

**SAN DIEGO POLICE DEPARTMENT  
PROCEDURE**

**DATE:** JUNE 06, 2021

**NUMBER:** 1.10 - ADMINISTRATION

**SUBJECT:** CITIZEN COMPLAINTS, OFFICER-INVOLVED SHOOTINGS, AND IN-CUSTODY DEATHS; RECEIPT, INVESTIGATION, AND ROUTING

**RELATED POLICY:** 1.10

**ORIGINATING DIVISION:** INTERNAL AFFAIRS UNIT

**NEW PROCEDURE:**

**PROCEDURAL CHANGE:**  **EXTENSIVE CHANGES**

**SUPERSEDES:** DP 1.10 – 6/05/2015

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**I. PURPOSE**

This Department procedure establishes guidelines for receiving citizen complaints and identifies the assigned responsibilities in investigating citizen complaints, officer-involved shootings, and in-custody deaths. Information on how to conduct investigations and interviews is in the Internal Affairs Unit Operations Manual.

**II. SCOPE**

This procedure applies to all members of the Department.

**III. BACKGROUND**

A. The community must have confidence in the integrity of the Department, particularly in the exercise of police powers. Allegations of misconduct against members of the Department and complaints of inadequate service are taken seriously and are investigated thoroughly and expeditiously.

B. Department members are often subjected to intense pressures while performing their duties. Members frequently are required to remain neutral under circumstances that are likely to generate considerable tension, excitement, and emotion. In such situations, words, actions, and events occasionally result in misunderstandings and confusion. A sound internal procedure for thorough and impartial investigations of allegations arising out of such circumstances is

NEW

important to each member of the Department. Resolving complaints in a fair, impartial, and expeditious manner will ensure the consistent high level of integrity and efficiency maintained by the Department.

#### IV. **DEFINITIONS**

A. Category I complaints - all citizen complaints or allegations lodged against Department members, including volunteers, which involve one or more of the following:

NEW

1. Arrest - an allegation that a Department member knew, or should have known, that there was insufficient probable cause for an arrest. Included is an allegation that a Department member knew, or should have known, that there was insufficient information for a detention. .

2. Criminal conduct - an allegation of Federal, State, County, or Municipal law violation(s).

NEW

3. Discrimination - an allegation of unequal treatment due to a subject's protected classification, such as gender (including gender identity and gender expression), race, color, ethnicity, national origin, ancestry, religion, physical or mental disability, medical condition (including cancer, HIV, and AIDS), age, political beliefs or affiliation, marital status, sexual orientation, lifestyle, or similar personal characteristics.

4. Force - an allegation that more force was used than reasonably necessary. Threats of force are not included.

5. Slur - an allegation of a derogatory term that a reasonable person would recognize as an inherent insult or degradation of another, based upon the subject's gender (including gender identity and gender expression), race, color, national origin, ancestry, religion, physical or mental disability, medical condition (including cancer, HIV, and AIDS), age, political beliefs or affiliation, marital status, sexual orientation, lifestyle, or similar personal characteristics.

NEW

6. Search - an allegation a Department member made a search of a person, home vehicle or property without proper justification. Included are allegations of bad faith Fourth Amendment searches.

B. Category II complaints - allegations limited to one or more of the following:

1. Service;

2. Courtesy;
3. Procedure;
4. Conduct; or,
5. Other (specify).

NEW

C. BlueTeam - computer application used to route sworn members': use of force incidents, pursuits, complaints, employee involved collisions, firearms discharge, missed court, missed Department shoots, as well as complaints of misconduct for all Department members. Blue Team is a routing software platform and does not store information or investigations. Any data within Blue Team related to the EIS program is governed by Department Procedure 5.24 and only involves sworn members.

NEW

D. IAPRO - computer application where information routed through BlueTeam is stored. (Refer to Section X Central Complaint Index.)

NEW

E. Informal Resolution - complainant has agreed to have their complaint handled informally with an identified Department member. The complainant is aware no formal investigation will be conducted. Complaints that are resolved informally are not forwarded to the Commission on Police Practices, for review.

NEW

F. Miscellaneous - a complaint where no allegation is specified, no Department member is specified, or the complainant is questioning police procedure(s).

NEW

G. Subject Department members - personnel, sworn or civilian, against whom a complaint is made, who is the subject of an investigation.

NEW

H. Withdrawal - resolution where the complainant withdraws the complaint - and acknowledges no further investigation is warranted, wanted, or necessary.

NEW

I. Witness Department members - personnel not suspected of wrongdoing in a complaint but are witnesses or potential witnesses to an incident involving a complaint.

