

# SDPD

ONE TEAM. ONE MISSION.

Internal Affairs Operations Manual

March 2024 Update



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## **GOALS AND OBJECTIVES**

Allegations of police misconduct, on or off-duty, can be detrimental to the public trust. The community must have confidence in the Department's ability to receive and thoroughly investigate misconduct allegations, particularly regarding the exercise of police power.

The Department recognizes that members are often subjected to intense pressures while performing their duties. Officers must remain neutral and self-controlled under circumstances 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 from such circumstances is necessary to uphold public trust and employee morale.

### **I. LONG-RANGE GOALS**

- A. Build trust in the Police Department by respecting a resident's agency and encouraging a complainant's participation in mediating conflict with Department members as an avenue of resolution to residents' complaints and chronic complainants.
- B. Thoroughly investigate allegations of employee misconduct originating from residents' complaints, internally, or other sources.
- C. Assume responsibility for recording, controlling, and reviewing all investigations of complaints against the Department, its members, and services.
- D. Assume responsibility for maintaining qualifying complaint investigation files and their review and analysis to determine trends in numbers and types of complaints.
- E. Be alert to potential problems and trends involving behavior, attitudes, or conditions that may adversely impact the Department.
- F. Retain all appropriate files in compliance with the law and the Department's retention schedule.

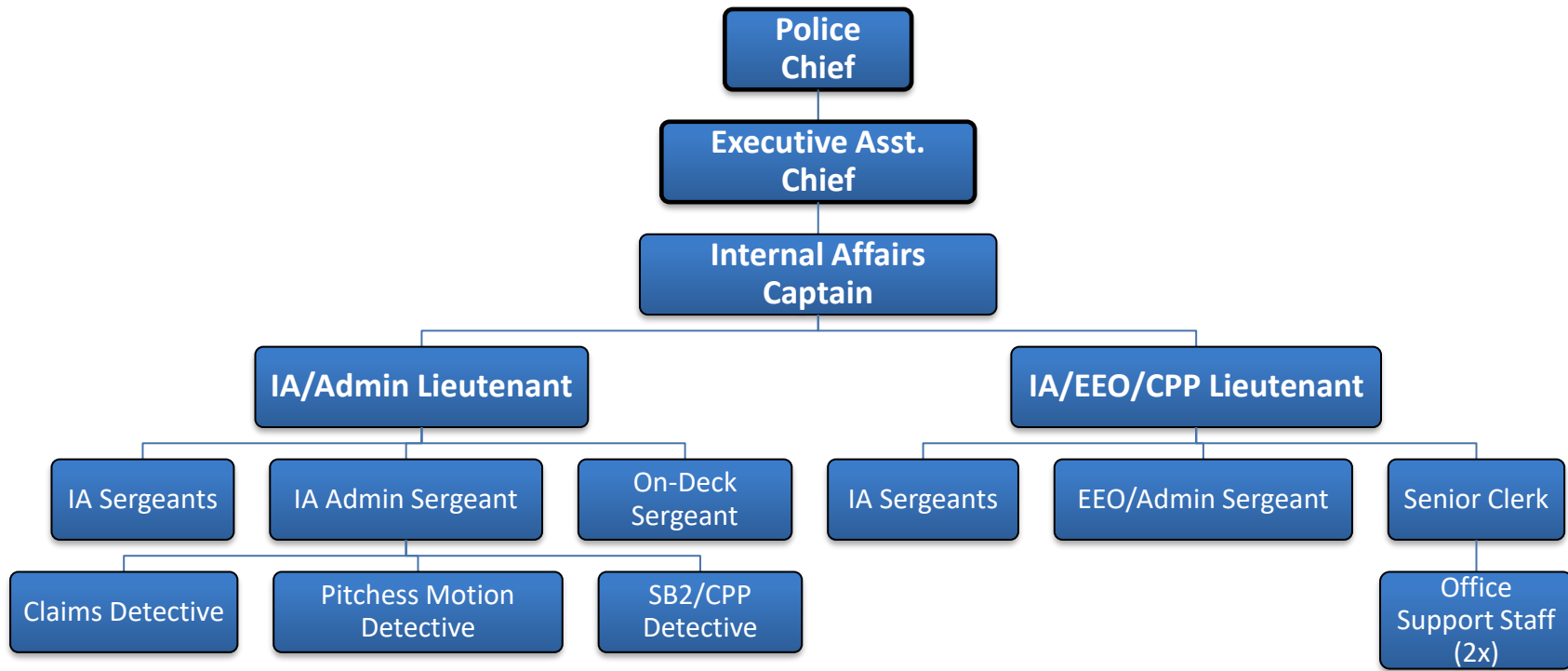
### **II. SHORT RANGE GOALS/OBJECTIVES**

- A. Report findings of Confidential Sworn Personnel Investigations conducted by the Internal Affairs unit to Subject Officers and their Commands.
- B. Review all completed residents-generated complaint investigations conducted at a Subject Officer's Command for completeness and accuracy.

- C. Establish and maintain lines of communication and proper working relationships with all Department personnel, the District Attorney's Office, the City Attorney's Office, City Claims personnel, other law enforcement agencies, and the general public, as required.
- D. Complete all investigations promptly and within the parameters of the law.
- E. Maintain a competent, well-trained staff of investigators.
- F. Keep informed of laws and/or court decisions affecting Internal Affairs records to ensure the security of files and compliance in handling personnel investigations.
- G. Keep informed of developments in the Internal Affairs field on a local, state, and federal level by attendance and/or participation in seminars, training sessions, and other related activities.
- H. Serve as liaison with other law enforcement agencies regarding the Internal Affairs process.
- I. Maintain an increased awareness of management and employee rights.
- J. Report qualifying allegations of officer misconduct and their corresponding findings to P.O.S.T. as required under SB2.
- K. Work with the Special Projects and Legislative Affairs Unit to ensure the timely release of qualifying Confidential Sworn Personnel Investigations as required under SB1421 and SB16.



# INTERNAL AFFAIRS ORGANIZATIONAL CHART



# BACKGROUND

## I. TYPES OF INVESTIGATIONS

In accordance with Department Policy 1.10 - Citizen Complaints, Officer Involved Shootings, and In Custody Deaths: Receipt, Investigation, and Routing, the Internal Affairs Unit is responsible for investigating Category I complaints, EEO complaints, criminal conduct, as well as reviewing all Officer-Involved Shootings and In-Custody Deaths.

Generally, the Subject Officer's Command will conduct Category II investigations. Internal Affairs does not typically investigate CAT-II allegations involving officers from on command, administrative or internal investigations regarding CAT-II level violations, unintentional discharges (including of bean bags or Tasers), or RDTs that were not completed in the allotted time.

The Internal Affairs Unit retains the discretion 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. Internal Affairs will investigate Category II allegations connected to Category I investigations.

Internal Investigations are initiated by the Department or another law enforcement agency as a part of their duty to monitor, identify, and address misconduct or egregious procedural violations. Misconduct is a willful and deliberate act done with a malicious, injurious, or unjust intention and is more than mere negligence, an error in judgment, or an innocent mistake. Accidental violations of Department Policy do not necessarily qualify as misconduct but may be viewed through the lens of training deficiency, poor performance, or lack of prudence.

When attempting to discern misconduct, Department members should consider the seriousness of the behavior, the persistence of the behavior, the length of time over which the behavior occurred, the willfulness of the behavior, and the impact of the behavior upon the Department.

Internal Affairs will be responsible for conducting Internal Investigations involving misconduct, criminal conduct, and corruption allegations. Internal Investigations that begin as Internal Investigations will continue to be deemed Internal Investigations regardless of whether a complaint is lodged during the active investigation. If a resident contacts the Department to make a complaint on an open Internal Investigation, the resident will be evaluated for evidentiary value as a possible witness to the precipitating incident. Witnesses are not entitled to a Finding Letter or to know the outcome of the investigation. However, a civilian witness may receive an initial courtesy letter stating that their concern was heard and is a part of an ongoing Internal Investigation.

Specific Internal Investigations originating at the Command (missed court, tardiness, minor procedural violations which are not misconduct) will be investigated by the Subject Officer's Command and retained in compliance with parameters established in the Police Officer's current

Memorandum of Understanding. However, Internal Affairs will be available to assist and guide the Command in the investigation if necessary.

## **II. CENTRAL COMPLAINT INDEX**

Internal Affairs maintains a comprehensive central index of all residents' complaints against sworn personnel received by the Department.

In accordance with 832.5 PC and the Conformance Chart for the Police Department, Internal Affairs will maintain most investigative files within the central index for a period of 5 five years. In 2018, Senate Bill 16 created an exception to the year retention obligation, mandating a 15-year retention period for investigations containing the following SUSTAINED allegations:

- Unreasonable and excessive force (including discharging a firearm at a person).
- Failing to intervene against another officer using unreasonable and excessive force
- Conduct involving prejudice or discrimination based on a person's protected class
- Unlawful arrest and unlawful search
- Sexual assault
- Dishonesty

In addition to investigative files, Internal Affairs will retain records relating to Claims and Summons for five years. Pitchess motions will be kept for a period of two years.

Internal Affairs will not generally keep records of non-sworn personnel. Any confidential fact-finding investigation without substantiated findings will be purged from the Internal Affairs complaint index in accordance with current MEA MOUs. Any confidential fact-finding investigation with substantiated findings will only be maintained until the employee has served their discipline, at which point the Internal Affairs record must be purged.

## **III. CONFIDENTIALITY**

Internal Affairs Lieutenants will ensure all Internal Affairs Detective Sergeants shall complete a Confidentiality Form. Any other Department member or City entity requiring access to the complaint index (or other facets of Internal Affairs) shall complete the Confidentiality Form. Internal Affairs shall retain hard copies of the Confidentiality Forms for at least two years, and a corresponding electronic copy shall be retained until the Department member is no longer employed.

# RESPONSIBILITIES

## I. RESPONSIBILITIES OF INTERNAL AFFAIRS CAPTAIN

The Internal Affairs Captain is responsible for the overall operation and oversight of the Internal Affairs Unit and the Professional Standards Unit.

## II. RESPONSIBILITIES OF INTERNAL AFFAIRS LIEUTENANT(S)

- A. Internal Affairs Lt.(s) are collectively responsible for the daily operation of the unit and general supervision of all assigned personnel. The Lt.(s) will have the overall responsibility for case investigations.
- B. Besides supervising a group of Detective Sergeants, other IA Lt.(s) responsibilities include serving as liaison to the Commission on Police Practices, designating the IA Administrative Detective Sgt., overseeing the EEO office, and designating an Administrative EEO Detective Sgt. These responsibilities will be shared as agreed upon by the unit Lieutenants and are subject to change.
- C. The Lt.(s) will be "On-Call" and responsible for call-out type incidents once notified by the Watch Commander. The "On-Call" period lasts two weeks and begins every Tuesday at 0700 hours. The "On-Call" Lieutenant is responsible for contacting the "On-Call" Sgt.(s) and dispatching them as needed.
- D. The Lt.(s) will review City Claims filed against the SDPD and assign them for investigation when necessary.
- E. The Lieutenant(s) will review and assign incoming complaints, officer-involved shootings, in-custody deaths, and Internal Investigations.
  - 1. Category I complaints will be assigned to Detective Sergeants on a rotational basis while respecting anticipated absences (training, school, vacations, etc.).
  - 2. Category II complaints will be assigned to appropriate unit(s) or Area Command(s) for investigation. Occasionally, Category II complaints will be investigated by personnel within the Internal Affairs Unit.
  - 3. Informal and miscellaneous investigations will be reviewed and potentially assigned to Area Commands or Internal Affairs for follow-up.
- F. The Lt.(s) will determine the direction, scope, and how to proceed administratively with an investigation after conferring with the IA Capt. and/or Executive Assistant Chief.

