

# **SANTA CLARA POLICE DEPARTMENT GENERAL ORDER 52.1**

## **INTERNAL AFFAIRS: ADMINISTRATION AND OPERATIONS**

**ISSUED JULY 2007**

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### **52.1.0 Purpose of Internal Affairs**

The purpose of this order is to insure the integrity of the Police Department by establishing procedures which will assure the prompt and thorough investigation of alleged or suspected personnel misconduct. Such procedures are intended to:

- Clear the innocent
- Establish guilt of wrongdoers
- Facilitate prompt and just disciplinary action
- Uncover defective procedures

### **52.1.1 Responsibility for Investigation of all Complaints**

To insure the integrity of the Police Department, this order is designed to assure the prompt and thorough investigation of alleged or suspected personnel misconduct.

Recognizing that every person has a right to make a complaint about treatment that they have received by members of this Department, it is imperative that each complaint be investigated impartially and completely.

It is the policy of this Department that both citizens and fellow employees are encouraged to bring forth legitimate grievances regarding inadequate service or employee misconduct.

Upon receipt of a written intake memo, it will be reviewed by the Chief's office and forwarded to Internal Affairs. If the Chief or designated representative determines an investigation is warranted, he/she will assign one of the following units to conduct an investigation:

- Investigations Division if the complaint is clearly a criminal matter.
- Division Commander of the employee if the complaint is clearly minor in nature or the complaint is in disagreement with Department policy. Examples include alleged rudeness, tardiness, or lack of cooperation. A line supervisor may investigate this type of complaint, if desired.
- Professional Standards Unit if the alleged violation appears to be a serious violation of Department policy or procedure. This may include corruption, brutality, misuse of force, breach of civil rights, and criminal misconduct.

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### 52.1.2 Chain of Command for Internal Affairs Function

Generally, complaints will be investigated at the lowest appropriate supervisory/management level in the organization.

- Investigations that are completed at the Division level will be forwarded to the Chief's office through the appropriate Division Commander. All personnel complaint investigations conducted by the Professional Standards Unit will be forwarded directly to the Assistant Chief's office for review.
- The Internal Affairs investigators and supervisory personnel have the authority to report directly to the Chief of Police regarding issues, questions, or briefings on all Internal Affairs issues. It is extremely important the Chief's Office be kept updated on all such investigations.

### 52.1.3 Receiving Complaints

**Line Personnel** - During normal business hours, complaints received from citizens (in person, by mail or by telephone) that allege the unnecessary use of force or criminal conduct shall be referred directly to the Professional Standards Unit. All other complaints shall be referred to the Watch Commander or other appropriate Division Lieutenant.

During other than normal business hours, any citizen's complaint will be referred to the Watch Commander. In the absence of the Watch Commander, the senior available Patrol Sergeant will assume the responsibility for receiving the complaint.

Should a supervisory officer not be available, the complainant should be advised and asked to wait, call back, or leave a phone number where they can be contacted later.

**Internal Affairs Unit** - If Internal Affairs is contacted regarding a personnel complaint, the following action will be taken:

Persons with complaints of a minor nature regarding procedures, attitude, etc., will be referred to the appropriate Division.

All other complaints will be reduced to writing and forwarded immediately to the Chief's Office, where a decision will be made as to assignment for investigation. The complaint will be routed through the Internal Affairs unit, who will assign an investigation number to the complaint.

**Supervisory Personnel** - During other than normal business hours, it will be the responsibility of the on-duty Watch Commander or Supervisor to document the complaint in report form, following appropriate investigative procedures. A written memorandum is to be prepared by the supervisor receiving the complaint.

In the case of a minor procedural complaint, the supervisor may be able to satisfactorily resolve the situation with the complainant at that time.

If the complaint is resolved and no improper conduct occurred, documentation may not be required. These types of situations will be left to the judgment of the supervisor.

If the complaint is of such a serious nature that immediate action is required, the supervisor will advise the Professional Standards Unit/I.A. Commander. The PSU will then notify the Chief or Assistant Chief as soon as possible, who will assign the case to either the Investigations Division if it is clearly a criminal matter, or to the Internal Affairs Unit in all other situations.

Complaints documented by the Watch Commander or Supervisor will be forwarded to the Chief's office, through the Division Commander.

#### **52.1.4 Time Limits for Investigations**

All personnel complaint investigations will be conducted without undue delay, and in the most expedient manner possible. Non-criminal Internal Affairs investigations shall be completed within thirty (30) days of time of complaint of being reported. If the investigation cannot be completed within the thirty-day period, the employee and the Chief's office must be notified semi-monthly, in writing, of the status of the case.