## V. CITIZEN COMPLAINT PROCEDURES

### A. BlueTeam

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1. When the Department receives a citizen's complaint, it will be entered into the BlueTeam system. This will facilitate the accurate maintenance of all complaint investigations and ensure accurate statistical data.
2. Upon receiving the BlueTeam entry, the Internal Affairs Unit will notify the complainant in writing, that the complaint has been received.
  - a. It is essential that the information obtained from the complainant is complete and accurate regarding the specific complaint and allegation(s). The information should include:
    - i. The full name, address (including zip code), and telephone numbers (home and/or cell, and work) of the complainant, as well as any additional information, including an email address, indicating where the complainant may be contacted in the future. Complete military addresses are required from military personnel.
    - ii. The specifics of the allegation, including the date, time, and location of the incident.
    - iii. The names, addresses, and telephone numbers of all known witnesses.
    - iv. The police personnel involved should be identified by name, unit, and ID number, if possible. If the Department member(s) is not identified on the original complaint, the investigating supervisor will immediately notify the Internal Affairs Unit of the involved Department member(s) once his or her identity is determined.
  - b. Obtain evidence produced by the complainant, request the complainant preserve evidence, or identify the location of potential evidence.

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### B. Accepting Citizen Complaints

1. The following offices receive citizen complaints:
  - a. Office of the Chief of Police;
  - b. Internal Affairs Unit;

- c. Area Commands;
- d. Mayor's Office; and,
- e. Commission on Police Practices.

NEW

- 2. Any citizen complaint, regardless of category, may be lodged at any police facility, at any storefront, at the City Administration Building (Mayor's Office), at several community-based organizations, or with any member of the Department. Complaints will be accepted in writing (by letter, fax, or email), in person, or by telephone.
- 3. If a citizen requesting to lodge a complaint confronts a Department member, that member will contact a supervisor. The supervisor will immediately contact and interview the complainant and record the specific complaint(s). Officers assigned as a liaison with community-based groups have the authority to record complaints and are required to document complaints brought to their attention in the same manner as supervisors.

NEW

- 4. When a citizen calls Communications Division expressing concerns regarding the actions of a Department member or the service delivered by the Department, Communications personnel will format the call as a Citizen Complaint. A field supervisor will make contact with the citizen and determine if an explanation or clarification of a policy will resolve the citizen's concerns.

NEW

- a. If the responding supervisor cannot satisfy the citizen's concerns, the supervisor must complete a BlueTeam entry prior to the end of the shift, attach all necessary documents, and route it via the chain-of-command to the commanding officer. The commanding officer will review the complaint and forward it to the Internal Affairs Unit.

NEW

- b. If the responding supervisor satisfies the citizen's concerns at that time, the supervisor must complete a BlueTeam entry prior to the end of shift. The supervisor shall write a memorandum to his or her commanding officer regarding the incident and route it through the chain-of-command. The memorandum should include sufficient detail to document the citizen's concern(s) and resolution.

NEW

- i. If there are named officer(s) in a complaint of alleged misconduct and the complainant agrees to an Informal Resolution, the memorandum should be identified as an Informal Memorandum.

NEW

- ii. Officers named in an Informal Memorandum shall be made aware of the existence of the Memorandum and afforded the opportunity to initial or sign the Memorandum acknowledging its existence, pursuant to Government Code section 3305. If the officer refuses to sign the Informal Memorandum, that fact shall be noted on the Memorandum and signed or initialed by such officer.

Non-sworn Department members are not required to sign any informal memorandums involving complaints.

NEW

- iii. If no officers are identified, there are no specific allegations of misconduct, or the complainant is questioning Department Policies or Procedures, the memorandum will be identified as a Miscellaneous Memorandum. No officers will be identified and consequently no initials or officer signature(s) are required.

NEW

- c. The commanding officer will review the completed memorandum and shall sign or initial the memorandum thereby approving the handling of the complaint informally or as a Miscellaneous. The memorandum will be returned to the completing supervisor to be attached electronically to the BlueTeam entry. The assigned supervisor will attach all relevant documents to the BlueTeam entry. The BlueTeam entry will be forwarded electronically to the commanding officer via the chain-of-command for forwarding to the Internal Affairs Unit.

NEW

- d. Relevant Body Worn Camera (BWC) files are often too large to be attached in BlueTeam. In those cases, the relevant BWC files shall be copied to a CD and hand carried to Internal Affairs for the command's Internal Affairs liaison to attach.

NEW

- e. If a supervisor chooses to refer a citizen to another supervisor who may have more information regarding the complaint, the citizen must agree to this referral. If the citizen agrees, the original supervisor shall add the following comments to the CAD incident:

- i. The name and ID number of the second supervisor;

NEW

- ii. That the complainant was referred to the second supervisor; and,
  - iii. The second supervisor was notified of the incident via email.

NEW

iv. The second supervisor shall reopen the CAD incident and complete the BlueTeam entry process outlined previously in this procedure.