G. Lieutenants will:

1. Ensure proper lines of communication with Department administrators, other units, and agencies.
2. Coordinate investigative responsibilities when necessary, including conducting investigations and interviews when appropriate.
3. Review and approve all completed investigations.
4. Review and approve Category I conclusion letters to complainants.
5. Establish an ongoing list of potential "On-Deck" Sergeants.
6. Review completed audits of any investigations with sustained findings that may result in a notification to the District Attorney's Office of Potential Brady List Violations.
7. Ensure compliance with SB2 reporting mandates.

NOTE: Lieutenant duties may be delegated to the IA Sergeants when staffing dictates.

### III. INTERNAL AFFAIRS ADMINISTRATIVE SERGEANT RESPONSIBILITIES

1. Administrate Blue Team, IAPro, and related databases.
2. Track IA statistics.
3. Conduct officer/non-sworn employee background checks concerning pending transfers and promotions in accordance with the appropriate MOU.
4. Maintain, update, audit, and purge the IAPRO database as necessary.
  - The IA Admin. Sgt. will use City Form CC-09 to document any file purge.
  - Purging requires approval from the City Attorney's Office to ensure no pending or active civil litigation.
  - Purging requires the approval of the IA Capt.
  - Upon completion, the CC-09 Form and a list of files purged shall be delivered to the Records Division for retention.
5. Update the Internal Affairs Operations Manual and related Department Policies as needed.
6. Coordinate the assignment of Command Liaisons, unit designators, and on-call vehicles to IA personnel.

7. Endeavor to report all citizen complaints to the Commission on Police Practices (CPP) within five calendar days of their receipt by the Internal Affairs Unit
8. Act as the point of contact for Medical Assistance for Random Drug Tests (which includes maintaining RDT files).
9. Supervise IA Detectives. This includes overall responsibility for the Pitchess Motion process, the Commission on Police Practices, summons and subpoenas, and all claims against the City involving Department personnel.
10. Oversee the maintenance and distribution of the "On-Call" and "Duty Sgt." schedules.
11. Point of contact for P.O.S.T. and responsible for overseeing SB2 entries. All new qualifying SB2 entries shall be uploaded to the P.O.S.T. database within ten calendar days.
12. Point of Contact to coordinate any assistance with the Chief's Office as directed by the IA Lieutenants.
13. Work with the EEO Administrative Sergeant up to and including conducting EEO investigations.

#### **IV. RESPONSIBILITIES FOR THE EEO ADMINISTRATIVE SERGEANT**

1. Serve as the Head EEO Investigative Sgt.
2. Maintain all EEO logs, files, and documents for all EEO complaints.
3. Assist the IA Administrative Sgt. in maintaining the Central Index.
4. Track EEO statistics.
5. Supervise or coordinate the supervision of all civilian Internal Affairs staff.
6. Assist the IA Administrative Sergeant with SB2-related duties.
7. Maintain and coordinate Internal Affairs and EEO training requests.

#### **V. RESPONSIBILITIES OF INTERNAL AFFAIRS SERGEANTS**

A. All Internal Affairs Sergeants will:

1. Use recognized and accepted investigative, interview, and interrogative techniques.



2. Conduct objective, timely, and professional investigations within 90 days. Sergeants will be responsible for notifying their Lt. if a case cannot be completed in a timely manner.
  3. Inform their Lieutenant of all significant developments during the investigation.
  4. Submit complete and accurate investigative reports.
  5. Ensure Category I, II, and Informal conclusion letters are sent to complainants.
  6. Accept incoming complaints and input them into Blue Team.
  7. Answer inquiries about the complaint process from citizens and members of the Department.
  8. Serve as a liaison to designated commands. IA Sergeants will provide training, guidance, expertise, and technical advice. They will track their liaison command investigations to ensure timely completion. They will review completed Category II investigations from the command before final approval by the IA Lt.
  9. Be placed "on-call" on a rotational basis.
  10. Assist the Administrative Sgt. and clerical staff with preparing investigative packets and requests for records from both SDPD personnel and outside agencies.
  11. Serve as the "Duty Sgt." on a rotational basis.
- B. In addition to the above, Detective Sgt.(s) may be designated the Safety Liaison Officer(s) (SLO). Responsibilities include, but are not limited to:
1. Promoting safety awareness and enforcing Federal, State, and City Safety Regulations.
  2. Taking immediate action to eliminate unsafe conditions, practices, and acts.
  3. Cooperating with Federal, State, and Local Safety Inspectors when conducting Internal Affairs office inspections and reporting all findings and discrepancies to their Safety Focus Team Representative.

## VI. RESPONSIBILITIES OF INTERNAL AFFAIRS DETECTIVES

A. Optimally, there are three (3) Detectives assigned to IA. Although each Detective has individual responsibilities, each Detective will be cross trained to assist the others as needed or directed by their supervisor.

1. The Claims Detective is responsible for processing claims filed against the City and civil litigation against officers involved in on-duty incidents. The Claims Detective will notify their Lieutenant of claims that contain potential Category-I violations.
2. The SB2/ CPP Liaison Detective will assist the IA Admin Sergeant in uploading required updates and documents for SB2-related allegations. This may include Confidential Sworn Personnel investigations, documents produced by the CPP, civil judgments rendered against an officer or the Department on the officer's behalf, or criminal judgments against officers for duty-related incidents.

The SB2/ CPP Liaison Detective will assist with matters relating to the Commission on Police Practices and assist IA Sergeants with notifying officers of their findings at the conclusion of the investigation.

3. The Pitchess Motion Detective handles Brady Alert disclosures and Pitchess Motions in criminal litigations and responds to discovery from the Civil Division of the City Attorney's Office.

B. Detectives may serve in a support capacity to the Unit. Examples include, but are not limited to:

1. Assist with research pertaining to active or pending investigations, including background work on complainants or suspects.
2. Assist with obtaining necessary reports from area stations, the Records Division, and other agencies concerning active investigations.
3. Facilitate providing IA reports and audio recordings to authorized officers, supervisors, attorneys, and outside agency requests.
4. Assist the Administrative Sgt. with conducting officer/non-sworn employee background checks concerning pending transfers and promotions.

## VII. OFFICE SUPPORT SPECIALISTS (OSS)

Internal Affairs requires one Senior Clerk and one OSS to function efficiently. The EEO Admin Sergeant is responsible for coordinating and supervising all civilian staff. The EEO Admin Sgt. will ensure the below-listed responsibilities are assigned equitably. The EEO Admin Sgt. may augment or reassign tasks and responsibilities depending on the needs of the Command.

- A. Greets and assists walk-ins, whether it be the public, Department personnel, or visitors from outside agencies.
- B. Maintains the communal areas (kitchen, lunchroom)
- C. Compiles and maintains daily unit statistical information and unit statistical reports on a weekly, monthly, quarterly, and annual basis.
- D. Processes payroll in a timely and accurate manner
- E. Maintains security and confidentiality of information.
- F. Maintains and updates information on the bulletin board and callback roster.
- G. Maintains office equipment and reports copier reading to City Print Shop monthly.
- H. Maintains "Officer Forms" file. (Order Department forms or make copies of unit forms.)
- I. Answers telephone promptly. Handles complaints or refers unresolved complaints to appropriate personnel.
- J. Orders/maintains an adequate and organized inventory of supplies.
- K. Maintains and updates the PD Roster database for IA. This database is used for the alpha roster, shift change roster, overtime report, payroll, driver's license, badge, gun inspections, etc.
- L. Pick up and distribute mail/miscellaneous materials for IA as required.
- M. Processes and distributes subpoenas in a timely manner and returns served subpoenas to the subpoena clerk in the Records Division.
- N. Assists Lieutenants, Detective Sergeants, and Detectives with clerical tasks as needed.
- O. Maintains the Internal Affairs' e-mail account.
- P. Maintains the Internal Affairs office phone line.

## VIII. RESPONSIBILITIES OF "ON-DECK" POSITION

A Sergeant from another command may be assigned to IA in an "on-deck" capacity. The purpose of the "on-deck" position is to provide exposure to Sergeants in the proper handling of Confidential Sworn Personnel investigations and to afford IA Lieutenant(s) an opportunity to review potential investigators for the unit. The IA Lieutenant(s) should consider Sergeants who have expressed a desire to work in IA for the position. However, working the "on-deck" position does not guarantee an assignment to IA when openings occur.

The "On-Deck" Sergeant will have the same responsibilities as an Internal Affairs Detective Sergeant. Any limitations to the "On-Deck" Sergeant will be at the discretion of the Internal Affairs Lieutenants. Generally, for example, "On-Deck" Sergeants are not responsible for filling "On-Call" functions,

## IX. RESPONSIBILITIES OF THE OFFICE DUTY SERGEANT

- A. Receive and evaluate complaints from citizens via phone, email, or in person between 0700 hours and 1700 hours. Sergeants have the discretion to meet with complainants in person.
- B. Document complaints in Blue Team. The Duty Sergeant may upload additional information as time permits. Information may include:
  - 1. All related reports from NetRMS
  - 2. Copies of citations, Field Interviews, and Incident Histories
  - 3. Criminal History for complainant(s) and witnesses
  - 4. A DMV printout for complainant(s) and witnesses
  - 5. A DMV or booking photograph of the complainant(s) and witnesses
  - 6. Officer's Daily Journal
  - 7. Recordings of the complainant's statement
  - 8. Body Worn Camera videos
  - 9. Photographs of complainant, injuries, damage to property, or anything that might change.
  - 10. Jail intake records
  - 11. AVL requests
  - 12. Complaint Advisory forms
- C. Assume OSS duties in the absence of clerical staff (lunch, vacation, sick, etc.).
- D. Answer questions from other units if their liaison Sergeant is not available.
- E. If leaving the office for the field, ensure another Sergeant assumes "Duty Sergeant" responsibilities during their absence.
- F. Assume all duties concerning office security prior to leaving the office.

- G. Respond to any callouts during regular business hours.
- H. Assist the Admin Sergeant with conducting officer/non-sworn employee background checks concerning pending transfers and promotions.
- I. Assist in vetting ambiguous complaints that come to Internal Affairs via the Commission on Police Practices or other sources.

## **X. RESPONSIBILITIES OF ON-CALL SERGEANT**

- A. The on-call Sergeant will have all paperwork and equipment necessary for a call-out.”
- B. The on-call Sergeant will respond within one hour of notification to any callouts outside of regular business hours.
- C. On-call Sergeants should arrange coverage of their duties should they become unavailable.
- D. On-call Sergeants must advise the on-call Lieutenant of all modifications to the on-call schedule.

## **XI. RESPONSIBILITIES OF OUTGOING INTERNAL AFFAIRS SERGEANTS**

Internal Affairs regularly transitions between Detective Sergeants. During such transitions, ensuring the successful shift of investigations from the outgoing Detective Sergeant to other IA Sergeants is essential. In order to process an IA Sergeant out from the unit, Internal Affairs Lieutenants must ensure the following:

- A. The outgoing Sergeant must provide an up-to-date list of active cases assigned to them to the Administrative Sergeant. The Internal Affairs Lieutenant will reassign all active cases.
- B. The outgoing Sergeant must provide an up-to-date list of any active investigation(s) outside of Internal Affairs for which they are the Liaison Detective Sergeant.
- C. The outgoing Sergeant will be available to brief the Internal Affairs Detective Sergeant assuming responsibility for the outgoing Sergeant’s caseload.
- D. If the Sergeant will be completing any Internal Affairs investigations after the date of transfer, the Sergeant must provide an estimated completion time for each case.
  - a. The Sergeant will provide regular updates regarding the status of their investigation until its completion.

