



DEPARTMENTAL  
GENERAL  
ORDER

M-03

Index as:

Complaints Against  
Departmental Personnel  
or Procedures

Effective Date:  
22 Dec 17

Evaluation Coordinator:  
IAD Commander

Evaluation Due Date:  
22 Dec 18

Automatic Revision Cycle:  
1 Year

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## COMPLAINTS AGAINST DEPARTMENTAL PERSONNEL OR PROCEDURES

The purpose of this order is to inform all employees and the public of procedures for accepting, processing and investigating complaints concerning allegations of member employee misconduct. This policy defines provisions applicable only to investigation and disposition of allegations of administrative misconduct.

### I. POLICY

Establishment of procedures for investigating complaints and allegations of employee misconduct is crucial to demonstrate and protect this agency's integrity. This agency shall accept and investigate fairly and impartially all complaints of alleged employee misconduct to determine the validity of allegations and to impose disciplinary actions that are justified in a timely and consistent manner.

### II. DEFINITIONS

#### A. Administrative Dispositions

An IAD Commander shall approve Administrative Dispositions, except for tolled cases, ensure documentation in the Chronological Activity Log (CAL), and ensure that the data is properly entered in the IAD Complaint Database.

##### 1. Administrative Closure

Administrative Closure shall be used to:

- a. Indicate a service complaint, not involving a Manual of Rules (MOR) violation, was resolved without an Informal Complaint Resolution; or

- b. Conclude an internal investigation or preliminary inquiry when it has been determined that the investigation or inquiry cannot proceed to a normal investigative conclusion or when any of the following circumstances obtains:
- 1) Complainant wishes to withdraw the complaint and an IAD Commander has determined there is no reason to continue the investigation;
  - 2) Complaint lacks specificity and complainant refuses or is unable to provide further clarification necessary to investigate the complaint;
  - 3) Subject not employed by OPD at the time of the incident;
  - 4) The subject is no longer employed by OPD and an IAD Commander has determined that there is no reason to continue the investigation;
  - 5) Complainant fails to articulate an act or omission which, if substantiated, would constitute an *MOR* violation; or
  - 6) Complaint is limited to a California Vehicle Code citation and/or a tow, where there is no allegation of misconduct, in which case the complainant shall be referred to the appropriate competent authority (e.g., Traffic Court, Tow Hearing).
  - 7) Complaint involves an employee or member alleging that a fellow employee or member has committed a Class II offense, there is no pattern of similar misconduct, and an IAD Commander has determined that the matter does not warrant further investigation; or
  - 8) Allegation is clearly and immediately without merit (e.g., frivolous [as defined in Section 128.5 of the Code of Civil Procedure], physically impossible, etc.)

2. Filed

- a. An investigation that cannot be presently completed. A filed investigation is not a final disposition, but an indication that a case is pending further developments that will allow completion of the investigation.
- b. The IAD Commander shall review all filed cases monthly to determine whether the conditions that prevented investigation and final disposition have changed and may direct the closure or continuation of the investigation.

B. Administrative Review

The chain-of-review and approval for completed investigations shall commence with the investigator's first-level commander/manager, continuing to the division commander<sup>1</sup> and then to the IAD Commander, or designee, who shall review all division-level investigative files.

C. Approved Internal Investigation

An internal investigation that has been processed, completed (investigated with a recommended finding), reviewed by the chain of command, and has been reviewed and signed by the COP or the IAD Commander when designated by the COP. Approved internal investigations shall be considered "Closed."

D. Case Files

A general term that includes the following two classifications of files:

1. Control File

The original investigative file that remains with the IAD Administrative Section and contains original documents and information used and compiled by the IAD.

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<sup>1</sup> In OPD, "division commander" is synonymous with the rank of captain. Watch commanders and section commanders are NOT division commanders.

2. Investigative File

A duplicate copy of the Control File made by the IAD Administrative Section and delivered to the IAD Investigative Section, or to the appropriate bureau for a division-level investigation or administrative review, or for other official business such as a board of review or court proceeding.

E. Classifications of Complaints

Complaints against Departmental personnel shall be categorized as Class I or Class II offenses.

1. Class I offenses are the most serious allegations of misconduct and, if sustained, shall result in disciplinary action up to and including dismissal and may serve as the basis for criminal prosecution.