At the beginning of each week, the Professional Standards Unit will provide a report to the Chief's Office, listing the current status of all active Internal Affairs investigations.

#### **52.1.5 Complainant Notifications**

Unless Internal Affairs took the original complaint intake, a follow-up interview with the complainant will most likely be necessary. This will provide an opportunity to explain the steps in the investigation process to the complainant. During the investigation, the complainant will be recontacted at least once every four weeks by the investigator and updated on the estimated time of its completion.

Once the investigation has been completed and approved by the Chief's office, a letter will be mailed to the complainant, explaining the outcome of the investigation. Internal Affairs will prepare this letter. A copy of the letter will be maintained with the completed report (see Attachment A). Additionally, a copy of the complainant's statement will be included with this letter.

#### **52.1.6 Employee Notifications**

When an employee is the focus of an Internal Affairs investigation, a notice will be provided to the employee, outlining who the complainant is (if known); the allegations that have been made; when the violation is suspected of occurring, and any associated case number(s). This notice will be given when the investigator is ready to conduct an interview with the employee.

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This notification is also designed to fulfill the notice requirements as outlined in the California [Government Code Section 3300](#) et.al. dealing with the investigation of peace officers (Attachment B).

### 52.1.7 Employee Responsibilities during Investigations

All personnel who are the subject of an Internal Affairs investigation will be accorded all legal rights entitled to them, as outlined in the California Government code, commencing with [Section 3300](#). This protection will apply to both regular and reserve officers.

When an officer is notified that Internal Affairs needs to schedule an interview for an investigation, the employee will generally have seven days to set up the appointment date and time. This should allow for the retention of a representative, if the employee desires one.

All Internal Affairs investigations will be conducted in compliance with all applicable local, State and Federal laws, and in accordance with provisions of the Memorandum of Understanding in existence between the City and the employee's bargaining unit.

If necessary, any medical or laboratory examinations indicated during an investigation will be conducted only upon the presence of probable cause, and at the City's expense. Specific Chemical Testing details are covered in the current [MOU](#) for sworn personnel.

No peace officer will be compelled to submit to a polygraph examination against his will. However, an employee may be required to be photographed, to participate in a line-up and/or to submit a financial disclosure statement when the actions are material to a particular Internal Affairs investigation being conducted by the Department, and in compliance with applicable statutes and/or the current Memorandum of Understanding.

### 52.1.8 Relieving Personnel from Duty

Whenever it is deemed necessary for reason of violation of the rules and regulations or for the preservation of good order, efficiency and discipline, the Chief of Police or any ranking officer may relieve a subordinate from duty pending formal action. Any ranking officer taking such action shall immediately report the facts to the Police Chief. The Police Chief shall promptly report in writing to the City Manager the facts and his recommendations. The City Manager shall then determine if the subordinate may be suspended or discharged; any such action shall be pursuant to the [City Charter](#) and subject to the [Civil Service Rules and Regulations](#), and subject to the normal disciplinary process.

Consistent with the [Memorandum of Understanding](#) in place between the City and the Police Officers Association (POA), officers under investigation may have their assignment changed or be placed in an off-duty status during an investigation. The provisions of the MOU will be followed if a determination is made to change an employee's duty status as a result of an investigation.

### **52.1.9 Disposition Notifications**

Upon the completion of an investigation, a complete written report will be prepared and submitted to the Chief's office. The investigative report will contain one of the following findings for each allegation:

- Unfounded - The investigation conclusively proved that the act or acts complained of did not occur.
- Exonerated - The acts that provided the basis for the complaint or allegations occurred, however, the investigation revealed they were justified, lawful and proper.
- Not Sustained - The completed investigation failed to provide sufficient evidence to either prove or disprove the allegation.
- Sustained - The completed investigation disclosed sufficient evidence to clearly prove the allegations made in the complaint.

Once received, the Chief will review the completed investigation. He is not bound to the findings of the investigation, and may make independent findings based on the information contained in the completed report. If not satisfied with the findings of the investigation, he may return the case for additional follow-up.

Once the Chief approves the completed investigation, the case will be returned to the Professional Standards Unit. The officer(s) named in the investigation will be notified, and allowed to review the case. If a 'Sustained' finding was made, the Division Commander of the officer will be contacted, and the supervisors in the named officers' chain of command will be allowed to review the investigation, for purposes of recommending discipline. The review will occur in the Professional Standards/Internal Affairs office, and the case will not leave the office without the approval of the Chief of Police.