- b. The Internal Affairs Lieutenant has the discretion to allow the outgoing Sergeant continued access to the Internal Affairs "G" drive until the completion of the investigations.
- c. The Internal Affairs Lieutenant has the discretion to afford the outgoing Sergeant access to IAPRO until the completion of the investigations.
  - i. IAPRO access shall not occur outside of the Internal Affairs Office and shall only occur during regular office hours. The outgoing Sergeant should not be allowed unmonitored access to the Internal Affairs office after the effective date of transfer out of the unit.
- E. The Internal Affairs Lieutenant will review the outgoing Sergeant's divisional file to verify it is up to date. The outgoing Sergeant may be granted access to their divisional file upon request.
- F. Clerical Staff will ensure all outgoing transfer paperwork is completed in a timely manner.
- G. Clerical Staff will ensure the outgoing Sergeant's key card access to the Internal Affairs office is revoked on the effective date of the Sergeant's transfer out of the unit.
- H. Unless directed otherwise by an IA Lieutenant, clerical staff, and the Administrative Sergeant will ensure the outgoing Sergeant's access to the Internal Affairs "G" drive is terminated and the IAPRO account is suspended.



# PROCEDURES

## CASE INVESTIGATION PROCEDURES

All allegations of employee misconduct or criticism of its services initiated by a citizen or Department member shall be vetted for investigation and prompt adjudication. This includes anonymous and/or third-party complaints.

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

Occasionally, malicious and false reports and allegations are made against Department members or the Department in general. Even the most conscientious and hard-working employee may be the subject of such frivolous allegations. Yet, to ensure the integrity of the Police Department, it is necessary to investigate all allegations made against officers from all possible sources. These investigations also protect the reputations of officers should the investigation prove the allegations unfounded, exonerated, or unmerited.

### I. COMPLAINT RECEPTION

- A. Since 1964, state law requires each law enforcement agency to have a method of accepting citizen complaints and retaining corresponding investigations (832.5 PC).
- B. In accordance with Department Procedure 1.10, any citizen complaint, regardless of category, may be lodged at any City facility, with any member of the Department, online, and/or with the Commission on Police Practices. Complaints may be received in writing (letter, fax, email, etc.), in person, or by telephone. All complainants shall sign the Complaint Advisory form in accordance with 148. (a) of the California Penal Code (see Department Training Bulletin 22-14).
- C. IA investigators will provide investigation participants with a contact telephone number and encourage them to call with questions or requests for information.
- D. The Professional Standards Unit (P.S.U.) will evaluate all allegations of criminal conduct against Department members for investigation. Department members who make allegations of criminal conduct may be referred directly to the P.S.U. or IA Lieutenants, IA Captain, or the Executive Assistant Chief.
- E. Incidents occurring in other jurisdictions will be investigated criminally by the outside agency. Requests by the outside agency for assistance will be at the discretion of the Internal Affairs Captain or their designee.

## II. INVESTIGATION GUIDELINES (FORMAT)

1. Investigations follow the IRAC Method and utilize the following headings:

- Complainant Information
- Subject Officer(s) Information
- Witness Officer(s) Information
- Civilian Witness Information
- Others Contacted
- Summary
- Allegations
- Investigation
- Interviews: Citizen Witness(es), Witness Officer(s), Subject Officer(s)
- Conclusions
- Documentation

2. The Administrative investigations must list the Department rule(s) or regulation(s) associated with an allegation in the conclusion.
3. Internal Affairs does not recommend or administer discipline.

## III. AUDIO RECORDINGS

- A. All Internal Affairs investigative interviews should be audio recorded and uploaded to IAPro. Only MEA members may decline to be audio recorded pursuant to their M.O.U.
- B. The employee or their representative may audio-record the Subject Officer interview.
- C. Recorded Subject Officer interviews in case files with significant, sustained findings may be transcribed to ensure accuracy and context with an IA Lt.'s approval.

## IV. OFFICER NOTIFICATION

- A. Commanding Officers will receive a memorandum from the IA Capt. providing specific details concerning the complaint.
- B. The command will be responsible for advising the employee of the complaint, having the subject(s) sign the admonishment form(s) enclosed with the memorandum from IA, and returning the original admonishment form(s) to the IA Sgt. assigned to the case. (The officer(s) involved may make a copy of the signed admonishment form.)
- C. The Investigating Sgt. will contact the Subject Officer to schedule an interview. The Subject Officer will be advised that they have a right to employee representation. The interview will be

scheduled no sooner than three full working days from the date of notification unless it is waived by the subject officer (per the POA MOU). MEA-represented employees will be scheduled no sooner than five working days from the date of notification. During "Call-out" situations, however, if representation is requested, it will be immediately arranged.

## **V. REPRESENTATION**

- A. The M.O.U for each employee group affirms that an employee who is the subject of an investigation may request representation. There may be no more than one City employee and one non-City employee representing an employee at any investigative meeting that may result in disciplinary action.
- B. An employee will not select an Employee Representative subject and/or witness to the same investigation or Fact-Finding.
- C. A non-supervisory employee may not select a supervisory employee in their direct chain of command as their Employee Representative.
- D. Otherwise, all sworn personnel may select an employee representative or an attorney.

## **VI. OFFICER INTERVIEWS AND ACCESS TO BWC**

Unless otherwise approved by Internal Affairs, a subject officer or witness officer shall not view other officers' surveillance videos or Body Worn Camera (BWC) videos.

## **VII. INTERVIEWS OF SUPERVISORS AS "SUBJECT EMPLOYEES"**

- A. Whenever a supervisor is being interviewed as a subject employee, an Internal Affairs supervisor of equal or greater rank should participate in the interview and read the Administrative Admonishment. An IA Lt. will approve any exceptions.
- B. When a civilian supervisor is to be interviewed as a subject employee, a Lieutenant or supervisor of greater rank will generally read the Administrative Admonishment. An IA Lt. will approve any exceptions.
- C. If a subject employee was in an acting capacity (i.e., Acting Sgt.) at the time of the incident or time of the interview, both A and B above will apply.

## **VIII. USE OF THE POLYGRAPH**

- A. Government Code Section 3307 and Article 41 of the Memorandum of Understanding states that officers cannot be compelled or required to submit to a polygraph examination. In cases where the integrity of the Department is questioned or where there is

direct conflict between officer and witness statements, a polygraph examination may be offered to officers with prior approval from the Executive Assistant Chief.

- B. A polygraph will not usually be offered to an officer unless the complainant has taken a polygraph examination.
- C. Internal Affairs will not maintain a record of an officer refusing to submit to a polygraph examination. The polygraph protocol includes:
  - 1. The interview will be concluded as indicated on the audio recording.
  - 2. The officer will be asked to submit to a polygraph examination only after the recorded interview is concluded. The response to the request will not be audio-recorded.
  - 3. The results of a polygraph examination administered to an officer who elects to take an examination may be reflected in the investigator's report.
- D. Civilian employees may not be ordered to take a polygraph examination.

## **IX. USE OF EXPERTS**

- A. Investigators may find it necessary to seek advice from experts within the Department (CORE Instructors, etc.). The names and titles of all experts utilized will be included in the completed investigation.
- B. Any written reports produced by experts will be uploaded into IAPro as a permanent addition to the case file.

## **X. INFORMATION SECURITY**

- A. Criminal and administrative cases will not be discussed with anyone, sworn or civilian, outside of the IA unit without prior approval of the Executive Assistant Chief.
- B. All requests to review an IA file will be submitted using the "Internal Affairs Unit File Review Request" form prior to providing the file for viewing. The Request Form must be approved by an IA Lt. or Capt. before releasing information.
- C. No reports, recordings, photographs, or evidence will be copied or given to any persons or agencies without the prior written approval of an IA Lt. or Capt.
- D. Investigators, other than those assigned to IA, who assist in an investigation will be admonished regarding the investigation's integrity and confidentiality of official reports and materials. They will complete and sign a non-disclosure form.

- E. Officers involved in Confidential Sworn Personnel investigations will be admonished not to discuss the case with others except their legal representative.

## **XI. CRIMINAL INVESTIGATIONS**

- A. Incidents within the City of San Diego involving Department members as the alleged suspect, whether arrested or not, will be assigned to the Professional Standards Unit. P.S.U. will evaluate all allegations of criminal conduct, except for drunken driving and drunk in public offenses. Incidents occurring in other jurisdictions will be investigated criminally by the outside agency. If requested by the outside agency, the IA Capt. or their designee will determine whether P.S.U. or IA will assist the external agency.

## **XII. ADMINISTRATIVE INVESTIGATIONS**

- A. When a complaint is investigated administratively, the following will apply:
  - 1. Based on case law, Reserve Officers are not covered under the "Public Safety Officers Procedural Bill of Rights." Therefore, they have no right to representation. However, if a Reserve Officer requests or brings a representative to the interview, they will be allowed to attend the interview. It is recommended that the M.O.U. for Police Officers be used as a guideline, particularly Article 37.
  - 2. V.I.P.'s and R.S.V.P.'s are volunteers and are not covered by any M.O.U.
- B. The rules of the employee's respective M.O.U. for administrative interviews will be followed.
- C. IA investigators will use the following procedures for subject interviews:
  - 1. Speak directly to the officer/employee and not through their representative.
  - 2. Read the appropriate "Administrative Admonishment" to the officer/employee and order them to answer the questions. If an officer/employee refuses to answer, the investigator will not accept a response from an attorney or representative. Attorneys or representatives will not be allowed to guide or interrupt the interview or cross-examine the investigator. They may ask questions for clarification purposes.
  - 3. A Sergeant who has served an Administrative Admonishment on a subject officer/employee will not act as the investigating Sgt. in any subsequent criminal investigation.
  - 4. When the investigation is completed, the IA Lt. may submit the report to the Executive Assistant Chief through the IA Capt.
  - 5. A copy of the entire administrative investigation will be forwarded to the appropriate command upon the conclusion of the review process.

### **XIII. INTERNAL INVESTIGATIONS**

- A. An Internal Investigation occurs when a member of the Department or another law enforcement agency reports a possible violation of the law or Department Policy in accordance with their obligation to monitor, identify, and address certain officer behaviors.
- B. Investigation, which begins as an Internal Investigation, will remain as an Internal Investigation. If a citizen contacts the Department to make a complaint on an open Internal Investigation, they will be evaluated as witnesses in the investigation and assessed for evidentiary value. Within this framework, witnesses in Internal Investigations are not entitled to a Finding Letter or to know the outcome of the investigation. However, a civilian witness in an Internal Investigation may receive, as a courtesy, a letter stating that their concern has been documented as a part of an ongoing Internal Investigation. Civilian witnesses may be referred to the Requested Information Unit or the Department's "NextRequest" portal to petition for a copy of the completed Internal Investigation.
- C. All Internal Investigations conducted by IA must be approved via the IA Chain of Command before proceeding.
- D. Internal Affairs will conduct an Internal Investigation for every Random Drug Test (RDT) with "Positive" results. However, in accordance with Department Orders and the current MOU, Department employees who do not complete all necessary steps required for an RDT in the time allotted may be subject to discipline for an "unjustifiable failure to test." Generally, these investigations will be conducted at the subject officer's area command.