The Class I offenses include but are not limited to:

- a. Use of excessive, unnecessary and/or unlawful force;
- b. Fabrication or destruction of evidence, including the planting of inculpatory evidence or the omission or destruction of exculpatory evidence;
- c. Untruthfulness, including perjury;
- d. Knowingly and intentionally filing a false police report or other work related documentation as specified in Manual of Rules (MOR) section 370.45. This includes but is not limited to video, photographs, diagrams, roster, etc., as well as the intentional omission of pertinent information or facts;
- e. Insubordination;
- f. Commission of a felony or serious misdemeanor;
- g. Bias or harassment, actions of a retaliatory nature, or failure to take reasonable steps to prevent retaliation;
- h. Solicitation or acceptance of gifts or gratuities as specified in MOR section 314.69;
- i. Use of position for personal gain;

- j. Knowingly or should have reasonably known that he/she made a false arrest or illegal detention;
  - k. Failure to report others, in accordance with MOR section 314.48, who commit any Class I offense or a Class II offense that indicates a pattern of misconduct or threatens the rights of private persons and/or the well-being and reputation of Department personnel and/or the Department;
  - l. Failure of a supervisor/manager to detect a pattern of misconduct;
  - m. Failure of a supervisor/manager to properly supervise, and/or take corrective action for misconduct that he/she knew or reasonably should have known about;
  - n. Failure to properly identify self, including refusing to provide name, deliberate concealment of a badge or name plate;
  - o. Knowingly and intentionally obstructing the Internal Affairs investigation process in any manner; and
  - p. Driving under the influence
2. Class II offenses shall include all minor misconduct offenses.

F. Complaint Categories

1. Misconduct Complaint

A complaint from any source alleging a specific act or omission by a member or employee which, if substantiated, would constitute a violation of a *Manual of Rules* section.

2. Service Complaint

A complaint from any source regarding an inadequate policy, procedure, practice, service level, or legal standard or statute required of the Department that would not result in discipline. Service complaints shall be assigned an IAD case number and documented in the IAD database. A service complaint is not an allegation of misconduct

G. Completed Internal Investigation

An IAD investigation which has been concluded with a recommended finding, has been reviewed by the IAD Commander, and is ready for a discipline recommendation, if needed; **or**

A division-level investigation which has been concluded with a recommended finding, has completed the administrative review process, and is ready for a discipline recommendation, if needed.

H. Directly Involved Personnel

Any member or employee who participated in the commission of, or witnessed another member or employee commit, a specific act or omission giving rise to the allegations under investigation.

I. Discipline Recommendation

The discipline recommendation shall be prepared by subject's chain of command and forwarded to the COP for review and approval.

J. First-level Commander/Manager

The immediate command superior of a member or employee identified at the rank of lieutenant or above, or a civilian manager or director.

If the subject is a:

1. Police officer or employee, the first-level commander would be a lieutenant or civilian manager/civilian director;
2. Sergeant, the first-level commander would be a lieutenant;
3. Lieutenant, the first-level commander would be a captain; or Captain, the first-level commander would be a deputy chief, deputy director or Assistant Chief.

K. Informal Complaint Resolution

A method of addressing Class II misconduct complaints, against Departmental personnel, that do not indicate a pattern of misconduct. The process is detailed in DGO M-3.1, INFORMAL COMPLAINT RESOLUTION PROCESS and involves a supervisor, commander, manager or investigator resolving a complaint by addressing and resolving the issues with the complainant and the member or employee.

L. Internal Investigation

Any administrative investigation conducted by the IAD or at the division-level.

Supervisory counseling, instruction or admonishment conducted in the normal course of duty does not constitute an internal investigation. A preliminary inquiry does not constitute an internal investigation.

M. Person Authorized to Initiate an Investigation

A supervisor, commander, manager, a member of the IAD, or other person (to include contracted parties and annuitants) designated by the Chief of Police.

N. Serious Misdemeanor

Any misdemeanor crime, upon conviction, that could preclude active law enforcement personnel, or a member or employee from continuing to successfully perform their responsibilities.

Examples include, but are not limited to, those crimes that involve violence, intimidation, sexual offenses, theft, dishonesty, possession of drugs, violations of California Penal Code Section 29805, "Unlawful Possession of a Firearm," and those crimes where bias is a motivating factor.

O. Internal Investigation "3304" Start/End Date

1. The 3304 start date for internal investigations begins on:
  - a. The incident date; or
  - b. If the incident occurred more than 30 days prior to the complaint, the IAD Commander may approve the start date as the day the Department (a person authorized to initiate an investigation) became aware of any act, omission, or other allegation of misconduct.
2. The end date occurs 364 calendar days after the 3304 start date.
3. Government Code Section 3304, enumerates the provisions, limitations, and exceptions for commencing, suspending, and terminating the 3304 time period.