5. When a citizen comes to the Headquarters building to file a complaint during the hours of 0800 to 1700 on weekdays, a supervisor from the Internal Affairs Unit will meet with the citizen and record the complaint. On weekends and holidays and during the hours of 1700 to 0800 on weekdays, the procedures outlined previously in this section will be followed.

### C. The Means by Which Citizen Complaints are Made

#### 1. Complaints Made in Person

- a. The authorized Department member will take the information and determine the specific nature of the allegation(s).
- b. The member will repeat the allegation(s) to the complainant.
- c. The member will complete the BlueTeam entry.
- d. The member will route the BlueTeam entry electronically to the commanding officer via the member's chain-of-command.
- e. The commanding officer will forward the BlueTeam entry electronically to the Internal Affairs Unit.
- f. The Internal Affairs Unit will send an acknowledgment letter, and a self-addressed, postage-paid return envelope to the complainant.
- g. The complaint will be assigned for investigation in accordance with existing procedures.

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#### 2. Complaints Made in Writing (by letter, by fax, or by email)

Written documentation (letters, faxes, email, route slips, civil summons, claims, etc.) that allege Department member misconduct will be handled in the following manner:

- a. The assigned supervisor will enter all available information into BlueTeam and attach the written correspondence to the BlueTeam entry. The narrative portion should read, "See attached correspondence." The BlueTeam entry will be routed to Internal Affairs via the chain of command.

NEW

- b. The Department member will forward the original letter (copy of the route slip, civil summons, etc.) to the Internal Affairs Unit.
- c. The Internal Affairs Unit will send an acknowledgment letter, and a self-addressed, postage-paid return envelope to the complainant, when necessary.
- d. The complaint will be assigned for investigation in accordance with existing procedures.

NEW

3. Complaints Made by Telephone

- a. The authorized Department member will take the information and determine the specific nature of the allegation(s).
- b. The member will repeat the allegation(s) to the complainant.
- c. The member will complete the BlueTeam entry and forward it to the Internal Affairs Unit via the chain-of-command.
- d. The Internal Affairs Unit will send an acknowledgment letter, and a self-addressed, postage-paid return envelope to the complainant.
- e. The complaint will be assigned for investigation in accordance with existing procedures.

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4. Third Party Complaints Accepted by the Department

- a. Complaints made on behalf of another person will be accepted by the Department.
- b. Complaints can be made in person, in writing, or by telephone.
- c. Applicable procedures discussed in this procedure must be followed when receiving third party complaints.

NEW

D. Department Initiated Internal Investigations

- 1. Department Initiated Internal investigations are those investigations conducted when someone other than a citizen alleges misconduct by a Department member (e.g., another Department member or another law enforcement agency).
- 2. A Department member who suspects criminal conduct by another member normally makes the complaint through his/her chain-of-command.

NEW



However, the Department member may contact a Lieutenant from the Internal Affairs Unit directly.

NEW

3. BlueTeam entries are not used for command internal investigations. Depending on the nature of the allegation(s), internal investigations may be conducted by the subject member's command or by the Internal Affairs Unit.

## VI. INFORMAL COMPLAINT ROUTING VIA BLUETEAM

NEW

Depending on the seriousness of the allegation, often times when all parties involved have had a chance to reflect on the incident, a complaint can be resolved after the fact, often times by the subject Department member's direct supervisor.

NEW

- A. Most Category II complaints entered into BlueTeam are generally routed to the subject Department member's(s') command for review and an opportunity to contact the complainant to determine a formal or informal resolution.

NEW

- B. Assigned supervisors shall contact the complainant, and depending on the nature of the allegations, in light of the evidence shown on BWC, or any other evidence available, explain the formal and informal process as well as offer the complainant an opportunity to withdraw the complaint. (Supervisors are authorized to show complainants BWC in order to resolve a complaint pursuant to Department Procedure 1.49-Axon Body Worn Cameras.)

NEW

- C. If the assigned supervisor is able to resolve the complaint informally, the assigned supervisor shall complete an Informal Memorandum as noted in Section V. (B) (4) (b) (i). If the complainant chooses to withdraw the complaint, the assigned supervisor shall complete a memorandum stating the desire to withdraw the complaint.

NEW

- D. The decision to handle a complaint informally or withdraw the complaint will rest with the complainant and should be recorded whenever possible. The complainant shall be told there will be no further investigation and should acknowledge their understanding as such. The assigned supervisor will have 30-days to resolve the complaint and complete the memorandum.

If the complaint involves a non-sworn Department member and is resolved informally, the supervisor shall write a memorandum to his or her commanding officer regarding the incident and route it through the chain-of-command. The memorandum should include sufficient detail to document the citizen's concern(s) and resolution. Once routed to the Internal Affairs Unit, via the Commanding Officer or their designee, the complainant information and resolution will be retained, but the non-sworn Department member's information, such as name, ID number, and other identifying information/etc., will be redacted.