### **XIV. ANONYMOUS AND THIRD-PARTY COMPLAINTS**

- A. Anonymous and/or third-party complaints, from whatever source, are given the same consideration as any other complaint.

### **XV. CITIZEN COMPLAINT**

All Citizen Complaints should have a corresponding Blue Team entry. The entry will be shared with the Commission on Police Practices within five calendar days.

Per California Penal Code 148.6(a), citizens should read and sign the complaint advisory prior to submitting their complaints. Supervisors should attempt to obtain the signed advisory form and upload it to the Blue Team entry.

### **XVI. COMPLAINANT UNAVAILABLE OR RELUCTANT**

If a complainant is reluctant to cooperate or difficult to locate, IA Sergeants should make repeated attempts to conduct a thorough interview of the complainant throughout the



investigation. The desired outcome is to obtain voluntary participation in the investigative process from a complainant who is hesitant to be involved. Therefore, investigating supervisors shall consider and engage in all reasonable measures to contact and/or interview complainants.

If the investigator is unable to obtain the complainant's cooperation, they shall proceed with the investigation without the complainant's statement. However, if a complainant refuses to sign the Complaint Advisory form, the investigating supervisor may consider the impact on the complainant's credibility as a part of the investigation.

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 lacks clarity and essential facts to investigate, it will be filed in the Internal Affairs database and categorized as "Miscellaneous," pending additional information.

## **XVII. MISCELLANEOUS FILES**

IA does not investigate complaints when they are not against a specific member of the department. IA does not investigate complaints against a Department-wide protocol or policy. Based on current case law, Internal Affairs will not conduct exhaustive investigations into complaints against officers that are, prima facie, unfounded, frivolous, and objectively without merit from a reasonable investigator's perspective.

The Code of Civil Procedure section 128.5, subdivision (b)(2) defines "frivolous" as totally and completely without merit or for the sole purpose of harassing an opposing party. California cases discussing frivolous appeals provide a starting point for the development of a definition of frivolous. Those cases apply standards that fall into two general categories: (1) The objective standard looks at the merits of the appeal from a reasonable person's perspective, and (2) The subjective standard looks to the motives of the appellant and his or her counsel, in *re Marriage of Flaherty* (1982) 31 Cal. 3d 637, 649. The two standards are often used together to determine whether an appeal is frivolous.

In the context of IA investigations of citizen complaints, the first part of section 128.5(b)(2), "totally and completely without merit" would apply to determine whether a complaint is frivolous (cross reference *Chitsazzadeh v. Kramer & Kaslow* (2011) 199 Cal. App. 4th 676, 683-684., Under *Moore v. Shaw, supra*, 116 Cal. App.4th at p. 199, California Code, Code of Civil Procedure Section 425.16).

- A. Detective Sergeants are to conduct a "Prima-Facie" review of each complaint for merit. Suppose the evidence is sufficient to raise a presumption of fact or establish that the complaint is unfounded, exonerated, or frivolous. In effect, the preliminary investigation is enough to establish, from a reasonable investigator's standard, that the event did not occur, was proper or was without merit. This initial review may include:

1. BWC
  2. Officer Reports
  3. Other documentation
  4. Photographs
  5. Audio recordings
  6. CAD information
- B. The preliminary investigation ceases to be “prima facie” at the point of interviews (witnesses or otherwise).
- C. If the complaint is deemed miscellaneous, Detective Sergeants will create a memorandum detailing their preliminary investigation and clearly articulating the precise reasons for their conclusions.
- D. The memorandum will be submitted to an IA Lt. for approval.
- E. If, during the preliminary screening of a complaint, a Detective Sgt. discovers misconduct as defined by Department Policy 9.33 or a significant violation that would likely result in formal discipline (per the Discipline Matrix), a formal investigation should be initiated. In such instances, the Detective Sgt. should communicate the violation to an Internal Affairs Lt. to determine the proper investigative course of action.
- F. Miscellaneous files will be retained under the complainant’s name for a period of five years and then purged in accordance with standard procedures. Officer’s names or identifying informal shall not be connected to the complaint per 832.5(c) P.C.

## **XVIII. WITHDRAWN CASES**

Whether a complaint originates as an informal, Category II, or Category I, if the case is withdrawn before it is completed, a memorandum will be prepared. All documents should be attached to the IA database. The officer(s) should not be linked to the complaint. The case will be closed out in Internal Affairs as a miscellaneous case file with a withdrawn finding.

## **XIX. AUDIO RECORDING**

Under California law, generally, all parties to a private conversation must consent to have the communication recorded, and PC 632 makes it a crime to record without consent. However, PC 633 is an exception for law enforcement, and PC 632 does not apply to officers. Officers acting in the scope of their official duties may record citizen contacts, even without consent. Internal Affairs generally only audio records people with their documented permission. Recorded communication is the preferred method to preserve statements.

## **XX. CLEARING PERSONNEL FOR TRANSFERS AND PROMOTIONS**

All requests for clearance of Department personnel for transfer or promotion should be routed to Internal Affairs. The Administrative Sgt., or, in their absence, the Duty Sgt., shall complete the request for clearance. Open cases in IA will be noted. Sustained findings that are less than two years old will be noted. Sustained findings older than two years will only be included if they reveal a pattern of misconduct. If there are open cases, review the case and discuss the case with an IA Lt.. The IA Lt. will brief the IA Capt. and Executive Assistant Chief.

## **XXI. FOR CAUSE TESTING**

In accordance with City of San Diego Administrative Regulation 97.00, effective August 9, 2019, all city employees are subject to substance-related Cause Testing under certain conditions. The purpose of the regulation is to eliminate substance abuse and its effect on the workplace.

If a subject officer's command determines reasonable suspicion exists to believe the employee was under the influence of any controlled, other illegal substance or some substance that has an effect on their work performance, then the officer's command may request the assistance of the Internal Affairs Unit. This request may come at any step in the testing procedure.

Internal Affairs has the discretion to either assume responsibility for the investigation or provide guidance to the Command about the process. For Cause Testing procedures are outlined in the Medical Assistance Operation's Manual (revised 2019). Refer to City of San Diego Administrative Regulation 97.00 for further details. Information, forms, sample memorandums, and other reference materials will be stored on the Internal Affairs G: Drive.

# CASE WORKFLOW

## I. CAT-I:

- A. The IA Lt.(s) reviews incoming Blue Team entries and releases them into IAPRO, setting their security level to "3." The IA Lt. routes cases to the IA Admin Sgt., identifying likely allegations and instructing case assignment.
- B. The IA Admin Sgt. assigns an IA Tracking Number. They will verify data fields for cases, make required notifications (CPP, POST, etc.), and route the case as instructed.
- C. The investigative Sgt. receives the investigation:
  - The investigator reviews it to identify/confirm the subject officer(s) and allegation(s).
  - The investigator will attempt to ensure the Complaint Advisory form is completed and signed by the complainant in accordance with 148.6(a) PC.
  - The investigator shall notify the IA Admin Sgt. of any qualifying SB2 allegation.
  - The investigator, or their designee, shall ensure the initial complaint letter is sent to the complainant within ten days of the complainant's receipt as required.
- D. The Investigative Sgt., or their designee, will complete all Command Notification and Officer Notification memos and route them to the IA Lt..
  - The Lieutenant will give the signed Command and Officer Notification Memos to the IA Captain. The IA Capt. will forward to the Capt. of the subject officer's Command.
  - Upon return of the signed Memo, Sergeants will scan and add the memo to IAPRO.
- E. The IA Sergeants will enter all relevant parties (subjects, civilian witnesses, officer witnesses) into IAPRO. Sergeants will enter the officer role for each involved party.
- F. During the investigation, Sergeants will upload reports/documents and all materials used for the investigation into IAPRO.
- G. When the investigation is complete (generally within 90 days), the Sergeants will provide it to their respective IA Lt. for review. The Sgt. will enter the case as "Suspended" in IAPRO and select "Waiting for LT Approval."
- H. After the Lt.'s approval, if the case needs to be submitted for legal review, Sergeants will enter the case as "Suspended" and select the reason for the suspension as "Legal Review" in the comment box.
- I. When the investigation is given final approval, the Investigative Sgt. will scan the **SIGNED** investigation and upload it into IAPRO.

- J. Sergeants will ensure the finding status on all violations is updated. The date of the finding should match the approval date of the signed, completed investigation.
- K. After the Sergeant ensures all documents are contained in the case file (audio interviews, BWC, videos, photos, etc.), they will submit the original, signed investigation to the IA Admin Sgt..
- L. The Admin Sgt. will complete a quality control check and assign the case the appropriate disposition, effectively "closing" the case for IA's purposes.
- M. The Admin Sgt. forwards the case materials to the SB2/ CPP Liaison Detective, who is ultimately responsible for sending the final courtesy and/or finding letters.
- N. The SB2/ CPP Liaison Detective will submit the completed investigation to the CPP.
- O. After the CPP completes their review, the SB2/ CPP Detective will complete a Finding Notification Memorandum to the Subject(s) Officer(s).
  - The IA Detective forwards the completed Finding Notification Memorandum and a copy of the investigation (including audio interviews) to the IA Capt., which will be delivered to the Executive Assistant Chief.
  - Once the Executive Assistant Chief approves the Finding Notification Memorandum, the package will be given to the subject(s) Command.
  - The SB2/ CPP Detective ensures the Finding Notification Memorandum is returned with the appropriate signatures. If it is not returned in 30 days, the Admin Sgt. will contact the subject's Commanding Officer for follow-up.
- P. The SB2/ CPP Detective alerts the OSS to create a finding letter to the complainant.
- Q. The OSS updates and prints the Conclusion Letters, obtains the IA Lt.'s signature, attaches the letter to the case file, and mails the Conclusion Letter to the complainant within 30 days of the investigation's disposition per 832.7(e)(1)(e) PC.
- R. When the signed Finding Notification Memorandum is returned, it must be time-stamped and given to the SB2/ CPP Detective, who scans and attaches it to IAPRO.
- S. For investigations with sustained findings, the Subject(s) Officer's command will complete a Discipline Memorandum for the CPP within ten days of receiving the Finding notification.
  - The Commanding Officer for the officer will review and approve the memorandum before forwarding the memo to the Executive Asst. Chief of Police.
  - The Executive Asst. Chief of Police reviews and approves the Discipline Memo.
  - The memorandum will be forwarded to the Internal Affairs SB2/ CPP Liaison Detective for retention and provision to the CPP.

## CAT-II:

### A. CONDUCTED BY INTERNAL AFFAIR'S SERGEANT

For CAT-II investigations handled by Internal Affairs, follow the general process for CAT-I investigations, except that the SB2/ CPP Detective will not wait for the CPP to send Finding Notifications. It will be done as soon as Internal Affairs closes the investigation. Generally, the CAT-II investigation should be completed in 60 days.