**NOTE:** Although IAD uses the incident date as the “3304” start date, this is only an internal administrative start date for purposes of tracking the investigation and shall not be used for purposes of grieving discipline. Government Codes 3300-3304 (Police Officer’s Bill of Rights) determines the legally binding start date.

P. Tolled Cases

1. An administrative investigation which has been held in abeyance in accordance with the following provisions of Government Code Section 3304:
  - a. The allegation of misconduct is also the subject of a criminal investigation or criminal prosecution;
  - b. The subject member or employee has agreed in writing to extend the investigation beyond the one-year deadline of the date the complaint was filed;
  - c. The investigation involves multiple jurisdictions and requires a reasonable extension for coordination of the involved agencies;
  - d. The investigation involves more than one subject member or employee and requires a reasonable extension;
  - e. The investigation involves more than one subject member or employee who is incapacitated or otherwise unavailable;
  - f. The investigation involves a matter in civil litigation where the subject member or employee is named as a defendant;
  - g. The investigation involves a matter in criminal litigation proceedings where the complainant is a criminal defendant;  
or
  - h. The allegation involves an allegation of worker’s compensation fraud on the part of the member or employee.
2. Tolled cases shall be submitted to the Office of the City Attorney for review and approved by the Chief of Police or designee.
3. The investigation shall continue, even when a case is tolled, unless otherwise directed by the Chief of Police or designee.



### III. RECEIVING AND PROCESSING COMPLAINTS

#### A. Receiving Complaints

##### 1. Misconduct Complaints

The Department shall investigate all misconduct complaints from any source (including anonymous) against a member or employee in accordance with the provisions of:

- a. TB V-T.1, INTERNAL INVESTIGATION PROCEDURE MANUAL;
- b. IAD Policy and Procedure 10-01, IAD INVESTIGATIONS; and
- c. DGO M-4.1, CRIMINAL INVESTIGATIONS INVOLVING ACTIVE LAW ENFORCEMENT, OR A MEMBER OR EMPLOYEE OF THE DEPARTMENT.

2. In the event personnel receive an anonymous complaint, the person receiving the complaint shall ask for additional information that may assist in the investigation.

Anonymous complaints shall be investigated to the extent reasonably possible and the results shall be documented in the IAD database.

##### 3. Service Complaints

The Department shall receive, evaluate, and respond to service complaints regarding a policy, procedure, practice, service level, or legal standard or statute required of the Department.

4. The Department shall investigate allegations of *Manual of Rules* violations arising from lawsuits and legal claims and complaints made to the Citizens' Police Review Board (CPRB) involving misconduct and/or tort claims involving Class I and Class II offenses, treating them in the same manner as other misconduct complaints. However, a legal claim, in and of itself, does not constitute an allegation of misconduct.

5. IAD or Communications Division personnel shall staff a recordable toll-free complaint phone line, 24-hours a day, and receive and process complaints in accordance with the provisions of this order. The complainant shall be advised that the call is being recorded when a complaint is taken by IAD. IAD and Communications Division procedures and responsibility for receiving complaints during IAD business and non-business hours are enumerated in IAD Policy and Procedure 10-01, IAD GENERAL OPERATING PROCEDURES and Communications Division Policy and Procedure C-2, COMPLAINTS AGAINST PERSONNEL.
6. If a member or employee receives a complaint, he/she shall:
  - a. Not discourage or deter complainants from exercising their right to complain to the Department or the CPRB;
  - b. Request a supervisor to respond to the scene to take the complaint;

If the complainant refuses or is unable to wait for a supervisor, the member or employee shall:

- 1) Make a reasonable attempt to obtain the complainant's name and contact information, the nature of the complaint, and the identity of the personnel involved;
- 2) Provide the complainant with an OPD Informational Business Card (IBC) and Complaint Form (TF-3208) with his/her name, serial number and CAD Incident Number;
- 3) Enter a CAD notation to the call;
- 4) Use the Radio Disposition Code of "IBC" (Informational Business Card); and
- 5) Call the Communications Section Supervisor with the date of the referral, incident number and brief description of the incident to be added to the Complaint Referral Log (TF-3367) within 24 hours of the referral.