NEW

E. If the complainant desires a formal investigation, the assigned supervisor shall contact the Internal Affairs Unit.

NEW

1. Category II allegations will be assigned a new due date, 60 days from the date the complaint was received.

NEW

a) The assigned supervisor will notify their chain-of-command the complaint will be handled as a formal investigation.

NEW

b) Generally, the assigned supervisor will retain responsibility to complete the investigation, unless it is reassigned by the commanding officer.

NEW

2. Category I allegations will be routed through the chain-of-command via BlueTeam to Internal Affairs.

NEW

a) An Internal Affairs supervisor will be assigned the formal investigation unless approved to be investigated at the command by an Internal Affairs Lieutenant.

NEW

b) A new due date will be assigned by Internal Affairs, 90 days from the date the complaint was received.

## VII. INVESTIGATION PROCEDURES

A. Investigation of Complaints

1. The Internal Affairs Unit is responsible for investigating Category I complaints, as well as reviewing all officer-involved shootings and in-custody deaths.

NEW

2. In most cases, when a Category I complaint is initiated, the Internal Affairs Unit will notify the subject Department member's commanding officer through a memorandum.

3. Investigations of Category II complaints will be the primary responsibility of the command involved. However, the Internal Affairs Unit may choose to conduct investigations of Category II complaints when personnel from more than one division are involved and/or the investigation would be too time-consuming for field supervisors. An Internal Affairs Unit Lieutenant should be contacted prior to forwarding such a complaint to the Internal Affairs Unit. Category II allegations, which accompany Category I complaints, will be investigated by the Internal Affairs Unit.

NEW

4. Once a Department member is identified as the subject of a complaint and an administrative investigation has begun, the supervisor assigned to the investigation and the command will follow the investigation through to a logical conclusion, even if the subject member or the supervisor is transferred to another command during the investigation.
5. A supervisor will promptly investigate complaints against Department members. Personnel working out-of-class assignments should not investigate complaints without the approval of their commanding officer.
6. Category II investigations conducted by a command shall be completed within 60 calendar days from the date the complaint was received by the Department.

NEW

7. If it is not possible to complete the investigation within 60 days, the investigating supervisor shall notify an Internal Affairs Unit Lieutenant of the delay. Extensions may only be granted by an Internal Affairs Unit Lieutenant. A new due date will be assigned if the need for the extension is reasonable and justified. If more than one extension is sought, an Internal Affairs Unit Lieutenant shall be notified of the reason for the delay and will grant a new extension only if appropriate. Commanding officers will be contacted by the Internal Affairs Unit and advised about late investigations.
8. Category I complaints shall be completed within 90 days. Only an Internal Affairs Unit Lieutenant may grant extensions.

NEW

9. All recognized investigative methods for determining the facts surrounding a complaint may be used. These methods may include, but are not limited to:
  - a. Canvassing by the investigator to find all witnesses;
  - b. Obtaining photos or videos, as appropriate, of the scene;
  - c. Obtaining photos of injuries, or lack thereof, when appropriate; and,
  - d. Recording other physical evidence.

NEW

10. Every attempt will be made to interview the complainant, witnesses, and all Department members involved in the incident. The complainant may be accompanied by a support person of his or her choice (excluding other parties or witnesses to the complaint) during interviews. All interviews of sworn personnel shall be recorded. All interviews of civilians should be audio-recorded whenever possible. If the interview is not audio-recorded,

the investigating supervisor shall document the reason in the report. The exceptions are:

- a. Civilian complainants and witnesses may decline to be recorded.
- b. Municipal Employees Association (MEA) represented employees may decline to be recorded.

NEW

11. If interviewees do not wish to be audio-recorded, the handwritten notes of the interview must be included with the completed investigation. Basic interviewing practices will be utilized. These practices are outlined in the Internal Affairs Unit Operations Manual.

NEW

Prior to conducting a telephone interview, the Department supervisor must obtain consent from the person being interviewed to have the conversation audio-recorded.

12. If a complainant is reluctant or difficult to find, repeated attempts must be made to conduct a thorough interview of the complainant throughout the investigation. Obtaining voluntary, not compelled, participation in the investigative process from a complainant who is hesitant to be involved is the goal. Therefore, investigating supervisors shall consider and engage in all reasonable measures to contact and/or interview complainants. Such methods may include:

- a. An interview conducted by telephone.
- b. An interview conducted at the complainant's residence, place of employment, or at a neutral location;
- c. An interview arranged at a time convenient to the complainant;
- d. Notification to the complainant by certified letter (with return receipt) that an interview is requested; and/or,
- e. Utilization of the ARJIS Officer Notification System (ONS) to facilitate contact with the complainant.