### B. CONDUCTED BY ANOTHER COMMAND

1. CAT-II complaints are often assigned to Area Commands for investigation or informal resolution. If the complainant does not want an informal resolution, the area Command will contact their Internal Affairs liaison to provide the update.
2. The Liaison Sgt. may choose to attach helpful documents to IAPRO for the Area Command's benefit (notification template, conclusion letter template, etc.).
3. Once complete, the Lt. will receive the investigation via Blue Team, review it, and route it to the IA Admin Sergeant.
4. The Liaison Sgt. reviews the completed investigation to ensure all Department personnel, allegations, documents, and evidence are entered into IAPro.
5. The Liaison Sgt. or Admin Sergeant may need to send the completed investigation back to the Area Command for the subject officer's acknowledgment that they received the investigation.
6. The Liaison Sergeant reviews and enters dispositions for each of the allegations as reflected in the Area Command Sgt.'s report. The date of the finding is the date noted in the footer of the investigator's report.
7. The Liaison Sergeants request the IA Admin Sergeant review IAPRO database entries concerning allegations findings, directives, and BWC entries.
8. The Admin Sgt. will close and forward the completed investigation, including all associated documents, to the SB2/ CPP Detective.
9. The SB2/ CPP Detective forwards the investigation to the CPP to be audited. The SB2/ CPP Detective will note when the audit is complete in IAPro.
10. Clerical Staff is responsible for preparing a Conclusion Letter for the complainant within 30 days of the investigation's disposition per 832.7(e)(1)(e) PC. The Command is responsible for notifying the Subject Officer(s) of the case disposition.



### III. INFORMAL RESOLUTIONS:

1. The complainant MUST freely choose an informal resolution. In such a case, the Admin Sgt. will change the complaint category to "Informal."
2. The CPP shall not receive informal resolutions to complaints, as the complainant is selecting an alternative resolution to an official investigation.
3. The Admin Sgt. assigns the case an IA tracking number and, if necessary, route the complaint to the Area Command with instructions.
4. The Liaison Sergeant monitors the IAPro case file to ensure it is completed in a timely manner.
5. When the informal complaint is resolved (generally within 30 days), the Subject Officer and their Commanding Officer must sign the informal resolution memo. If the Subject Officer declines to sign the memo, the officer's supervisor should write "Declined to sign" across the top of it. After all signatures are obtained, the Command Officer routes the Blue Team entry (and corresponding memo) to Internal Affairs.
6. The Internal Affairs Lt. accepts the Blue Team routing into IAPRO and routes it to the Administrative Sgt..
7. The Admin Sergeant reviews the case file. If it is complete, the Admin Sgt. updates the findings and finding dates and closes the case file.
8. If the case is insufficient or incomplete, the Admin Sgt. routes the case back to the Area Command for correction.
9. If the complaint is resolved informally by an IA Sgt., the investigator will prepare the appropriate memo and submit it to the Lt. for approval. The memorandum should contain the following:
  - A. The date and time the complaint was received.
  - B. The name of the complainant.
  - C. How the complaint was received.
  - D. The specific complaint(s)/allegation(s).
  - E. The date, time, and means of contact with the complainant.
  - F. Whether or not the complainant gave permission to record the conversation.
  - G. A brief synopsis of the prima facie investigation.
  - H. A statement that the Detective Sergeant explained the formal and informal complaint process.
  - I. A statement that the complainant chose to resolve their complaint informally.

- J. A statement that the Detective Sgt. reviewed available data to ensure a significant, peripheral Department Policy violation did not occur.
- 10. The Detective Sergeant updates IAPRO with the standard information (see CAT-I and CAT-II for details) and then forwards the memo to the Admin Sgt., who closes the case or sends it to the Command for service. The Command Liaison will monitor the case file until Internal Affairs receives the served Informal memorandum.
- 11. Internal Affairs will attempt to provide each complainant who selects an informal resolution an "Informal Resolution Memorandum." The memo will paraphrase the complainant's allegations, acknowledge the complainant's decision to resolve the conflict informally and state that the matter will receive no further investigation.

#### **IV. POLICE LEGAL REVIEWS**

San Diego Police Legal is an invaluable resource to Internal Affairs and acts in an advisory capacity only. They may provide guidance or make recommendations at any point in an investigation. Internal Affairs Sergeants should utilize their chain of command to access Police Legal.

Generally, CAT-I investigations with sustained findings likely to result in formal discipline will be sent to Police Legal for review.

CAT-II investigations with sustained findings will generally not be sent to Police Legal for review regardless of whether or not the investigations were conducted by Internal Affairs or an Area Command.

Internal Investigations with sustained findings conducted by Internal Affairs will generally be submitted to Police Legal for review if the violation results in formal discipline.

In addition to the above, the Internal Affairs Captain retains discretion in submitting any investigation to Police Legal regardless of findings.

## CALL-OUT PROCEDURES

IA investigators will be called out under the following circumstances:

- A. At the discretion of the on-call IA Lt., whenever physical force used by an officer results in a possible serious injury or hospitalization.
- B. At the discretion of the on-call Lt., an IA Sgt. can be called to assist at any scene of a critical incident or emergency. Call-out protocols may include:
  - 1. Sergeant call-out assignments are one week in length, beginning and ending every Tuesday at 0700 hours. A call-out schedule detailing assignments will be distributed in advance.
  - 2. The on-call sergeants are subject to immediate call-out and will take a Department vehicle home in accordance with the provisions of Department Procedure 1.16. All investigative call-out equipment and IA forms shall be available.
  - 3. The on-call sergeants will not consume alcoholic beverages while on call.
  - 4. The on-call sergeants must be available at all times, 24 hours a day, by telephone. Every person in IA working in an on-call capacity is eligible for Standby Compensation, as agreed upon by the City and the P.O.A. and stated in the current M.O.U. It is the individual's responsibility to account for their standby time accurately and to submit their requests for compensation to the IA Admin Sgt..
  - 5. If an on-call Sgt. is unavailable for any reason, that Sgt. is responsible for finding an alternate and notifying the on-call Lt..
  - 6. IA only responds to SDPD shootings and not allied agency shootings.
  - 7. During a call-out, the IA Sgt. will not interview/ask questions of the officer at the scene unless it is a compelled statement with the Executive Chief's approval.
  - 8. IA may participate in the homicide briefing and walk-through.

## CITY CLAIMS PROCEDURES

The City Claims Detective is responsible for managing City Claims and serving Summons to officers in Civil Litigations for on-duty incidents.

The City Claims Detective is the Department's point of contact for Risk Management Claims Adjusters. It is the Detective's responsibility to research the incident related to a claim. Upon receipt of a claim, the Detective will enter it into IAPro. The IA Lieutenant will review the claim to determine if an Internal Investigation is necessary.

- a. If the incident has already been investigated as the result of a previous CCF, no additional investigation will be conducted.
- b. If the claim alleges criminal conduct, the IA Lieutenant will notify the IA Captain and the P.S.U. Lieutenant.
- c. Claims that include Category I allegations will be investigated by IA as Internal Investigations unless IA is already investigating it as a citizen complaint.

When the follow-up or investigation is completed, the Claims Detective will notify Risk Management and note the completion date in the claim log.

The City Claims Detective will also notify Risk Management of a completed investigation.

# PITCHESS MOTION PROCEDURES

## I. RECEIVING PITCHESS MOTIONS

Pitchess Motions are "motions to discover." Discovery relates to prior incidents involving police personnel named in court cases. Questions regarding any step of these procedures will be directed to the IA Lieutenants or the Pitchess Motion Detective.

Pitchess Motions should be received at the Headquarters front counter. The Pitchess Motion must have a date, time, court, and defendant listed on the front page. Although the court date should be at least ten days from the date of acceptance, short notice Pitchess Motions may be accepted if accompanied by a short notice declaration that displays a court date of less than ten days.

When receiving a Pitchess Motion, verify that the named officers are current or former San Diego Police Officers. The Pitchess Motion Detective will review the information requested and discuss inappropriate or questionable requests with Police Legal.

Once the motion is received, the Pitchess Motion Detective logs information from the order/motion into the Pitchess database on the "G" drive. They will date, initial, and time stamp the order/motion. Subsequently, the Pitchess Motion Detective will notify, in writing, the officer(s) whose records are subject to the order/motion.

Lastly, the detective will check all files, except EEO, for investigations involving the named officer(s). This is to include the IA file and the officer's personnel and divisional files (at minimum). The check should include pending/incomplete investigations. Allegations of bias, racial prejudice, etc., will be discussed with Legal.

## II. PREPARING FOR COURT

The Pitchess Motion Detective will check the Citizen's Complaint log and IAPro for current cases on officers named in the order/motion. After compiling all available information, advise of any complaints or incidents occurring after the date of the incident precipitating the order/motion.

The Pitchess Motion Detective must take all IA files to court, including citizen complaints and shooting incidents pertaining to named officers. Open investigations will be discussed with an IA Lieutenant. The following are instructions for different file types:

### A. Personnel files:

1. Take the complete file of each named officer. Personnel jackets contain individual packets with the following information:

- a) Original background information (not available to supervisors).
  - b) Medical packets.
  - c) Commendations (formal commendations only).
  - d) Discipline (formal actions only).
  - e) Performance evaluations.
2. Remove or witness the removal of a personnel file(s) and be able to testify that nothing was omitted.
  3. Review discipline packages and be ready to discuss any applicable information.
  4. Review Injury Reports and/or evaluations. Questionable injury reports will be discussed with the legal team.

**B. Background, In-Service Training, Medical and E.E.O. files:**

These files will not be taken to court unless the information contained in these files is specifically requested. The IA Lieutenants will be advised of any such motion.

**C. Divisional Files:**

Contact the officer's supervisor at each Command to obtain Divisional files. The Detective should pick up the file personally. Files may be delivered to IA by the officer's supervisor and should be in a sealed envelope.

The Pitchess Motion Detective is the custodian of the confidential files, and they will not be taken out of sight for any reason. If this becomes an issue, an IA Lieutenant, IA Captain, and Executive Assistant Chief will be notified immediately.

When the Pitchess Motion has been heard, the Detective will write a brief report listing any information that is being released. The Detective will notify the Subject Officer if any information is released.

**FBI and Other Federal Government Requests**

Under state law, officer personnel files and investigations are confidential and are only disclosed pursuant to the filing of a Pitchess Motion. In federal cases, officers are not covered by POBAR, and Pitchess does not apply. However, as a general practice, IA will gather the requested records and provide them to the federal judge. Then, they will ask that they apply state law and treat it like a Pitchess Motion. We should get a date/time from the requesting federal agency to provide the records

to the federal judge presiding over the case. The records should not be turned directly over to the requesting federal agency or to the A.U.S.A.

## **CANINE BITE COMPLAINTS**

### **Use of Force Complaints Resulting from The Deployment of a Police Service Dog (P.S.D.)**

- A. When a complaint only regards a P.S.D. bite, a canine supervisor will respond and conduct a Supervisor's Bite Investigation. Internal Affairs will generally not respond to or investigate P.S.D. bite complaints.
- B. In Category I investigations encompassing allegations beyond a P.S.D. bite, Internal Affairs will not interview the subject handler in regard to the use of the P.S.D. IA Sergeants will utilize the findings in the completed Bite Review for the portion of the complaint related to the deployment and use of the P.S.D. The IA Sergeant will conduct interviews of all appropriate persons (including the subject handler) regarding the non-P.S.D. Allegations.
- C. If needed, Internal Affairs may call upon the Canine Unit supervisor who completed the bite review and/or the Canine Unit Training Sergeant for clarification or expertise.

### **Canine Supervisor's Bite Investigation**

- A. If at any time during the bite review (follow-up at the scene and/or hospital), the reviewing canine supervisor believes the use of the P.S.D. was in violation of any Department Procedure, a Supervisor's Investigation shall be done by the Canine Unit.
- B. The handler will not be required to complete a biting review but shall be interviewed by the investigating canine supervisor in accordance with Department Policy.
- C. The investigating canine supervisor shall make the appropriate notifications through their Chain of Command.