- c. Take care to maintain the confidentiality of Internal Affairs and investigative records, and maintain all related material in a secure location; and
  - d. Notify and provide his/her supervisor with all information obtained from the complainant as soon as practical.
  - e. In the absence of an immediate supervisor, the employee or department member shall contact another supervisor or command officer within their Division, or Internal Affairs Intake, as soon as is reasonable given the circumstances of the complaint/allegation. (If IAD Intake is advised, the employee or member shall ensure their chain of command is notified as soon as practical.)
7. If a member or employee is unsure whether a citizen wishes to make a complaint, he/she shall:
- a. Not discourage or deter citizens from exercising their right to complain to the Department or the CPRB;
  - b. Ask clarifying questions, including but not limited to:
    - 1) Would you like to speak to a supervisor?
    - 2) Do you want to make a complaint?
  - c. Provide the citizen with an OPD Informational Business Card and/or Complaint Form (TF-3208) with his/her name, serial number and CAD Incident Number;
  - d. Enter a CAD notation to the call;
  - e. Use the Radio Disposition Code of “IBC” (Informational Business Card); and
  - f. Call the Communications Section Supervisor with the date of the referral, incident number and brief description of the incident to be added to the Complaint Referral Log (TF-3367) within 24 hours of the referral.

8. Supervisors, commanders, and managers may offer the Informal Complaint Resolution (ICR) process to a complainant as a means to resolve misconduct complaints of Class II misconduct that do not indicate a pattern of misconduct, in accordance with the provisions of DGO M-3.1, INFORMAL COMPLAINT RESOLUTION PROCESS.
9. Class II misconduct may be addressed through non-disciplinary corrective action if all of the following criteria are met:
  - The misconduct is discovered during the normal course of supervision, an investigation of other alleged misconduct, or an incident review or assessment; and
  - The conduct does not indicate a pattern of misconduct, as confirmed by the member's primary supervisor and a review of the member's disciplinary history dating back no more than five years; and
  - The conduct is not a failure to accept or refer a complaint.
10. Any member or employee who has a reasonable suspicion that any law enforcement personnel, or a member or employee of the Department is involved in criminal misconduct, rising to the level of a felony or serious misdemeanor, shall comply with the provisions of Departmental General Order M-4.1, CRIMINAL INVESTIGATIONS INVOLVING ACTIVE LAW ENFORCEMENT, OR A MEMBER OR EMPLOYEE OF THE DEPARTMENT.
11. Immediate Notifications
  - a. The listed events shall require notification to the IAD Commander and the COP, or designee as soon as practical, but in no case more than 24 hours after discovery of the allegation:
    - 1) The arrest of any OPD employee or member;
    - 2) Any Class 1 MOR allegation against a civilian manager or sworn commander;

- 3) A complaint of a serious nature as to require some form of immediate action (e.g. emergency suspension, administrative leave, temporary reassignment, etc);
    - 4) Misconduct likely to generate unusual public interest.
  - b. Other Department and City personnel shall be notified in accordance with the provisions of DGO Q-1, NOTIFICATIONS TO CHIEF OF POLICE, DEPUTY CHIEFS, CITY MANAGER, CITY ATTORNEY AND FAMILIES.
12. Complaints received by the Communications Division shall be processed in accordance with the provisions of Communications Division Policy and Procedure C-2, COMPLAINTS AGAINST PERSONNEL.
13. Upon notification of a complaint, the Communications Division shall have the member/employee's Supervisor contact the complainant. If the member's assigned supervisor is not on duty and no other supervisor from the member's unit is on-duty, a Patrol Supervisor will be assigned to contact the complainant.
14. Upon receipt of a complaint, a Supervisor shall:
  - a. Conduct a Preliminary Inquiry (PI) as outlined in Section IV.  
  
Prepare a Complaint Memorandum detailing the steps taken and additional information obtained during the PI and ensure all complaint-related documentation is forwarded to the IAD via his/her First-level Commander/Manager. (The first level commander/manager shall ensure, as is reasonable, that witnesses are identified, and that all available evidence is collected and documented.)
  - b. Ensure evidence is processed in accordance with the provisions of DGO H-3, DEPOSITING PROPERTY AND EVIDENCE and IAD is advised of any evidence that has been collected; and

- c. After contacting or attempting to contact the complainant, advise the Communications Division Supervisor of the time of contact (or the attempt to contact) with the complainant, the complainant's last/first name, and the disposition of the complaint. Dispositions shall include the following:
        - 1) Initiated Preliminary Inquiry;
        - 2) Unable to Contact (UTC); or
        - 3) Other (the Communication Division Supervisor shall detail the action taken in the IAD Daily Incident Log).
  15. Upon notification by the Patrol Supervisor, the Watch Commander shall determine, based on the severity of the allegation:
    - a. Whether the complaint requires the immediate notification of the IAD or CID; or
    - b. Whether to order the supervisor or a commander to resume the preliminary inquiry.
  16. Ensure all documentation (including complaints resolved by ICR) is delivered to the IAD.
  17. The supervisor, commander, or manager of a unit outside of Patrol who is notified of a complaint shall ensure his/her immediate superior (if necessary) is notified on the day the complaint was received. Additionally, the IAD shall be provided with the complaint information enumerated in Part III, A, 6 (a-d and e, if applicable).
  18. Complainants shall be provided with a copy of their statement and a copy of the completed Complaint Form upon request.
- B. Processing Complaints
1. IAD shall:
    - a. Enter information in the IAD Complaint Database;
    - b. If necessary, contact the complainant to determine the nature, scope, severity of the complaint, and to identify potential witnesses and/or evidence as quickly as possible;