A letter will be prepared by the Internal Affairs unit for the Chief's signature that will be mailed to the complainant(s). This letter will explain the four possible findings of an Internal Affairs investigation, and it will list the findings in the current case. Additionally, a copy of the complainant's statement will be included with the letter. This letter will be mailed to the complainant within thirty (30) days of the Chief's approval of the completed investigation. A sample is included at the end of this section as 'Attachment A.'

### **52.1.10 Maintaining Internal Affairs Records**

The Professional Standards/Internal Affairs unit will maintain all completed personnel complaint investigations. In addition to storing all completed investigations, the Internal Affairs unit will maintain a log sheet indicating a chronological listing of all documented complaints, the investigation number, the date the investigation was assigned, and to whom the investigation was assigned.

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A card file will be maintained by the Professional Standards Unit, containing two separate cross-indexes as follows:

- Complainant's name, address, telephone numbers, investigation number, date complaint received, date of incident, and names of personnel involved.
- Officer's name (separate card for each officer involved), date of incident, name(s) of other officers involved.

Internal Affairs/Professional Standards will also:

- Maintain all personnel complaint cases in a file in chronological order by year. These files will be kept locked at all times, with access only to designated personnel. Unauthorized personnel removing, reading or accessing any information maintained in the personnel files are subject to disciplinary action.
- Maintain a separate file for unsubstantiated complaints, chronic complainers, known mentally disturbed persons, poison pen letters, etc. These type complaints will be listed in the Complainant name index, but not in the Officer's name index.
- Destroy investigations in compliance with State law and City policy. At the present time, completed Internal Affairs investigations are maintained for five (5) years. After this time has elapsed (from the date of the complaint), the case file and index cards are removed and destroyed. Additionally, the listing on the case log is obliterated.

### **52.1.11 Releasing of Annual Statistics**

After the end of each calendar year, the Professional Standards Unit is required to supply statistical data regarding Internal Affairs Investigations to the Department of Justice on a form supplied by the state. The summary information will also be released to any member of the community that requests it.

### **52.1.12 Procedure for Filing of Complaints**

All members of the Department will be made aware of their ability to file a complaint against any other employee. In an effort to provide the best possible service, all members are encouraged to report violations.

The Department will make every effort to insure that no adverse consequences occur to any person or witness as a result of having brought a complaint or provided information in any investigation of a complaint. Any Department employee who subjects a complainant or witness to recrimination shall incur appropriate disciplinary action. However, if it is established that a person has knowingly filed a false complaint an officer or other employee, the Department will seek criminal prosecution against that individual.

Any member of the community that request information concerning the filing of a personnel complaint will be provided the steps by which we document and investigate allegations of misconduct.

## ATTACHMENT A

Date

Mr. John Jones  
12345 Main Street  
Anytown, CA 90000

Dear Mr. Jones:

The investigation into the complaint you lodged regarding the conduct of Santa Clara Police Officers has been completed. When complaints are investigated, we typically reach one of the following findings:

- 1) UNFOUNDED - The investigation conclusively proved that the act or acts complained of did not occur.
- 2) EXONERATED - The acts, which provided the basis for the complaint or allegation occurred, however investigation revealed that they were justified, lawful and proper.
- 3) NOT SUSTAINED - Investigation failed to disclose sufficient evidence to clearly prove the allegation made in the complaint or to conclusively disprove such allegation.
- 4) SUSTAINED - The investigation disclosed sufficient evidence to clearly prove the allegations made in the complaint.

As a result of our investigation a disposition of NOT SUSTAINED was reached on the allegation that Officer Unknown utilized unnecessary force during your arrest.

If you wish to discuss the findings of the investigation, please contact Sergeant Sleuth at your convenience at 615-4888 to make an appointment. A copy of your initial statement is enclosed for your use.

Thank you for taking the time to bring this matter to our attention.

Sincerely,

STEPHEN D. LODGE  
CHIEF OF POLICE

**ATTACHMENT B**

(Letterhead)

**INFORMATION ADVISORY FOR PERSONS MAKING  
COMPLAINTS OF MISCONDUCT AGAINST  
A PEACE OFFICER**

California Penal Code Section 148.6 makes it a misdemeanor to file a false allegation  
of misconduct against a peace officer.

You are required to read and sign the following advisory:

**YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE MISCONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZEN'S COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN COMPLAINTS AND ANY REPORTS OR FINDINGS RELATED TO THE COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE (5) YEARS.**

**IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.**

**I have read and understand the above statement:**

\_\_\_\_\_  
Complainant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Advising Officer

\_\_\_\_\_  
Date