

COMMUNITY POLICE REVIEW COMMISSION POLICY RECOMMENDATION

RPD POLICY AND PROCEDURES 1009 – Personnel Complaints

The Community Police Review Commission recently received and reviewed RPD's revised draft of Policy 1009 – Personnel Complaints. Highlighted items are insertions by RPD.

Recommendations:

The Community Police Review Commission recommends that the Department consider “reformatting” the proposed Policy utilizing the attached version of Policy 1009 – Personnel Complaints, as discussed with Chief Diaz and his staff.

Jane Adams, Chair
Community Police Review Commission

Date

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INTRODUCTION

In a free society, for the police to effectively provide public safety and protect the rights of all persons, it is imperative that the community trust the police employees who work for them. An essential part of building such trust is to readily accept and thoroughly investigate community complaints. In the City of Riverside, the City Charter has incorporated the institution of the Community Police Review Commission (CPRC). This body, which consists of community members who are appointed by our elected officials, independently reviews all public complaints against sworn members of the Department, and they issue recommended findings on each allegation, independent of the Department's findings. The CPRC has the additional duties of reviewing all officer-involved deaths. They also make recommendations regarding Department policies. The Riverside Police Department is committed to working with the CPRC in an open and transparent way and thereby to earn the trust of the community that we serve.

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1009.1 PURPOSE AND SCOPE

The purpose of this procedure is to provide guidelines for the reporting, investigation, disposition, and referral of complaints and inquiries to the CPRC regarding the conduct of members and employees of this Department.

1009.1.1 PERSONNEL COMPLAINTS DEFINED

Personnel complaints consist of any allegation of misconduct or improper job performance against any Department employee that, if true, would constitute a violation of Department policy or federal, state, or local law. Complaints that originate from a member of the public are known as External Complaints. Complaints that originate from another Department employee or from another government agency are Internal Complaints.

This policy shall not apply to any interrogation, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of an employee in the normal course of duty, by a supervisor or any other employee, nor shall this policy apply to an investigation concerned solely and directly with alleged criminal activities (Cal. Govt. Code 3303(i)).

A matter in which the complaining party requests further investigation or in which a Department supervisor determines that further action is warranted will be documented as a personnel complaint. Complaints may be investigated by a Department supervisor of rank greater than the accused employee or referred to the Internal Affairs Bureau, depending on the seriousness and complexity of the investigation.

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1009.1.2 DEFINITION OF INQUIRIES

Inquiries about employee conduct which, even if true, would not qualify as a personnel complaint should be handled informally by Department supervisors and shall not be considered complaints. Inquiries will be documented and tracked like complaints **including referral of the completed inquiry investigation to the CPRC**. No findings are necessary; there will be no Memorandum of Finding completed for these investigations. Inquiries do not require a Complaint Control Form.

1009.2 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1009.2.1 AVAILABILITY OF COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public lobbies of the Orange, Magnolia, and Lincoln police stations. Forms may also be available at other government facilities, such as the office of the Community Police Review Commission (CPRC) at City Hall. Personnel complaints may also be made online directly to the [Police Department](#) or [CPRC](#).

1009.2.2 SOURCE OF COMPLAINTS

- (a) A supervisor may receive a complaint from any source alleging misconduct of an employee which, if true, could result in disciplinary action.
- (b) Anonymous complaints and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.

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1009.2.3 ACCEPTANCE OF COMPLAINTS

A complaint may be filed in person, in writing, online, or by telephoning the Department. Although not required, every effort should be made to have the complainant appear in person. The following should be considered before taking a complaint:

- (a) When the complainant is intoxicated to the point where their credibility appears to be unreliable identifying information should be obtained and the person should be provided with a personnel complaint form.
- (b) Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with their parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint.
- (c) Non-supervisory employees shall immediately refer complaints to an on-duty supervisor. Whenever possible, civilian supervisors shall refer complaints against sworn personnel to an on-duty sworn supervisor.
- (d) If an external complaint is taken by phone or online, the complainant shall be advised that they will receive a copy of the complaint in the mail. The routing procedure will stay the same.

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1009.3 COMPLAINT AND INQUIRY DOCUMENTATION AND ROUTING

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1009.3.1 COMPLAINT DOCUMENTATION AND ROUTING

Complaints of alleged misconduct shall be documented by a supervisor on a Complaint Control Form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible. Only one subject employee and the allegations against that employee shall be listed on a Complaint Control Form. If there are multiple employees involved, the same case number shall be used on multiple Complaint Control Forms arising out the same incident. In cases where there are multiple Complaint Control Forms from the same incident, redundant information need not be repeated on each of them.

When a Complaint Control Form is completed in person, the complainant should legibly write a detailed narrative of his/her complaint. If circumstances indicate that this is not feasible, the complaint may be dictated to the receiving supervisor. In an effort to ensure accuracy in any complaint, a recorded statement shall be obtained from the reporting party and any other witnesses that may be present. A refusal by a party to be recorded shall not alone be grounds to refuse to accept a complaint. Whether the complaint is handwritten or dictated, the complainant's signature should be obtained at the conclusion of the statement if possible. The complainant should be provided with a copy of his/her own original complaint per Penal Code § 832.7.