- c. If the complainant was given a CAD Incident Number (temporary tracking number), verify the number and provide the complainant with either an IAD Intake or Case Number, whichever is appropriate.
2. The IAD Commander shall:
    - a. Ensure complaints made directly to IAD or received from other organizational units [e.g., Patrol Division, Communications Division, CID investigator, or directly from the Management-level Liaison (MLL) or the MLL Monthly Report] are processed and assigned to a Bureau or Division for investigation or to an IAD investigator;
    - b. Review and determine if the recommended administrative disposition is appropriate, if necessary;
    - c. Ensure the following processing tasks are completed:
      - 1) All contacts are assigned an IAD Intake Number or an IAD Case Number, whichever is appropriate;
      - 2) Create a Control File;
      - 3) Ensure the Complaint Investigation Report (CIR) is permanently maintained in the case file;
      - 4) Determine the complaint classification (Class I or II) based on the alleged offense or make an assessment and advise if the allegation meets the criteria for the ICR process;
      - 5) Tentatively identify involved personnel;
      - 6) Determine whether the investigation is to be handled by an IAD or division-level investigator;
      - 7) Calculate the due date in accordance with the provisions of this order;
      - 8) Ensure all necessary information, including due dates and extensions, are documented in the CAL and entered into the appropriate IAD database;

- 9) The investigative file is hand-delivered to the appropriate Bureau Deputy Chief/Director for assignment; and
- 10) Ensure a CIR is prepared and a copy is forwarded to the subject member or employee, his/her immediate supervisor, and first-level commander.

#### **IV. PRELIMINARY INQUIRY**

A Preliminary Inquiry (PI) shall be completed on all complaints upon receipt by a supervisor or IAD intake personnel. The purpose of the PI is for the assigned investigator to do a preliminary investigation within 14 calendar days of receiving the complaint and come to one of four recommendations as to how the complaint should be handled.

##### **A. Investigative Steps**

Minimum steps to be taken in a PI include but are not limited to:

1. Obtain a briefing by directly involved members and employees;
2. Interview the complainant to determine the nature of the complaint;
3. Take a recorded statement from the complainant;
4. Visit the scene of the incident, if feasible, to look for evidence and canvass for potential witnesses;
5. Interview witnesses, if any, and take recorded statements, if appropriate;
6. Explain relevant policy, procedure and governing laws to the complainant, if applicable;
7. Review PDRD recordings;
8. Confer with first-level commander/manager regarding recommendations and best course of action;
9. Administrative Responsibilities:
  - a. Contact the Communications Division and request a CAD Incident Number, if one has not already been provided, which shall serve as a temporary tracking number. The



Communications Division shall record the request on the IAD Daily Incident Log (TF-3283) in accordance with Communications Division Policy and Procedure C-2, COMPLAINTS AGAINST PERSONNEL;

- b. Inform the complainant of his/her right to make a complaint with the Department and/or the CPRB;
- c. Provide the complainant with a Complaint Packet (TF-3208) which includes the complaint and release forms, and assist in the completion of the forms if necessary;
- d. Provide the complainant with the CAD Incident Number (temporary tracking number); and
- e. Take care to maintain the confidentiality of Internal Affairs and investigative records, and maintain all related material in a secure location.

B. Recommendation

Make one of below Recommendations on further course of action:

1. **Further Investigate:**

A misconduct complaint requiring further investigation beyond steps already completed in the Preliminary Inquiry.

2. **Handle at Supervisor Level:**

- a. Alleged Class II offense, which does not indicate a pattern of misconduct as specified in MOR Section 314.48, discovered during the course of the Preliminary Inquiry;
- b. The complainant is agreeable to ICR process in accordance with the provisions of DGO M-3.1, INFORMAL COMPLAINT RESOLUTION PROCESS.

