmental policy and procedures, and/or applicable legal requirement(s) regarding the subject matter, such as:
 - 1) Serving a search warrant (legal presence);
 - 2) Issuing a citation (sign or go to jail);
 - 3) Landlord/tenant disputes (voluntary leave vs. eviction);
 - 4) Domestic disputes/violence (mandatory arrest); or
 - 5) Departmental procedures, including parole/probation search authority, handcuffing techniques, and/or other defensive tactics techniques.
 - b. Imposing remedial or non-disciplinary corrective action on personnel;
 - c. Revising Departmental/Unit policy or procedures; or
 - d. Notifying the COP and/or the appropriate Bureau Deputy Chief/Director for follow-up and resolution.
- 2. Ensure that the provisions of the resolution are reasonable, appropriate, and address the issues and concerns of the complaint.
- 3. Notify and advise the complainant of the provisions of the resolution.

4. Advise the subject member/employee of the complaint and the resolution of the ICR.
5. If it is known that a formal investigation will be conducted:
 - a. Take a statement from the complainant when possible; and
 - b. Advise the subject member/employee that he/she shall also be formally notified by the IAD.

C. Completing the Form

The supervisor, commander, manager, or authorized IAD personnel utilizing the ICR process shall:

1. Obtain an IAD Case Number from IAD or a CAD Incident Number (temporary tracking number) from the Communications Division (after IAD business hours) on the day the ICR was initiated.
2. Ensure the completed Form documents the following:
 - a. The name and serial number of the person receiving the complaint;
 - b. IAD Case Number or CAD Incident Number;
 - c. Summary of the complaint;
 - d. The date, time, location, and means of contact (i.e., in person, via phone, mail, or email);
 - e. The name of the complainant;
 - f. Identity of involved personnel;
 - g. How the matter was resolved;
 - h. Detail any recommendations for corrective action to address service complaints; and
 - i. Indicate if the subject member or employee is not eligible (if known) and advise that a formal internal investigation has been initiated;

3. If the complainant agrees to the ICR process, attempt to obtain the complainant's signature on the ICR form. In the absence of the complainant's signature, the supervisor, commander, or manager shall attest that the complainant agreed to the ICR process and sign his/her name in the blank signature block. The supervisor, commander, or manager shall document the reason for the absence of the signature.
4. Hand-deliver or route the completed Form and other pertinent documents through the first-level commander/manager for administrative review and then to the IAD.

D. ICR Administrative Review

1. The investigator's first level commander/manager shall review the Form and other pertinent documents for accuracy, completeness, quality, and the appropriateness of the resolution and either:
 - a. Concur with the ICR process and/or resolution:
 - 1) Endorse the Form; and
 - 2) Ensure the completed and endorsed Form is delivered directly to the IAD for review; **OR**
 - b. Dissent with the ICR process and/or resolution:
 - 1) Prepare and attach a memorandum to the ICR detailing the reasons for the dissent and deliver to the IAD.
 - 2) The memorandum may include recommendations such as:
 - a) Initiating a formal investigation;
 - b) Developing a proposed training outline for the subject member/employee;
 - c) Taking alternative non-disciplinary corrective action with the member/employee;
 - d) Taking immediate corrective action to address a service complaint; or

- e) Forwarding the complaint to the COP and/or appropriate Bureau Deputy Chief/Director for follow-up and resolution.
 - 3) Alternative recommendations for non-disciplinary corrective action shall be based on historical [last five (5) years] data on the subject member/employee to include:
 - a) Nature of same or similar complaints;
 - b) Total number of complaints;
 - c) Frequency of complaints; and
 - d) Pattern of misconduct.
 - 4) Alternative recommendations regarding service complaints shall be based on:
 - a) Common practices;
 - b) Best practices; and/or
 - c) Past or current practices which serve the best interests of the Department.
2. The first-level commander/manager shall ensure the completed and reviewed Form (including any dissenting memoranda) is hand-delivered to the IAD.
3. The IAD Commander or designee shall make the final decision regarding any dispute, discrepancy, or the appropriateness of the use or resolution of the ICR process.
4. The IAD Commander shall direct IAD personnel to review a sample of approved ICR forms by contacting the complainant to confirm they were not unduly influenced to consent to the ICR process. Such contacts shall be documented on the ICR form and in the Chronological Activity Log.

IV. IAD RESPONSIBILITIES

A. CPRB Notification

The IAD Administrative Sergeant shall advise the CPRB when it has been determined that a complaint, which has been filed initially with the CPRB, is being resolved through the ICR process.

B. ICR Distribution

The IAD shall forward copies of approved ICRs to the:

1. Subject member/employee; and
2. Complainant (in person or via mail).

C. Maintenance and Retention

IAD Intake shall:

1. Ensure that each ICR has been assigned an IAD Case Number during processing;
2. Enter the ICR information and resolution into the IAD Complaint Database; and
3. Permanently retain the Form and ancillary documents in the IAD Control File.

By order of

Wayne G. Tucker
Chief of Police

Date Signed: _____