### **Non-Bite Injuries**

Any injury caused by a P.S.D. not associated with a bite will also be investigated by a Canine Unit supervisor and reported on a Bite Report form.

# OFFICER-INVOLVED SHOOTING PROCEDURES

## I. Officer Involved Shootings (O.I.S.)

- A. IA will not respond to unintentional discharges (without injury) or to the scene of shootings intended to dispatch an injured or threatening animal.
- B. The San Diego Sheriff's Office will investigate O.I.S. incidents involving injury, death, or missed shots when directed at a person(s). The San Diego Police Department's Homicide Unit will be the Internal Affairs' point of contact for the SDSO Homicide team assigned to the OIS.

At the discretion of the Internal Affairs Captain, the "on-call" Internal Affairs Lieutenant and Sergeant will respond to these incidents to prepare for a possible compelled subject-officer interview (if needed) and for the overall administrative investigation. IA will participate in the Homicide briefing and walkthrough. SDPD Homicide will coordinate with the SDSO Homicide team to prepare the Shooting Incident form. IA investigators will not interfere with Homicide's investigation.

- C. IA will not participate in any officer interviews unless they are "compelled interviews" authorized by the Executive Chief of Police. If an officer refuses to give a voluntary statement to Homicide investigators, the interview may be "compelled" and will be conducted in the following manner: The time and place of the interview will be decided by the concurrence of the Homicide Lieutenant and the IA Lieutenant. Should this occur, the IA Sergeant will give the officer a direct order not to discuss the incident with anyone other than the officer's legal representative or psychological services until the interview takes place.

- 1. One IA Sergeant and the on-call IA Lieutenant will conduct the interview.

Homicide will not participate in this interview. Homicide will still ask certain questions about physical status prior to the IA interview. IA Sergeants must ask the remainder of the questions during the compelled interview.

- 2. The normal procedure will be to conduct the interview in the IA office at Headquarters.
- 3. No portion of the compelled interview will be released to Homicide; however, Homicide will continue to provide all facets of their investigation to IA.

- D. In cases where the District Attorney cannot decide the legality of the event without compelled statements, Department Policy allows for them to procure the statements. The D.A. may receive compelled statements after they provide a letter stating directly that the officer's statements will not be used against them in a criminal investigation. This letter will be given to IA and will be included in the IA investigation. Once the letter has been received from the D.A., a copy of the



officer's compelled statement (transcribed interview) will be put in a sealed envelope by the investigating IA Sergeant and given to the D.A.'s representative in person.

- E. At the completion of their investigation, the SDSO Homicide team will provide a copy to the Department's Homicide Unit. SDPD Homicide will forward a copy of the investigation to Internal Affairs.
- F. The assigned IA Sergeant will review SDSO's Homicide investigation and do the following:
  - 1. Conduct an in-depth, independent investigation and, when necessary, interview witnesses, including the officer(s) involved in the shooting.
  - 2. When necessary, visit the scene of the incident to conduct any needed physical examination. The use of Police Laboratory personnel requires Lieutenant approval.
  - 3. Conduct the investigation using the standard IRAC method and headings. The investigation should be narrow in scope to the specific discharge of the firearm. Only Category I level violations or intentional misconduct should be addressed through "Other Findings." The investigation must include:
    - a) Make, model and serial number of all weapons used by officers and whether the weapon is Department issued or personal. If a personal weapon was used in the shooting, determine if an authorization slip is on file.
    - b) Type of ammunition (department issued, etc.) and number of rounds expended. Determine the location of any expended rounds. For revolvers, determine the location of the expended round in relationship to the hammer. For semi-automatic weapons, determine the number of rounds left in the magazine.
    - c) Include the distances between the officer(s) and suspect(s) during the shooting. Also include a description of the suspect's weapon, i.e., make, model, caliber, loaded vs. unloaded, etc.
    - d) It is not necessary to repeat everything in the IA investigation that has been covered in the other reports. Only important facts specific to the nature of the incident must be repeated in the IA investigation.
    - e) List any property damage and injuries. Document property owner information.
  - 4. Describe the scene and document the evidence.
- I. Unintentional Discharges are investigated at the Command.

## II. IA OIS WORKFLOW

### Unintentional Discharges (including Bean Bag) and Animal Dispatches

1. Animal Dispatches only require a Shooting Incident Report. No additional investigation is necessary.
2. Internal Affairs retains the discretion to investigate Unintentional Discharges. However, Commands will usually investigate Unintentional Discharges.
  - a. The Command Liaison monitors the Command's investigation.
  - b. Commands forward their investigation to Internal Affairs.
  - c. IA reviews the Command's investigation to ensure it is complete and accurate.

### Shooting with Death or Injury and Intentional Shooting at a person (regardless of if the person was struck):

1. The IA Lieutenant instructs the Administrative Sergeant on case assignment. The Administrative Sergeant assigns the case a tracking number and routes the case to the investigator.
2. Once the Homicide Investigation and the D.A. letter are received, the IA Sgt. begins their investigation.
3. The IA Sgt. completes the case and submits it to the Lt. for review.
4. The Lt. reviews/approves the investigation and forwards it to the Assistant Chief via the IA Capt..
5. The Assistant Chief returns the approved report to IA.
6. The IA Administrative Sgt. reviews the investigation and forwards it to the SB2/ CPP Detective.
7. The SB2/ CPP Detective provides the investigation to the CPP for review.
8. Once reviewed by the CPP, the SB2/ CPP Detective will give a copy to the Assistant Chief. The Assistant Chief's secretary will forward one copy to the command and one to the Shooting Review Board (SRB).
9. Once the SRB results are returned to the SB2/ CPP Detective, arrange for the CPP to review the SRB results.
10. The Command returns the signed top sheet to IA with imposed discipline, if any.

### III. SHOOTING REVIEW BOARD PROCEDURES

- A. Refer to Department Policy 1.43 – Officer-Involved Shooting Investigation Procedures for comprehensive information regarding SRB procedures.
1. When a shooting has been scheduled for review by the Shooting Review Board, and prior to reviewing the investigative reports with the Commanding Officer, the involved officer(s) and respective representatives, if desired, may review the entire completed investigation in the IA office during normal business hours. The completed investigation will include a conclusion as to whether the shooting was within or not within policy.
  2. The SRB will forward any investigation with “findings” in the areas of policy, tactics, and/or training to the Chief of Police. If the Shooting Review Board’s conclusion differs from that reached by the IA investigator, the Chief of Police will determine whether the shooting was within or not within policy or, in exceptional cases, not within policy/justified.
  3. The Chief’s decision will be final. If the conclusion reached by the Chief of Police differs from that reached in the IA investigation, the following will be required:
    - a. The IA investigator will not change his/her findings on his/her original report.
    - b. The office of the Chief of Police will prepare a brief memo indicating their final conclusion. This memo will be included in the investigative file in the IA.
    - c. IAPro will be amended to reflect the conclusion reached by the Chief of Police.
  4. If the Chief of Police concurs with the original IA findings, the report will be filed with the IA case file, with copies sent to the involved officer(s) and their Commanding Officer.
  7. Findings associated with an O.I.S. incident will generally fall within the following categories:
    - a. Within Policy
    - b. Not Within Policy
    - c. Not Within Policy/Justified

“Justification” may be used in those situations where the shooting is not procedurally authorized, but SRB’s investigation revealed the officer’s actions were reasonable and necessary under the law based on the totality of circumstances.

#### **IV. SWAT SHOOTINGS**

- A. SWAT operations often require SWAT officers to fire or launch Specialized Munitions, which are used as tools to accomplish a mission. These tools, however, can result in injury or death. Such Specialized Munitions include, but are not limited to:

Ferret Rounds

Shock Locks

Launchable Ferrets

Star Burst

Extended Range Impact Weapons (i.e., bean bags, 40 mm, etc.)

Any Launchable Distraction Device

- B. If an officer fires one of these Specialized Munitions and a death results from its use, SDSO Homicide will respond and handle the incident as it would any other OIS. IA will respond and conduct an administrative investigation.
- C. SWAT also regularly uses hand-thrown projectiles containing explosive or pyrotechnic ordinance. Such items include "flash bangs" or any hand-thrown tear gas grenade. If an injury occurs from the use of any of these devices, SWAT will conduct the investigation.
- D. At the discretion of the IA Lt., IA may respond to and/or investigate incidents involving the deployment of Specialized Munitions that result in serious bodily injury.
- E. Except as noted, IA will not routinely respond to or investigate incidents involving the deployment of Specialized Munitions. This is not meant to preclude investigations based upon a request from a member of the Police Department, a citizen's complaint, or a civil claim.

#### **V. IN-CUSTODY INJURIES AND DEATHS**

- A. Whenever physical force used by an officer results in an injury that necessitates medical treatment of a subject, Communications will immediately notify a Field Supervisor. The Field Supervisor will respond to the medical facility and obtain a medical evaluation of the subject.
- B. If the injuries are minor, and the subject is released after treatment, the Field Supervisor will evaluate the need to notify their Chain of Command or the Watch Commander for guidance.

If the Field Supervisor believes the incident could result in a claim or complaint, or there is any indication of improper conduct by the officers, they should include photographs of the injuries and incident scene, a signed medical release form from the injured citizen, chemical tests of the subject if appropriate, civilian witness information, and a list of officers at the scene. The Field Supervisor shall not ask a potential subject officer any investigative questions.

- C. If the injuries to the subject are serious (requiring multiple stitches, broken bones, or hospitalization), the Field Supervisor will immediately contact the Watch Commander. The Watch Commander will notify the on-call IA Lt., who will evaluate the incident. If appropriate, an IA Sgt. will respond to evaluate the incident and, if possible, obtain a statement from the injured suspect.

If the potential misconduct by an officer exists, an IA investigation will be initiated. Otherwise, the IA Sgt. will complete a "Call-Out" log as well as a miscellaneous memorandum documenting their prima facie investigation. Officer names will be omitted from the memorandum, and its retention shall be under the suspect, not the Department member.

If the injured suspect chooses to submit a citizen complaint in the future, the miscellaneous memorandum will be opened, and the Confidential Sworn Personnel investigation will commence, utilizing the date of the suspect's complaint as a reference point for the one-year mark to complete the investigation.

- D. In-custody deaths will be handled in the same manner as an officer involved shooting resulting in death.

## COMMISSION ON POLICE PRACTICES (CPP)

- A. The City of San Diego Commission on Police Practices (CPP) is obligated to maintain the integrity of the Internal Affairs documents provided to them in compliance with the law and City Administrative Regulations. Internal Affairs is the custodian of record for all documents it provides to the CPP and must follow all relevant laws and procedures to preserve their integrity. The CPP members shall be required to sign an Internal Affairs Confidentiality Agreement before reviewing any Internal Affairs documents or sensitive information. Under no circumstances will any IA material leave the IA office.

The CPP is an independent entity from the San Diego Police Department. The CPP has the responsibility to review and evaluate all In-Custody Deaths, Officer involved Shootings, Category I citizen complaints and audit any Category II citizen complaints. The CPP maintains the discretion to conduct independent investigations into citizen complaints, regardless of category, as well as any officer misconduct.

The CPP is not entitled to investigations involving non-sworn Department members, Fact-Finding investigations, Informal resolutions, or Miscellaneous/prima facie investigations.

The CPP will be provided a copy of a citizen complaint received by Internal Affairs from a source other than the CPP within five calendar days.