3. **Administrative Closure:**

- a. Complainant wishes to withdraw the complaint and an IAD Commander has determined there is no reason to continue the investigation;

- b. Complaint lacks specificity and complainant refuses or is unable to provide further clarification necessary to investigate the complaint;
  - c. Subject not employed by OPD at the time of the incident;
  - d. The subject is no longer employed by OPD and an IAD Commander has determined that there is no reason to continue the investigation;
  - e. Complainant fails to articulate an act or omission which, if substantiated, would constitute an *MOR* violation; or
  - f. Complaint is limited to a California Vehicle Code citation and/or a tow, where there is no other allegation of misconduct, in which case the complainant shall be referred to the appropriate competent authority (e.g., Traffic Court, Tow Hearing).
  - g. Complaint involves an employee or member alleging that a fellow employee or member has committed a Class II offense, there is no pattern of similar misconduct, and an IAD Commander has determined that the matter does not warrant further investigation;
  - h. Complaint's allegation is clearly without merit (e.g., frivolous [as defined in Section 128.5 of the Code of Civil Procedure], physically impossible, etc.);
  - i. Service Complaints.
4. Summary Finding:

A Summary Finding is an abbreviated internal investigation in which a finding can be reached without conducting a full formal internal investigation because the correct finding can be determined with no or minimal follow-up and based on the existing documentation, evidence, statements, and crime information data (e.g., Offense Report, Use of Force Report, video or digital recordings, complainant's statement, radio purge, LRMS records.) SEE TB V-T.1, INTERNAL INVESTIGATION PROCEDURE MANUAL.

- a. The investigator shall consult and receive authorization from

his/her division commander<sup>2</sup> or bureau chief BEFORE submitting a Class II Summary Finding Memorandum. If there is a Class I allegation, the division commander or bureau chief must consult with the IAD commander and get approval for a Class I Summary Finding.

- b. The investigator shall complete and forward a Recusal form immediately upon authorization of a Summary Finding Memorandum.
- c. All summary finding approvals shall be documented in the body of the report as well as in the CAL.

**C. Complaint Memorandum:**

At the conclusion of the PI, the supervisor or IAD intake officer shall complete a Complaint Memorandum which minimally includes:

1. Summary of Complaint.
2. Investigative steps taken.
3. Case File Recommendation as covered in Section IV.B (if recommendation is a Summary Finding, the Complaint Memorandum shall be considered the Report of Investigation upon approval of the summary finding. Additionally, if the recommendation is for a summary finding, credibility assessments shall be completed for any individual where a statement was taken.

**D. PI Administrative Review:**

1. The investigator's first level commander/manager shall review the Complaint Memorandum Form and other pertinent documents for accuracy, completeness, quality, and the appropriateness of the recommendation and/or resolution and either:
  - a. Concur with the investigator's recommendation and/or resolution:
    - 1) Endorse the Complaint Memorandum; and

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<sup>2</sup> In OPD, "division commander" is synonymous with the rank of captain. Watch commanders and section commanders are NOT division commanders.

- 2) Ensure the completed and endorsed Complaint Memorandum is delivered directly to the IAD for review; **or**
- b. Disagree with the investigator's recommendation and/or resolution:
  - 1) Prepare and attach a memorandum to the Complaint Memorandum detailing the reasons for the disagreement 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.
  - 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 Complaint Memorandum (including any dissenting memoranda) is hand-delivered to the IAD within 7 calendar days.
3. The IAD Commander or designee shall make the final decision regarding any dispute, discrepancy, or the appropriateness of the recommendation and/or resolution.

## **V. DUE DATES AND TIMELINES**

### **A. Due Dates**

1. Bureau Deputy Chiefs/Director shall be responsible for tracking the progress of internal investigations and ensuring compliance with internal due dates within his/her bureau and the overall due date assigned by the IAD.
2. The IAD Commander shall ensure the overall Investigative and Administrative Review due dates are calculated and monitored properly. Due dates (including due date extensions) shall be entered in the CAL of case files, and the appropriate IAD database.

### **B. Timeline Calculations**

#### **1. IAD Investigations**

IAD investigations shall be completed, reviewed, and approved within 180 days unless approved by the IAD commander.

- a. Investigations shall be completed within due dates established by IAD.
- b. In cases with a sustained finding, the discipline recommendation process shall be completed within 30 calendar days of the sustained finding.

2. Division-level Investigations and Administrative Review

Division-level investigations shall be completed, reviewed through the appropriate IAD chain-of-review, and approved by the IAD Commander within 180 days of the IAD Intake Date (except when an extension has been requested and approved) in accordance with the following timelines:

- a. Investigations shall be completed within due dates established by IAD.
- b. In cases with a sustained finding, the discipline recommendation process shall be completed within 30 calendar days of the sustained finding.

