

Personnel Complaint Procedure

1020.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the Department to professionally and thoroughly give the appropriate supervisory attention to public feedback received regarding Departmental service or individual performance. This policy explains the required actions for the collection, processing and preservation of complaints to ensure the proper attention is given to the incident.

1020.1.1 PERSONNEL COMPLAINTS

Public complaints shall be used to help shape programs, priorities, training, and discipline in order to provide the best law enforcement service to the community.

Complaints shall be classified into one of the following categories:

Service complaint: Any allegation of dissatisfaction with Department service, procedure or practice, not involving a personnel complaint, i.e. response time, vehicle operation while responding code-3, waiting too long to visit an inmate.

Personnel complaint: Any allegation of misconduct or improper job performance against any Department Member that, if true, would constitute a violation of Department policy, federal, state, or local law, i.e. rudeness, profanity, excessive force, criminal act. All investigations of personnel complaints shall be considered confidential.

1020.2 DOCUMENTING COMPLAINTS

All Members not holding a managerial or supervisory title/rank or not currently assigned to the Internal Affairs Bureau shall refer all complaints to a manager/supervisor even though it may appear to be minor in nature or easily and informally handled without involving a supervisor for proper documentation.

Managers and/or supervisors shall document all complaints, with the exception of inmate grievances, in the Commendation/Complaint Reporting System (CCRS) and submit the completed report to their Commander via the chain of command for appropriate action.

Sergeants assigned to the Internal Affairs Bureau may document all complaints, with the exception of inmate grievances, in the Commendation/Complaint Reporting System (CCRS) or forward the complaint to the relevant division, or consult with the appropriate Commander or Assistant Sheriff for necessary action.

1020.2.1 AVAILABILITY OF PERSONNEL COMPLAINT FORMS AND PUBLIC COMMENT NOTICE FORMS

The Personnel Complaint Form and Public Comment Notice Form are available on the Sheriff's website to document complaints or commendations of Department Members if members of the public choose not to convey their complaint or commendation in person.

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1020.2.2 ACCEPTANCE OF COMPLAINTS

1. Any Member receiving a citizen complaint regarding an allegation of misconduct or improper job performance against any Department Member shall:
 - (a) Immediately notify a supervisor or refer the complainant to a supervisor.
 - (b) Refer the complainant directly to the Internal Affairs Bureau if:
 1. The complainant refuses to speak with any other Department representative.
 2. If the complainant wants to speak directly to Internal Affairs Bureau.
 3. If the allegations appear criminal or serious in nature or,
 4. If all attempts have failed to resolve the complaint.
 - (c) Any written report documenting complaints of misconduct shall be in the form of an intra-Department memo and shall include steps taken to resolve the complaint.
2. All Department managers, supervisors, and sergeants assigned to the Professional Standards Division, Internal Affairs Bureau shall accept complaints in person, by mail, online or by telephone. When a complaint is received, it shall be forwarded to the involved Member's Commander for appropriate action unless the Internal Affairs Bureau determines it would be more appropriate to retain the complaint or forward it to Criminal Investigations via the Executive Command. In these instances, the involved Member's Commander shall be notified and consulted.

Exception:

When an uninvolved supervisor or the Department Commander determines that the reporting person is satisfied that their complaint required nothing more than an explanation regarding the proper/improper implementation of Department policy or procedure, a complaint need not be taken.

1020.2.3 COMPLAINT DOCUMENTATION

Complaints of alleged misconduct shall be documented by a manager and/or supervisor by creating a new "Initial Report" on the Sheriff's Intranet. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

The complainant should be provided with a copy of complaint per Penal Code § 832.7(b). Once an Initial Report has been created by a supervisor, the system will generate an email which contains an auto-populated "Complainant Notification" form. This form should be printed and mailed to the complainant. The form may be emailed to the complainant in lieu of regular mail.

After the Initial Report has been reviewed by the Commander, the system will generate an email to the Member's supervisor which contains an "Employee Notification" form. This shall be printed and reviewed by the Member. After review, the form will be signed by both the Member and his or her supervisor. Once signed, the form will be scanned and attached to the Initial Report case. The system will automatically transfer the Initial Report to the Commendation/Complaint Reporting

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System (CCRS). The original signed form shall be placed in the Member's division performance file.

For assistance with form documentation, contact the S.A.F.E. Division (714) 834-3429.

1020.3 ADMINISTRATIVE INVESTIGATION OF COMPLAINT

Whether conducted by a supervisor or an assigned Member of the Internal Affairs Bureau, the following procedures shall be followed with regard to the accused Member(s):

1. Interviews of accused Members shall be conducted during reasonable hours and, if the Member is off duty, the Member shall be compensated (Government Code § 3303(a)).
2. No more than two interviewers may ask questions of an accused Member (Government Code § 3303(b)).
3. Prior to any interview, a Member shall be informed of the nature of the investigation (Government Code § 3303(c)).
4. All interviews shall be for a reasonable period and the Member's personal needs shall be accommodated (Government Code § 3303(d)).
5. No Member shall be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any Member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively or be subject to discipline for insubordination. Nothing administratively ordered may be provided to a criminal investigator (Government Code § 3303(e)).
6. Absent circumstances preventing it, the interviewer should record all interviews of Members and witnesses. The Member may also record the interview. If the Member has been previously interviewed, a copy of that recorded interview shall be provided to the Member prior to any subsequent interview (Government Code § 3303(g)).
7. If the allegations involve potential criminal conduct, the Member shall be advised of his/her Constitutional rights pursuant to Lybarger. This admonishment shall be given administratively whether or not the Member was advised of these rights during any separate criminal investigation. (Government Code § 3303(h)).
8. All Members subjected to interviews that could result in punitive action shall have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual Member's statement, involved Members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).
9. Department Members will not be subject to discipline solely for actions determined to be a lawful exercise of their constitutional rights. Department Members will not be subject to questioning, a personnel investigation or discipline for invocation of their Fifth Amendment right.

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1020.4 RETENTION OF COMPLAINT REPORTS

The Professional Services Command shall maintain the Complaint Report Forms and all supporting documentation for five (5) years from the date of the complaint.

1020.4.1 CONTENTS OF PERSONNEL FILE

Contents of a Member's personnel file shall be retained in accordance to the Member's respective Memorandum of Understanding or applicable laws.