Should these measures fail, the investigating supervisor shall proceed with the investigation without the complainant's statement. When practical, witness and officer interviews will be conducted. If it is possible to reach a factual conclusion, an appropriate disposition shall be rendered.

If an allegation is not clear and cannot be clarified, and there is insufficient information to conduct an investigation, it will be filed in Internal Affairs in the miscellaneous file for a period of five years.

NEW

13. Completed investigations will be forwarded to the Internal Affairs Unit. The findings for Department members will be classified as follows:
  - a. Sustained – the Department member committed all or part of the alleged acts of misconduct;
  - b. Not Sustained – the investigation produced insufficient information to clearly prove or disprove the allegations;
  - c. Exonerated – the alleged act occurred but was justified, legal and proper, or was within policy;
  - d. Unfounded – the alleged act did not occur; or,
  - e. Other Finding – the investigation revealed violations of Department policies/procedures not alleged in the complaint.
14. The complainant will be notified of the results of the investigation in a letter sent by the Internal Affairs Unit. The letter will contain the name and telephone number of the investigator, should the complainant have any questions.

B. Investigation of Officer-Involved Shootings and In-Custody Deaths

1. The Homicide Unit will conduct criminal investigations of all incidents in which a Department member intentionally shoots at a person, including such incidents resulting in no injuries (misses). The Homicide Unit will submit its completed investigation to the Internal Affairs Unit. The Internal Affairs Unit will then conduct an administrative investigation to determine if the officer-involved shooting was within policy.
2. The Homicide Unit will also investigate officer-involved shooting incidents that result in unintentional injuries or death, and all in-custody deaths. The Homicide Unit will forward its completed investigation to the Internal Affairs Unit as soon as possible so an administrative investigation can be conducted.
3. Field supervisors are responsible for completing a thorough Supervisor's Investigation into all shootings involving animals or accidental weapon discharges not resulting in injury. The investigation, along with a copy of the Shooting Incident Report (PD-128), shall be forwarded to the Internal Affairs Unit as soon as possible so an administrative investigation can be conducted.

NEW

NEW

- C. The Role of the Internal Affairs Unit in Investigations of Criminal Conduct and Corruption

The Internal Affairs Unit will have primary responsibility for conducting follow-up administrative internal investigations regarding allegations of criminal conduct and corruption by Department members.

### **VIII. PROCEDURES FOR INTERVIEWING SUBJECT DEPARTMENT MEMBERS**

- A. In criminal investigations conducted by the investigating unit, a “Miranda Warning” will be given to Department members who are in custody.

NEW

- B. Prior to beginning an interview, Department supervisors conducting administrative investigations, whether Category I or II, will read either the Sworn personnel the "Administrative Admonishment" or the Non-Sworn Fact Finding admonishment to Department members who are under investigation (see Attachment A and B).

NEW

- C. If a supervisor determines during a "witness Department member" interview that the interviewee is actually a subject Department member, the supervisor must immediately advise the member of the change in status (regarding the investigation) and inform the member of their right to representation. The supervisor will end the interview and schedule an interview at a later date where the member has the opportunity to meet with their employee or legal representative if they wish to do so.

NEW

- D. Subject Department members are to be given the Administrative Admonishment and interviewed only if it has been determined the case will not go forward for criminal prosecution. If during an interview, the interviewing supervisor believes criminal conduct may be involved, the interview will be stopped, and the subject member shall immediately be re-advised of his or her constitutional rights via the Administrative Admonishment. If the interview was being conducted by supervisor outside Internal Affairs, the Internal Affairs Unit shall be immediately contacted. No further questioning shall occur at that time. Consult the Internal Affairs Unit on all matters that appear to be criminal in nature.

NEW

- E. To protect the integrity of the involved Department members and the investigation, all subject and witness members will be admonished that the City of San Diego has a strong interest in protecting the integrity of its fact-finding investigations, preserving evidence, preventing fabrication, and protecting witnesses from harassment, intimidation, and retaliation. Each subject and witness member will be directed not to engage in any harassing, intimidating, or retaliatory conduct toward anyone, and advised not to interfere with the investigation in any way. This admonishment does not prevent such members from discussing the matter with his/her employee representative or attorney, professionals in the field of psychological therapy, or clergy members. This

admonishment should be given to all involved personnel when the investigating supervisor believes it is appropriate, usually at the onset of the investigation or during the interview with the subject/witness member.

## **IX. ROUTING OF COMPLETED INVESTIGATIONS**

NEW

### **A. Commission on Police Practices Routing**

Complaints involving sworn Department members that contain at least one Category I allegation (with the exception of “City claim” cases or internal investigations), officer-involved shootings of a person, and in-custody death investigations will be routed to the Commission on Police Practices for review. This is after the Chief of Police or his or her designee has approved the investigation and before it is forwarded to the subject member's command for review and/or disciplinary follow-up (See the Commission on Police Practices section of this Procedure for more details).