- B. The SB2/CPP Detective will have the following responsibilities:

1. Upon completion of an investigation by the SB2/CPP Detective, log the date the CCF was received, case number, complainant's name, names of officers involved, allegations, and the findings of IA into the CPP case-tracking log. Also noted are the date ready for team review and the team number needed to review the case.

The SB2/CPP Detective will upload the case file to a shared database or something comparable.

- a. The SB2/CPP Detective informs the CPP team the case is ready for review.
- b. The CPP team reviews the case file.
- c. Internal Affairs may accommodate the CPP's request to utilize an IA Interview Room to review a case file. The CPP will coordinate with the SB2/CPP Detective under the Supervision of the IA Admin Sergeant to schedule an Interview Room.
- d. Upon arrival of the CPP team to review a case, the SB2/CPP Detective or other IA personnel will provide the CPP member access to the online shared database.

- e. The CPP shall submit all questions and requests for additional information in writing to the SB2/CPP Detective. The investigating Sergeant will respond to the question in writing. Any conflict between the CPP and the investigating Sergeant will involve the assistance of the CPP IA Lieutenant.
- g. After the CPP completes its process, the SB2/CPP Detective prepares the Finding Notification letter to all subject officers and will include a copy of the investigation and all audio interviews.
- h. The CPP is entitled to review the discipline memo for any CAT I or CAT II investigation. The memo shall be completed by the Subject Officer's Command.
- ii. The Command's memo will be approved by the IA Captain and Executive Asst. Chief prior to it being provided to the CPP.

## **CPP GENERATED COMPLAINT TRACKING LOG**

The CPP Generated Complaint Tracking Log is a database under CPP's control and is shared with IA via SharePoint. The purpose of the tracking log is to record accurately and track complaints received by CPP and forward them to IA. IA will not contribute non-CPP generated complaints to the tracking log as an IA is not the custodian of record for such documents.

The SB2/CPP Detective will:

- Coordinate with CPP to ensure complaints filed with CPP are forwarded to Internal Affairs in a timely manner.
- Research and gather documents (including BWCs) for complaints received by CPP.
- Verify CPP complaint(s) are entered into Blue Team.
- Update the CPP database, SharePoint, with IA investigation progress in a timely manner (weekly)
- Coordinate with IA Lieutenants and Sergeants to ensure data (CPP complaints and Category I) is being reported.
- Produce CPP tracking spreadsheet for the IA Captain and Lieutenants on a bi-weekly basis.
- Advise command staff if the CPP teams appear to be behind schedule in completing the review of cases.

# OFFICE SECURITY

Due to the confidential material in the IA files, the following general office security measures will be adhered to at all times:

## A. Day Routine

1. The IA office will open at 0700 hours. During normal business hours, IA should be staffed by at least one Investigative Sergeant. If it is necessary for all personnel to be absent from the office, all doors will be locked (this will require the knowledge/approval of an IA Lieutenant and/or IA Captain).
2. All janitorial and maintenance work will only be performed during normal working hours.

## B. Closing Routine

1. The Duty Sgt. will be responsible for remaining in the office until closing. Prior to leaving the office for the day, the Duty Sgt. will ensure that all doors are locked and secure and lights are turned off.

## C. General File Security

1. IA is the central repository for all personnel investigations, complaints, and inquiries. The integrity, credibility, and security of the files must be a matter of constant concern and is the responsibility of all members of the unit. Information security applies to both physical and electronic IA documents.

### a. File removal:

- 1) Upon request of authorized Department personnel and after approval by an IA Lt., copies of files may be removed from the IA office if a legitimate reason is articulated. The release or removal of report copies will be documented on an IA File Review Form.

**UNDER NO CIRCUMSTANCES, other than Pitchess Motions, WILL ORIGINAL FILES BE REMOVED FROM THE IA OFFICE.**

## D. In-Progress Investigations

1. No investigative folders or other material will be left unattended on desks or other areas within the office in such a manner that they are available to be read or removed by unauthorized persons.



2. At the end of each workday, all investigative folders, reports, and related matters will be secured.

#### E. Telephone Security

Telephone receivers may be left on desks for interrupted calls only after the calling party has been placed on hold. Open lines may afford unintended classified information to be released and, therefore, will not be permitted.

## INTERNAL AFFAIRS FILES / RELEASE OF INFORMATION

### I. INTERNAL AFFAIRS FILES

- A. Penal Code Sections 832.5, 832.7, and 832.8 pertain to citizen complaints and confidential files. IA personnel must be familiar with the contents of these sections. Anything that is listed as an attachment in the Advance Notice should be made available to officers. Officers are entitled to receive a copy of any case file and its contents as long as the officer is a listed subject, and the investigation is complete.
- B. IA files can be reviewed by parties not involved in the investigation under certain circumstances. Individuals requesting access to the files will complete an IA File Review Form. IA Clerical staff will log and retain the forms. IA file cases may be reviewed by any of the following personnel:

1. **District Attorney:**

Deputy District Attorneys and investigators of the Deputy Attorney's Office may review and obtain copies of completed IA investigations when they are conducting investigations or involved in proceedings concerning the conduct of officers. Prior to reviewing the file or obtaining copies, the Deputy District Attorney or District Attorney investigator will sign the Disclosure Form, which will then be retained with the file. If information is being sought for any other reason, it should be discussed with an IA Captain and IA Lieutenant. Per Penal Code Sections 832.5, 832.7, and 832.8, these records shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code.

- a. **Brady Alert Index**

In *Association for Los Angeles Deputy Sheriffs v. Superior Court*, 8 Cal. 5th 28 (2019), the California Supreme Court held that law enforcement agencies may provide prosecutors with *Brady* alerts without violating Penal Code section 832.7. The Court determined that

disclosure of potential *Brady* material is constitutionally required, and Brady alerts help to ensure satisfaction of that requirement and mitigate the risk of constitutional violations during the criminal case process.

A *Brady* Alert is a memorandum to the prosecutors alerting them to potential relevant exculpatory or impeaching material in an officer's personnel file. See the attached template.

The Pitchess Motion Detectives assigned to Internal Affairs shall complete and provide the alert memorandum to each prosecuting agency via hand delivery, encrypted email, or certified mail at the direction of the Internal Affairs Captain or their designee. The alerts shall be sent upon a qualifying sustained finding. See the attached addendum for qualifying violations.

Consistent with Penal Code section 832.8, a sustained finding means a final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to Sections 3304 and 3304.5 of the Government Code, that the actions of the peace officer or custodial officer were found to violate law or department policy. This includes an administrative appeal to the Civil Service Commission, if applicable.

All *Brady* Alert notifications are subject to approval by the Captain of Internal Affairs. Notifications shall be made in writing to the involved officer, their legal representative, the District Attorney's Office, and the City Attorney's office. See the attached Officer Notification template for further details. All notifications shall be delivered by hand, certified mail, or encrypted email.

## 2. City Attorney:

Deputy City Attorneys and investigators of the Civil Division of the City Attorney's Office may receive copies of IA investigations when they are related to litigation against the City. Historical information related to an employee's investigations may be provided; however, copies of those cases will only be provided when absolutely necessary. If the information is being sought for any other reason, it should be discussed with an IA Captain and Lieutenant before being released. Copies made for the City Attorney's Office will be noted in the IA log, which will include a copy of the City Attorney Discovery Form. The Detective will track copies and destroy them upon their return.

- a. Prior to any visit to IA, a representative from the City Attorney's office will contact the IA clerical staff or Detective to set up an appointment to review the files. At that time, the files in question will be prepared for review. The City Attorney representative must inform IA

if they need to conduct the review sooner than 24 hours because of a court order; the representative will so inform IA

- b. Upon arrival at IA, the City Attorney Representative(s) will show their identification, and an IA staff member will be assigned to assist them.
- c. Prior to reviewing any records, the City Attorney representative(s) will fill out the top portion of the "Form for Reviewing IA Records by the City Attorney-Civil Division." The files to be reviewed will be identified by either case number or description (i.e., all shooting cases).
- d. After the form is signed, the City Attorney representative(s) will be given free access, while in the presence of an IA staff member, to the files that were pulled. The City Attorney representative(s) cannot make any copies or take photos while reviewing the files. The staff member will be responsible for ensuring the files are re-filed in their proper place.
- e. If the City Attorney representative(s) request copies of the files they reviewed, the bottom portion of the "Reviewing Form" requesting files to be copied will be filled out. It will be signed by the City Attorney representative and the IA Lieutenant prior to copying the files. Once the form is signed, the IA staff member will make copies of the files indicated on the form. The copies made by the IA staff member and a copy of the signed form will be given to the City Attorney representative. The original "Reviewing Form" will be kept in the IA log, which can be found in the "G" drive.
- f. The Criminal Division of the City Attorney's office does not have the same standing with regard to receiving information related to administrative investigations. Its members represent The People of the State of California for the purpose of criminal prosecutions and not the Civil Litigation interests of the Police Department. Therefore, information related to administrative investigations will not be released to members of the Criminal Division of the City Attorney's office. Per Penal Code Sections 832.5, 832.7, and 832.8, these records shall not be disclosed in any criminal or civil proceeding except by **discovery** pursuant to Sections 1043 and 1046 of the Evidence Code.

### 3. City Claims:

City Claims personnel may review IA investigations in the IA office whenever they are directly related to a claim against the City. Copies of administrative reports will not be given to City Claims without permission of the Executive Assistant Chief or his designee. City Claims personnel may also obtain copies of administrative reports directly from the Litigation Division of the City Attorney's Office.

#### **4. Commanding Officers or Designee:**

Commanding officers or their designee (Sergeant or above) may review an employee's individual IA file at the conclusion of an investigation, resulting in a sustained conclusion and discipline. Only a Commanding Officer may review an employee's IA history and all related files to determine if patterns or trends of misconduct are present. Requests by any other person under the foregoing circumstances must be authorized by the Executive Assistant Chief.

#### **5. Department Personnel:**

Employees of the Department may review or obtain a copy of IA investigations in which the employee is listed as a subject officer regardless of findings.

Officers may have copies of everything (including interviews and photographs) regardless of whether they request an appeal. The officer or their attorney can have copies of anything that assisted IA's conclusion. The subject officer can submit the request to IA directly, via their legal representative, or via their Commanding Officer. The subject officer's request shall be granted.

#### **6. Background Investigators:**

Background investigators from our own or another police agency can review (no copies) a current or former employee's Internal Affairs file(s) if the subject employee signs a release form. The release form must specifically say, "Internal Affairs Files" or "All Personnel Files and Records." A copy of the release form will be placed in the "Background Waivers" file.

#### **7. Grand Jury**

A member of the Grand Jury can get a copy of an IA case when a letter from the foreman is received requesting the information.

#### **8. Former Staff Members of Internal Affairs:**

Former staff members may be called to make depositions concerning cases they investigated while assigned to IA. They may review the case(s) with the approval of an IA Lieutenant. The Lieutenant may request to see verification of the deposition documentation.

C. All citizen complaints, regardless of category or outcome, will be filed in Internal Affairs as the Department's repository for such information. For Internal Investigations conducted by individual commands:

1. Personnel investigations completed outside IA that contain allegations of serious misconduct will be retained by IA. The employee's Command will contact an IA Lt. concerning such filing. If necessary, the Executive Assistant Chief will make the final determination concerning reports being filed in IA
2. Internal investigations concerning routine or procedural matters such as "Missed Court" or "Missed Department Qualifications Shoots" will not be retained in IA.
3. In all cases, the actual disciplinary document will be maintained at the employee's command or in the employee's permanent personnel file.

