



Training Bulletin

SANTA BARBARA POLICE DEPARTMENT



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Complaints Against Employees and the Internal Affairs Process

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Though the term “officer” is used below, the same investigative steps and legal process normally apply to civilian employees. Note, this outline is not exhaustive of all the requirements. This outline is to be used as a learning tool to provide an illustrative example of some of the most common steps in the Internal Affairs Process.

Types of Complaints:

1. Informal Complaints:

Frequently handled by a Sergeant or Watch Commander

- a. Depending on circumstances, may not be documented.
- b. Depending on circumstances, may result in a verbal counseling.
- c. Depending on circumstances, may result in other disposition- (i.e. written counseling, written reprimand, suspension, or termination)

Reminders:

- It often helps to notify supervisor(s) of likely complaints to give context, so that supervisors can better explain or understand complaining parties.
- Recording of MAV and appropriately saving it under the correct case number frequently assists supervisors in resolving complaints.
- Often times, Informal complaints are a misunderstanding of the law or policy/procedure.
- We are legally mandated to accept complaints in any form (email, anonymous, over the phone, 3rd person, etc.)

2. Formal Complaints

- a. Can be turned in on a Complaint Form or taken by any supervisor
- b. Will be reviewed by a Captain
- c. Either closed or assigned for follow-up
 - i. To PSU/IA or
 - ii. To Patrol Supervisor
- d. Formal complaints receive a disposition:
 - i. Unfounded: Did not occur
 - ii. Exonerated: Occurred but act was lawful, justified and/or proper
 - iii. Not Sustained: Insufficient evidence to sustain or exonerate
 - iv. Sustained: Preponderance of evidence established a violation occurred
 - v. Frivolous / M-File
- e. Formal complaints are documented and retained for:
 - i. 2 years (administrative)

- ii. 5 years (citizen's complaint)
- iii. Some are kept longer (i.e. for litigation issues, OIS/LEARDS, etc.)
- f. All formal complaints are potentially discoverable in a Pitchess motion
- g. Notification
 - i. Officers are notified prior to being interviewed as required under the Officer Bill of Rights ("POBOR") or
 - ii. Officers are notified when a case is closed (not sustained, etc.)
- h. Interviews
 - i. Witnessing officers are admonished that they are witnesses, not the subject of discipline, and usually admonished about confidentiality parameters
 - ii. Subject officers are entitled to rights described in POBOR. They will receive POBOR paperwork, a written admonition about their ability to be interviewed, Miranda rights, and finally the Lybarger admonition.
 - 1. AB301 two page list of rights
 - 2. Admonition about ability to interview, rested and capable, also notes the expectation that competent officers are able to observe, describe or recall an event. Failure to observe and recall basic events and situations occurring around them is a demonstration of incompetence. Failure to disclose or misrepresenting material facts or the making of any false or misleading statements will be viewed as deception on interviewee's part. This is, in part, a reminder that answering "I don't remember" can be unreasonable in some cases.
 - 3. Miranda
 - 4. Lybarger
- i. Determination
 - i. A Captain will make the determination of sustained/not sustained.
 - ii. If sustained, discipline will then be imposed from options including verbal counseling, training, written reprimand, demotion, suspension, or termination
 - iii. Most discipline can be challenged in a Skelly hearing, requested 5 (written reprimand) or 10 (other discipline) days after discipline is imposed
 - iv. Following a Skelly hearing, discipline can be challenged in a Civil Service Hearing

Reminders:

- The Internal Affairs / Professional Standards Sergeant is available for any questions about procedure.
- Specific questions about the details of a case can be discussed with a selected POA Representative (uninvolved with the case) or the appropriate attorney.
- Above all, be honest during interview.
- Keep in mind that much of the formality in internal affairs cases exists because of the laws and policies designed to protect employee rights.
- The most dangerous discipline issues for officers are ethical issues, not performance issues.
- The results of some discipline (a written reprimand, notice of suspension, or other similar documents) will be retained in an employee's personnel file permanently, past when the IA investigation is purged. This includes references of the discipline mentioned in an annual evaluation, since all annual evaluations are kept permanently.
- If you have questions, ask them!