### **B. Forwarding of Completed Investigations**

NEW

1. Prior to serving a completed Category II investigation upon a subject Department member, the subject member’s commanding officer will forward the completed investigation to the Internal Affairs Unit for a thorough review and approval.

NEW

2. All Category II complaints will be reviewed by the Internal Affairs Unit for completeness, proper format, and appropriate findings. They will be returned to the commanding officer for further review if they are not consistent with Department procedures and expectations. If the investigation is complete and in the proper format, it will be returned to the commanding officer for service upon the subject member(s).

NEW

### **C. Routing of Identified Misconduct**

When the Internal Affairs Unit identifies misconduct through sustained findings, the investigation will be routed to the Assistant Chief of the concerned division, via the Chief of Police, who will forward the investigation to the appropriate commanding officer. The commanding officer or designee will review the investigation and personnel files of the involved Department member(s) and determine what disciplinary action, if any, is to be taken.

NEW

1. Investigations involving non-sworn members resulting in sustained findings will only be retained by Human Resources for the length of the final discipline and once all appeal options have been exhausted.

NEW

### **D. Review of Investigation by Department Member**

For all investigations resulting in a sustained finding, the subject Department member(s) will be provided the completed investigation, including any supporting materials related to the investigation by the commanding officer or designee at the time discipline or advance notice of discipline is served. For completed investigations which involve no sustained findings or will not result in any discipline to the department member, the subject Department member will be provided a copy of the completed investigation by the commanding officer or designee, but no supporting documents, unless requested. In those cases, the subject Department member, or their legal designee, may request and receive a copy of any supporting materials related to the investigation from the Internal Affairs Unit.

Subject members are entitled to any reports or complaints made by investigators or other persons pursuant to California Government Code Sec. 3303(g). Subject members may review their Internal Affairs Unit file(s) by appointment in the Internal Affairs Unit. If the disposition of the complaint investigation is sustained, or “other findings” noted, the command will retain a copy of the investigation until discipline, if any, is completed. At that point, the command will return the copy, with the subject employee's original signature, to the Internal Affairs Unit.

NEW

E. Disagreement by Department Member of the Findings

If a Department member disagrees with the disposition of an investigation with sustained findings that result in discipline being served on the department member, the department member will be informed in writing that they may file a written rebuttal within 30 days from the date the actual order of discipline is served.. If the investigation does not result in a sustained finding, or any discipline being imposed on the department member, the department member will be informed in writing that they may file a written rebuttal within 30 days from the date the department member is served with the findings of the completed investigation, or the date they are notified no discipline will be imposed, whichever is later. Written rebuttals will be filed with the investigation. If a written rebuttal to a complaint investigation is received in the Internal Affairs Unit after the 30-day time period, the rebuttal will be refused and returned to the Department member. Rebuttals will not be accepted in the Internal Affairs Unit if the report indicates that the member’s supervisor wrote it. Supervisors are not to act as advocates for Department members in the writing of such reports.

NEW

Sworn Department members may also appeal sustained findings pursuant to Article 41 of the Police Officers Association Memorandum of Understanding.



NEW

F. Discipline

Commanding officers shall prepare a memorandum memorializing the discipline imposed on all sustained findings resulting from a Category I or Category II complaint investigation reviewed by the Community Review Board. The memorandum shall state what discipline was imposed along with the rationale behind it. The Internal Affairs Unit will provide the memorandum to the Commission on Police Practices after the actual order of discipline has been imposed.

A complete process flow for discipline and the appeal process can be found in the Discipline Manual, or Dimensions in Discipline Manual for civilian employees, within the Resource Library. The reason for the discipline (misconduct versus performance) and the discipline imposed will determine the depth and breadth of the appeal process.

G. Removal of Complaint Investigation from Discipline Package

After discipline is imposed, the complaint investigation will be removed from the discipline package prior to filing it in the member's Department personnel file.

NEW

H. Retaining Complaint Investigation by the Internal Affairs Unit

Complaints and any reports or findings involving sworn members shall be retained for a period of at least five years in accordance with California Penal Code Section 832.5. A citizen's complaint investigation will only be retained in the Internal Affairs Unit. The copy of the investigation, which was attached to the discipline, must be returned to the Internal Affairs Unit.

Complaints and reports involving non-sworn Department members shall be retained per the Memorandum of Understanding (MOU) between the City of San Diego and the San Diego Municipal Employee's Association (MEA), Article 10 section (F) and Article 37.