**VI. INVESTIGATION OF COMPLAINTS**

- A. Class I offenses shall be investigated by IAD and Class II offenses shall be investigated or resolved at the division-level unless otherwise directed by the COP, Assistant Chief of Police, Acting Chief of Police, or Deputy Chief of the Bureau of Risk Management. (A Preliminary Inquiry does not constitute an internal investigation.)
- B. All internal investigations shall be assigned to investigators at least one rank higher than the subject officer or employee, unless otherwise directed by the COP or designee. If the investigation is not assigned to a higher ranking investigator, in all cases, the investigation shall be overseen by an individual at least one rank higher than the subject officer or employee.  
  
In all cases, an individual of equal or higher rank, than the subject officer or employee, shall conduct the interview of the subject officer or employee.
- C. Internal investigations shall be handled separately and not delayed, halted, or modified because the underlying matter is in civil litigation, unless such delay is specifically authorized in writing by the COP or designee. This applies even if the IA case is tolling pursuant to Government Code 3304.
  1. If the COP determines that concurrent civil litigation is likely to yield additional information relevant to an internal investigation, he/she may hold the findings of the internal investigation in abeyance. Such delay shall last no longer than necessary to obtain the relevant information. The reason(s) for any delay shall be documented in the CAL.

2. The COP or designee shall ensure the investigation continues on all areas of an internal investigation.
- D. Administrative Investigative files shall be hand-delivered from one organizational unit to another.
- E. The appropriate Bureau Deputy Chief/Director shall ensure that bureau investigators are assigned for all division-level investigations.
- F. Bureau Deputy Chiefs/Director shall be responsible for developing and implementing bureau procedures for the following:
1. Documenting the receipt of investigative files from IAD in a database or log, and in the CAL;
  2. Assigning and tracking the status (to include due dates and extensions) of division-level investigations and administrative review; and
  3. Ensuring reviewed and approved **original** investigations, including all documents (reports, developed photos, statements) are hand-delivered to or picked up by IAD within 24 hours after approval, excluding weekends and/or holidays. IAD shall be notified for pick-up.
- G. Personnel shall be prohibited from conducting the internal investigation if he/she was directly involved in the incident or if conditions exist between any of the involved parties which might lead to a perception of bias, including, but not limited to:
1. Family relationship;
  2. Outside business relationship;
  3. Romantic relationship;
  4. Personal friendship; or
  5. Close work relationship (to be determined on a case-by-case basis.)

An assigned investigator shall disclose any relationship which could be perceived to compromise the investigative process to the first-line commander, through his/her supervisor, prior to the start of an internal investigation.

The commander shall make a decision as to whether the perception is justified and reassign the investigation, if necessary, and document the decision, in writing, on the memorandum. The memorandum shall be retained in the case file.

- H. In order to preserve the integrity of the investigation, the supervisor, commander, or manager shall take immediate action when required (i.e., emergency suspension, or temporary reassignment). The IAD Commander and the Bureau Deputy Chief/Director shall be notified of the action and the affected personnel, regardless of the hour of the day. The Deputy Chief/Director/ Captain of CID shall ensure the Office of the Chief is notified without delay. (If time affords and the situation allows, consideration should be given to discussing the circumstances with executive personnel and city subject-matter-experts prior to implementing the action.)
- I. Commanders or managers shall promptly designate staff to complete an internal investigation and/or the administrative review process by the assigned due dates.
- J. The IAD Commander shall evaluate and identify when an unusual proliferation of cases and/or workload prevents IAD from adhering to the timeliness standards outlined in this order. The IAD Commander shall submit a written proposal to the COP with recommendations to address the issues.

Additionally, the IAD Commander shall confer with the COP to discuss and, if practical, implement a solution(s) to the problem such as:

- 1. Evaluating the need to extend due dates;
  - 2. Redistribution of workload;
  - 3. Additional resources; and
  - 4. Staffing increases, such as:
    - a. Temporary/permanent transfers; and
    - b. Assignment of investigations to command staff.
- K. The IAD Commander shall closely monitor and advise the COP of the effectiveness of the implemented solutions.



- L. The IAD Commander or the Bureau Deputy Chief/Director shall add resources or reassign the investigation when the absence of an assigned investigator, due to illness, injury, family medical leave, or other unanticipated leave of absence, may affect the investigator's ability to complete the investigation by the assigned due date.
- M. (IAD Intake and/or Investigative personnel shall ensure their chain of command is notified if for any reason an absence from work will result in negatively impacting the appropriate and timely investigation of assigned cases.)
- N. Commanders and managers shall closely monitor compliance of assigned due dates, requests for extensions, and take corrective action, when necessary, to address patterns of abuse.