#### D. Media Requests for Information or BWC

1. Internal Affairs personnel will an IA Lt. immediately if there is a media inquiry. All media requests will be routed to Media Relations.

#### E. Former Department Members

2. Former Department members who have resigned or retired are not entitled to review Internal Affairs documents. Exceptions must be approved by the IA Capt..

### III. BODY-WORN CAMERAS

#### A. COMPLAINANTS VIEWING BWC

If BWC is available, IA Sergeants will copy and review all BWC footage to investigate at the onset of receiving a complaint. The BWC footage will be downloaded directly to the IA database.

If the BWC footage contradicts the allegations or helps explain an officer's actions, and the IA Sgt. determines it may benefit the investigation, they may contact the complainant to view the BWC footage. The IA Sgt. will be present with the complainant at all times while they view the BWC footage. The complainant is not entitled to have anyone with them when they view it. The complainant shall not be given a copy of the BWC footage or be allowed to record it.

If the IA Sergeant chooses not to allow the complainant to view the BWC, complainants may be referred to the Requested Information Unit (RIU).

#### B. OUTSIDE AGENCY REQUESTS FOR BWC

Internal Affairs may receive requests from outside agency IA units for copies of IA investigations or BWC footage involving one of their employees. Internal Affairs staff must receive approval from an IA Lieutenant before releasing any reports or BWC footage.

Before releasing report copies or BWC footage to an outside agency, IA Sergeants will:

1. Review all reports and BWC footage to determine if SDPD employees were involved in misconduct.
2. Brief the IA Lieutenant on what, if anything, was discovered.
3. If authorized, meet with the agency investigator to verify their credentials.
4. The outside investigator may view the BWC in the IA office.
5. If the outside agency wants a copy of the BWC footage, the IA Sergeant will complete the release form. The IA Sergeant will then give them a copy once they sign the form.
6. The IA Lieutenant will notify the IA Captain of the information/BWC release.

## **REPORT FOR THE DEPARTMENT OF JUSTICE**

- A. Penal Code Section 13012 requires the State Department of Justice to collect, compile, and publish in its annual report the number of citizen complaints against Police Officers received by law enforcement agencies.
- B. The request is for citizen complaints against Police Officers, which include Category I and II complaints only. Procedural complaints are not included as they are complaints against procedures and, in many cases, against civilian personnel such as Communications employees.

The form JDIS 724 (Rev.12/2022) provided by the state of California will be used for this report. It may be obtained from California's Justice Information Services Division.

## SUMMONS/LEGAL GUIDELINES

- A. Department Procedure 1.11, Section XIV, dated September 11, 2020, outlines the procedure for service of a civil summons where a member of the Department is the defendant.
- B. IA is responsible for ensuring all named Department members are properly served. The named members sign and date the summons before immediately forwarding it to IA. IA forwards all signed summonses to the City Attorney's Civil Litigation Division. This must be done in a timely manner in order to comply with established response timelines.
- C. IA maintains a copy of the signed summons (top sheet only) and a log indicating the date it was received by the Department, the date it was served on the Department member, and the date it was forwarded to the City Attorney's Office.
- D. The following are the guidelines for acceptance of summons:
  - 1. Summons should be received at the Headquarters front counter.
  - 2. Only accept summons with the completed name of at least one current Department member. Do not accept "The City of San Diego," "San Diego Police Department," or "Officer Doe" only summons.
  - 3. There must be one complete copy for each individual named.
  - 4. The summons must have a clerk's name and court number. If the seal is an embossed, non-ink type, at least one copy must be visible.
  - 5. Response days: Federal-20 days, State-30 days.
  - 6. The case must stem from a work-related incident only, not "off duty" or personal incidents (neighbor disputes, divorces, etc.).
  - 7. After accepting service, time/date stamp all copies.
  - 8. Once received, the IA Summons Detective must notify the Civil Division of the City Attorney's Office of the acceptance.

## RESOURCES

All essential documents are stored on the "G" drive in the Internal Affairs folder. Legal references may be found in the "Internal Affairs Legal References." Such documents include, but are not limited to:

- Confidentiality Agreement
- File Request Copy Form
- File Review Request
- Complaint conclusion letter
- CAT-I, CAT-II, Internal Investigation, OIS Investigation Formats
- Call Out Check List
- 5-Day Letter
- Fact Finding Admonishment (Witness and Subject)
- Administrative Admonishment Sworn Personnel
- Subject Officer Notification Memo
- Command Notification Memo
- Complainant Evidence Specification form
- Laws guiding citizen complaints,
- Related evidence codes
- Case law
- Pitchess Notification Letters
- Pitchess release template
- Summons notification letters
- CPP Memorandum (CATI and II)
- CPP Discipline Memorandum
- Police Officer Bill of Rights (POBOR)
- Tolling provisions
- Laws Relative to Citizen Complaints
- Case law pertaining to frivolous complaints
- Laws regarding Internal Affairs Release of Information



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## **BRADY ALERT ADDENDUM:**

### **WHAT IS BRADY MATERIAL?**

Sustained findings, within the meaning of Penal Code section 832.8, for the following:

- Character for honesty or veracity or their opposite. (Evid. Code §780(e)).
- A bias, interest, or another motive. (Evid. Code §780(f)).
- A statement that is inconsistent with the peace officer's testimony. (Evid. Code §780(g)).
- Felony and misdemeanor convictions involving moral turpitude. (Evid. Code §788).
- Any criminal conduct involving moral turpitude. (People v. Wheeler (1997) 4 Cal.4th, 284, 295- 297).
- False reports by a peace officer. (People v. Hayes (1992) 3 Cal.App.4th 1238, 1245.).
- Pending criminal charges against a peace officer. (People v. Coyer (1983) 142 Cal.App.3d 839, 842.).
- Parole or probation status. (David v. Alaska (1974) 415 U.S. 308, 319; People v. Price (1991) 1 Cal.4th 324, 486.).
- Evidence undermining an expert witness's expertise. (People v. Garcia (1993) 17 Cal.App.4th 1169, 1179-80.).
- Evidence that a peace officer has a racial, religious, or personal bias against a defendant individually or as a member of a group. (In re. Anthony P. (1985) 167 Cal.App.3d 502, 507-510.).
- Any dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing evidence as provided by Penal Code section 832.7(b)(l)(C).

### **HOW WOULD THE BRADY ALERT OCCUR?**

Upon completion of an internal review, the Department may send a written, confidential memorandum to the City Attorney, the District Attorney's Office Brady Index Coordinator, or Chief and Assistant Chief of the Special Operations Division, which states the name of a peace officer, badge number, and date of separation, if applicable, who may have potential Brady material in their confidential personnel file. An internal review is defined as an investigation with a sustained finding per PC 832.8, where all administrative appeal rights have been exhausted.

The prosecution is thereafter deemed to have been provided with an alert. The Department will not provide further alerts to that peace officer regarding that particular sustained finding. That peace officer will be conditionally placed in the District Attorney's confidential Brady Index. The alert will only contain the name of the employee, ID number, and date of separation from the Department, if applicable, and the peace officer may have potential Brady material in their confidential personnel file. The list will reside in the District Attorney's Office's secure computer drive, accessible to Deputy City Attorneys and Deputy District Attorneys, with a "read-only" feature, precluding the copying, printing, or transmission of the list. Only the list administrators can alter any information on the list.

The peace officer will receive written notification of the conditional placement in the Brady Index, as well as the Chief of Police or Sheriff. The peace officer will have the ability to appeal the conditional placement and request removal from the Brady Index.

#### **LIST OF CRIMES THAT HAVE BEEN HELD TO INVOLVE MORAL TURPITUDE**

PC § 32, Accessory to a felony  
PC § 69, Threatening a police officer  
PC § 136.1, Threatening a witness  
PC § 148.5, False Information to Police  
PC§ 148.9, False Information to Police  
PC § 187, Murder  
PC§ 192, Manslaughter, voluntary/involuntary  
PC§ 203, Mayhem  
PC § 207, Kidnapping  
PC § 211, Robbery  
PC § 236, False imprisonment  
PC § 237, False imprisonment by violence  
PC § 240, Assault, simple  
PC § 243, Battery  
PC§ 243(c), Battery on a police officer  
PC§ 243(d), Battery with serious bodily injury  
PC § 243-4(d) Sexual Battery  
PC § 245, Assault  
PC§ 245(a)(1) & (2) Assault with deadly weapon/firearm  
PC § 246, Shooting into an inhabited dwelling  
PC§ 246,3 Firearm, Negligent Discharge  
PC § 261, Rape  
PC § 261.5, Statutory rape  
PC § 266(h), Pimping and pandering  
PC § 266(i), Pimping and pandering  
PC§ 273(a), Child endangerment  
PC § 273(d), Child endangerment, corporal Punishment  
PC § 273.5, Battery on a spouse  
PC § 281, Bigamy  
PC § 285, Incest  
PC§ 286(c)(2), Sodomy, forcible  
PC§ 288(c), Child molestation  
PC § 288a, Oral copulation  
PC § 290 Failure to Register as a Sex Offender  
PC § 314, Indecent exposure  
PC§ 417, Brandishing a deadly weapon

PC § 422, Threats  
PC § 451, Arson  
PC § 459, Burglary  
PC§ 470, Forgery  
PC§ 487, Theft  
PC § 496, Receiving stolen property  
PC§ 594, Vandalism  
PC§ 647(b), Prostitution  
PC§ 653f(b) Solicitation to commit murder  
PC§ 664, Attempted burglary/murder  
PC § 1320.5 Failure to Appear (Felony)  
PC§ 12020 Possession of Illegal Weapons  
PC § 1228o(h)(1) Assault Weapon, possession of  
PC§ 17500 Possession of weapon with intent to assault another  
PC§ 25400 (Carrying a concealed firearm)  
PC § 2585o(a) (Carrying a loaded firearm in a public place)  
PC § 29800(a)(1) Felon in possession of a firearm  
PC § 4501.5, Assault/Battery by inmate on non-inmate  
PC§ 453o(c), Failure to return to custody  
PC § 4532, Escape by a convicted felon  
PC§ 30605, Assault Weapon, possession of  
FG § 3004, Discharging firearm by hunter  
HS § 11350, Controlled substance, straight possession  
HS § 11351, Controlled substance, Possession for sale  
HS § 11352, Controlled substance, Sale  
HS § 11357, Controlled substance, possession of marijuana  
HS § 11358, Controlled substance, cultivation of marijuana  
HS § 11364, Drug paraphernalia, possession  
HS § 11366, Controlled substance, maintaining place  
VC § 2800.2, Evading police  
VC § 10851, Auto Theft  
VC § 20001, Hit and Run with injury  
VC § 23152, DUI  
VC § 23175, DUI with three priors  
W&I § 10980, Welfare fraud

#### **LIST OF CRIMES THAT HAVE BEEN HELD NOT TO INVOLVE MORAL TURPITUDE.**

Assault (simple) (PC§ 240)  
Battery (PC § 242)  
Battery With Serious Bodily Injury (PC § 243(d))  
Child Endangerment (PC § 273(a))  
Driving Under the Influence (Misdemeanor) (VC § 23152)

Drugs (Straight Possession) (HS § 11350; HS § 11357)

Drug Paraphernalia (Possession) (Misdemeanor) (HS§ 11364)

Failure to Appear in Court (Misdemeanor)

Failure to Register as a Sex Offender (PC§ 290)

False Imprisonment (PC § 236)

Manslaughter (Involuntary) (PC § 192)