NEW

I. Retaining Documentation

All material upon which the outcome of an investigation is based, such as recordings, tapes, photographs, and other documentation related to a complaint, City Claim, or internal investigation, must be retained and filed with the completed investigation.

1. Complaints that do not result in a sustained finding for non-sworn members will be purged from the Internal Affairs Unit upon completion of the investigation, after the subject employee has been notified of the findings and had the opportunity to review the investigation.

## **X. CENTRAL COMPLAINT INDEX**

The Internal Affairs Unit is responsible for maintaining a comprehensive central index of all citizen complaints received by the Department. The responsibilities of the Internal Affairs Unit, in relation to the Central Complaint Index, include the following:

NEW

- A. Maintain a numerical file of all citizen complaints recorded in IAPRO.
- B. Maintain a numerical file of all internal investigations filed in the Internal Affairs Unit.

NEW

- C. Maintain personnel investigations completed by individual units that contain serious allegations of misconduct (safety issues, or those matters that would be Category I complaints if brought to the Department's attention by a citizen). The subject Department member's commanding officer will contact an Internal Affairs Unit Lieutenant prior to conducting such a filing. If necessary, the Chief of Police will make the final determination concerning reports being filed in the Internal Affairs Unit.

- D. Maintain a file of investigations as they relate to claims against Department members.

NEW

- E. Complaints and investigations of non-sworn members shall be retained or purged consistent with Section IX of this procedure, to include the IAPRO database.

NEW

- F. The Internal Affairs Unit does not store any reports of recommended or imposed discipline.

## **XI. PITCHESS MOTIONS**

The Internal Affairs Unit handles Pitchess motions where a party to litigation alleges misconduct on the part of an officer and seeks a Court hearing for discovery of confidential officer personnel records.

- A. Upon receipt of a Pitchess motion, the Internal Affairs Unit will notify the officer named in the motion that his or her personnel records are being sought.
- B. The City Attorney's Office responds to the motion on behalf of the officer and the Department.
- C. The City Attorney accompanies the Custodian of Records to the court hearing. At the hearing, a judge will decide whether the motion establishes good cause to conduct an in-camera review of the officer's personnel records.

NEW

- D. If an in-camera review is granted, the judge may review the officer's personnel records and order the release of the contact information for complainants and witnesses (listed in prior investigations) contained in the officer's records.
- E. If the judge orders information released from an officer's personnel file, the Internal Affairs Unit will notify the officer of what information was ordered released, and the officer will be given the opportunity to review the information that was released.

## **XII. COMMISSION ON POLICE PRACTICES**

NEW

The Commission on Police Practices (CPP) is comprised of community members who are appointed by the Mayor. The CPP has the responsibility to review and evaluate complaints brought by the public against the San Diego Police Department and its sworn members. The CPP also reviews officer-involved shootings (of a person) and in-custody death cases. Additional information can be found in a pamphlet, "Commission on Police Practices", which is available in the Internal Affairs Unit or via the Internet at [www.sandiego.gov/cpp](http://www.sandiego.gov/cpp).

NEW



**SWORN PERSONNEL ADMONISHMENT  
(WITH LYBARGER/GARRITY WARNING)  
SUBJECT**

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This is a confidential sworn personnel investigation.

You may be subject to discipline as a result of this confidential sworn personnel investigation, should the findings indicate that such action is warranted. Therefore, you have the right to have a representative present at this time.

The purpose of this confidential sworn personnel investigation is to obtain information to assist the City of San Diego in determining whether administrative disciplinary action is warranted against you. The City is not questioning you for the purpose of bringing or substantiating any criminal charge against you.

You are directed to answer all of the questions posed to you completely, truthfully, and to the best of your knowledge. You may consult with your representative before answering any question, but your representative may not answer the question for you. If you refuse to answer a question, it will be considered insubordination and you may be subject to discipline.

If information indicates that you may be or have been charged with a criminal offense, you have the right to remain silent and the right to the presence and assistance of counsel. However, you do not have the right to refuse to answer any question during this confidential sworn personnel investigation, including on self-incrimination grounds. While you have the right to remain silent and not incriminate yourself generally, your silence or refusal to answer during this administrative confidential sworn personnel investigation will be considered insubordination and may lead to administrative discipline, up to and including termination.

Therefore, any statement made by you during this confidential sworn personnel investigation, compelled by the threat of discipline, as well as any fruits of those statements, cannot be used against you in any criminal proceeding.

The City of San Diego has a strong interest in protecting the integrity of its confidential sworn personnel investigations, preserving evidence, preventing fabrication, and protecting witnesses from harassment, intimidation, and retaliation. You are directed not to engage in any harassing, intimidating, or retaliatory conduct toward anyone. You also must not try to interfere with the investigation in any way. Any violation of these directives may result in discipline.

If you fully understand these instructions, please sign your name below.