## **VII. REVIEW OF INVESTIGATIONS**

Internal investigations shall be hand-delivered from one organizational unit to another, and between each level of review. Interval investigations or copies of same, at the Division level, shall not be retained at the Division level. All records/documents shall be returned and retained in accordance with law by the IAD only.

### **A. IAD Investigations**

#### **1. IAD Commander Review**

The IAD Commander shall:

- a. Review the IAD investigation for completeness and quality and approve or disapprove investigations by IAD personnel;
- b. Return incomplete or unsatisfactory investigations to the IAD investigator for revision and/or further investigation, as necessary;
- c. Ensure the contents of the Investigative File have been merged with the Control File; and
- d. Approve and forward approved IAD investigations to the COP or designee for review and/or approval.

B. Division-level Investigations

1. Upon completion of a division-level investigation, the investigator shall document in the Chronicle Activity Log (CAL) that he/she has:

Hand-delivered the investigative file to his/her immediate superior (first-level commander/manager) for administrative review.

2. Administrative Review

- a. The chain-of-review shall commence with the investigator's first-level commander/manager, followed by the division commander<sup>3</sup> and then to the IAD Commander or designee who shall review all division-level investigative files.

- b. A first-level commander/manager shall not participate in the administrative review process if the first-level commander/manager is involved (i.e., as a subject, witness, or ordered the activity) in the incident under investigation and shall recuse themselves from the process.

- c. If the subject's assigned supervisor at the time of the alleged incident was also the assigned investigator, AND there is a Sustained finding; the first-level commander/manager shall complete the Member/Employee Accountability review of the incident including any additional investigation necessary to make that determination.

Incomplete or unsatisfactory investigations shall be corrected and/or returned for further investigation, as necessary.

- d. The IAD Commander or designee shall review and endorse division-level investigations for completeness and quality **AFTER** the administrative review.

- e. The IAD shall confer with the appropriate investigator regarding incomplete or unsatisfactory investigations. The investigative file shall be returned to the investigator for correction. The Bureau Deputy Chief/Director shall ensure revision and/or further investigation complies with the timelines provided in this order.

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<sup>3</sup> In OPD, "division commander" is synonymous with the rank of captain. Watch commanders and section commanders are NOT division commanders.

## VIII. DUE DATE EXTENSIONS AND REQUESTS

### A. Due Date Extensions

1. Failure to meet due dates as a result of poor time management or other poor performance problems shall be addressed through appropriate corrective actions.
2. If an IAD investigation cannot be completed **BY** the assigned due date, the investigator shall seek **PRIOR** written approval for a due date extension from the IAD Commander or designee in accordance with the provisions of Part IX, B of this order. The investigator shall specify the length of time needed in the request.
3. If a division-level investigation cannot be completed **BY** the assigned due date, the investigator shall seek **PRIOR** written approval for up to a 30 calendar day due date extension from an IAD Commander in accordance with the provisions of Part VII, B of this order. The investigator shall specify the length of time needed in the request.
4. Extensions for division-level investigations beyond 30 calendar days shall require the prior written approval of the COP or designee.
5. Only the COP may approve an extension beyond one year from the 3304 start date based on the provisions enumerated in G.C. 3304.

### B. Request Procedures for Due Date Extensions

1. Investigators shall prepare and submit via email or memorandum to an IAD Commander (for division-level investigations) or designee (for IAD investigations) for all requests for a due date extension **BY** the assigned due date. The request shall detail the reason(s) and justification for the extension.
2. Investigators shall advise their superior as soon as possible of ancillary duties that may prevent timely completion of an investigation.

### C. Approved Requests

1. Extension requests shall be reviewed by the appropriate authority.
2. A copy of the request approval shall be placed in the investigative file.

**IX. GENERAL POLICY**

- A. IAD Intake shall be located in a dedicated facility removed from the Police Administration Building and establish business hours that facilitate in-person complaint intake with the approval of the COP.
- B. The complaint pamphlet, *Your Guide to Filing a Complaint Against the Police* (TF-3208) shall be translated in accordance with City policy.
- C. Members and employees shall keep a supply of the complaint pamphlet, *Your Guide to Filing a Complaint Against the Police* (TF-3208) and Informational Business cards in their Departmental vehicles at all times while on duty and provide the complaint pamphlet to any person requesting to file a complaint or upon request.
- D. IAD shall create, maintain, and ensure that guidelines for filing misconduct complaints are prominently displayed at designated City or municipal facilities and ensure such facilities have an adequate supply of complaint pamphlets.

By order of



Anne E. Kirkpatrick  
Chief of Police

Date Signed: November 27, 2017