\_\_\_\_\_  
[INSERT SUBJECT EMPLOYEE NAME, TITLE]

\_\_\_\_\_  
Date

\_\_\_\_\_  
[INSERT FACT-FINDER NAME, TITLE]

\_\_\_\_\_  
Date



NEW

**FACT-FINDING ADMONISHMENT FOR NON-SWORN PERSONNEL  
(WITH LYBARGER/GARRITY WARNING)  
SUBJECT**

This is a confidential administrative fact-finding investigation.

You may be subject to discipline as a result of this fact-finding investigation, should the findings indicate that such action is warranted. Therefore, you have the right to have a representative present at this time.

The purpose of this fact-finding investigation is to obtain information to assist the City of San Diego in determining whether administrative disciplinary action is warranted against you. The City is not questioning you for the purpose of bringing or substantiating any criminal charge against you.

You are directed to answer all of the questions posed to you completely, truthfully, and to the best of your knowledge. You may consult with your representative before answering any question, but your representative may not answer the question for you. If you refuse to answer a question, it will be considered insubordination and you may be subject to discipline.

If information indicates that you may be or have been charged with a criminal offense, you have the right to remain silent and the right to the presence and assistance of counsel. However, you do not have the right to refuse to answer any question during this fact-finding investigation, including on self-incrimination grounds. While you have the right to remain silent and not incriminate yourself generally, your silence or refusal to answer during this administrative fact-finding investigation will be considered insubordination and may lead to administrative discipline, up to and including termination.

Therefore, any statement made by you during this fact-finding investigation, compelled by the threat of discipline, as well as any fruits of those statements, cannot be used against you in any criminal proceeding.

The City of San Diego has a strong interest in protecting the integrity of its fact-finding investigations, preserving evidence, preventing fabrication, and protecting witnesses from harassment, intimidation, and retaliation. You are directed not to engage in any harassing, intimidating, or retaliatory conduct toward anyone. You also must not try to interfere with the investigation in any way. Any violation of these directives may result in discipline.

If you fully understand these instructions, please sign your name below.

\_\_\_\_\_  
[INSERT SUBJECT EMPLOYEE NAME, TITLE]

\_\_\_\_\_  
Date

\_\_\_\_\_  
[INSERT FACT-FINDER NAME, TITLE]

\_\_\_\_\_  
Date



NEW

**SWORN PERSONNEL ADMONISHMENT  
WITNESS**

This is a confidential sworn personnel investigation. You are considered a witness.

It is not anticipated that you will be subject to any discipline as a result of this confidential sworn personnel investigation. However, if during your interview, information comes to light indicating that you may be subject to discipline, we will stop the interview, let you know that you may be subject to discipline, and you will have the right to representation at that time.

You are directed to answer all questions completely, truthfully, and to the best of your knowledge. If you refuse to answer a question, it will be considered insubordination and you may be subject to discipline.

The City of San Diego has a strong interest in protecting the integrity of its confidential sworn personnel investigations, preserving evidence, preventing fabrication, and protecting witnesses from harassment, intimidation, and retaliation. You are directed not to engage in any harassing, intimidating, or retaliatory conduct toward anyone. You also must not try to interfere with the investigation in any way. Any violation of these directives may result in discipline.

If you fully understand these instructions, please sign your name below.

\_\_\_\_\_  
[INSERT WITNESS EMPLOYEE NAME, TITLE]

\_\_\_\_\_  
Date

\_\_\_\_\_  
[INSERT FACT-FINDER NAME, TITLE]

\_\_\_\_\_  
Date



NEW

## FACT-FINDING ADMONISHMENT FOR NON-SWORN PERSONNEL WITNESS

This is a confidential fact-finding investigation. You are considered a witness.

It is not anticipated that you will be subject to any discipline as a result of this fact-finding investigation. However, if during your interview, information comes to light indicating that you may be subject to discipline, we will stop the interview, let you know that you may be subject to discipline, and you will have the right to representation at that time.

You are directed to answer all questions completely, truthfully, and to the best of your knowledge. If you refuse to answer a question, it will be considered insubordination and you may be subject to discipline.

The City of San Diego has a strong interest in protecting the integrity of its fact-finding investigations, preserving evidence, preventing fabrication, and protecting witnesses from harassment, intimidation, and retaliation. You are directed not to engage in any harassing, intimidating, or retaliatory conduct toward anyone. You also must not try to interfere with the investigation in any way. Any violation of these directives may result in discipline.

If you fully understand these instructions, please sign your name below.

\_\_\_\_\_  
[INSERT WITNESS EMPLOYEE NAME, TITLE]

\_\_\_\_\_  
Date

\_\_\_\_\_  
[INSERT FACT-FINDER NAME, TITLE]

\_\_\_\_\_  
Date