Complaints will be issued case numbers by the Internal Affairs Bureau based on the following conventions:

- * PC Indicates External Complaint or Inquiry
- * PA Indicates Internal Complaint/Investigation
- * 17 Year (First two numerical digits, e.g. 17)
- * 001 Report File Number (last three numerical digits, e.g. "001")

Internal Affairs shall log all complaints by the assigned number and complainant's name and track them. For all external complaints, Internal Affairs shall forward copies of the Complaint Control Forms to the **Manager** of the Community Police Review Commission in a timely manner.

Internal Affairs shall retain the original copy of the Complaint Control Form for tracking purposes. Two copies of the Complaint Control Form will be forwarded to the Division Commander of the command assigned to investigate the complaint. One copy shall be a working copy to be used by the investigating supervisor. The second copy is to be given to the subject employee, except in cases of internal complaints or when such notification would compromise the investigation.

Upon receipt of the Complaint Control Form, Internal Affairs will notify the external complainant, in writing, that the complaint has been received and that an investigation has been initiated. A copy of the Complaint Control Form will also be included, as well as a stamped self-addressed envelope for the complainant to return additional information, if needed. Completed complaint investigations shall be forwarded through the chain of command to Internal Affairs.

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1009.3.2 INQUIRY DOCUMENTATION AND ROUTING

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Upon receipt of an inquiry, a supervisor will obtain all information necessary to properly document the inquiry, including recordings of any interviews with the person(s) making the inquiry. The supervisor, with the concurrence of their Division Commander, will obtain a case number from Internal Affairs (for tracking) and prepare a memo documenting the inquiry utilizing the appropriate headings recommended in 1009.6.2 (not all may apply). The completed document will then be forwarded to Internal Affairs.

1009.4 SUPERVISOR RESPONSIBILITY

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A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation. Moreover, supervisors shall also maintain the ability to engage in the interrogation of an employee in the normal course of duty, counseling, instruction, or informal verbal admonishment, or other routine or unplanned contact (Cal. Govt. Code 3303(i)).

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the employee's immediate supervisor. The Chief of Police or authorized designee may, however, direct that another supervisor investigate it. The supervisor shall be responsible for the following:

- (a) A supervisor receiving a formal complaint involving allegations of a potentially serious nature shall ensure that the Watch Commander, Commanding Officer and Chief of Police are notified as soon as practicable.
- (b) A supervisor receiving or initiating any formal complaint shall ensure that a Complaint Control Form has been completed as fully as possible. The original complaint form will then be directed to the Internal Affairs Bureau, which will take appropriate action or forward the complaint to the Commanding Officer of the accused employee. An electronic copy of the form should also be forwarded to Internal Affairs staff immediately. If an external complaint is submitted in person by the complaining party, the blue copy of the Complaint Control Form should be given to the complainant, if present. In the case of an internal complaint, all copies of the Complaint Control Form should be forwarded to Internal Affairs.
 1. During the preliminary investigation of any complaint, the supervisor should make every reasonable effort to obtain names, addresses, and telephone numbers of additional witnesses.
 2. Once immediate medical attention has been provided, photographs of alleged injuries, as well as accessible areas of non-injury, should be taken.
 3. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the employee's Division Commander or the Chief of Police, who will initiate appropriate action.
- (c) A supervisor dealing with an accused employee shall ensure that the procedural rights of the employee are followed pursuant to Government Code § 3303, et seq., and any applicable MOU.
- (d) When the nature of a personnel complaint relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination, the supervisor receiving the complaint shall

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promptly contact the Personnel Bureau and the Chief of Police for direction regarding their role in investigating and/or addressing the complaint.

- (e) Supervisors and managers are expected to mediate conflicts between the employees they supervise. When a supervisor determines that a personnel complaint filed by one employee against another is the result of a personal disagreement or a dispute regarding the interpretation of a Department rule, rather than a violation of law or policy, the supervisor shall notify the Division Commander and attempt to resolve the conflict outside the complaint process.

1009.5 ASSIGNMENT TO ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature or when circumstances practically dictate that it would impose an unreasonable risk to the Department, the employee, other employees or the public, a supervisor may assign the accused employee to inactive duty, pending completion of the investigation or the filing of administrative charges.

1009.5.1 ADMINISTRATIVE LEAVE

An employee placed on administrative leave may be subject to the following guidelines:

- (a) An employee placed on administrative leave shall continue to receive regular pay and benefits, pending the imposition of any discipline.
- (b) An employee placed on administrative leave may be required to relinquish any badge, departmental identification, assigned weapon(s) and any other departmental equipment.
- (c) An employee placed on administrative leave may be ordered to refrain from taking any action as a Department employee or in an official capacity. The employee shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (d) An employee placed on administrative leave may be temporarily reassigned to a different shift (generally normal business hours) during the pendency of the investigation and the employee may be required to remain available for contact at all times during such shift and report as ordered.
- (e) It shall be the responsibility of the assigning supervisor to promptly notify the employee's Division Commander and the Chief of Police.
- (f) At such time as any employee placed on administrative leave is returned to full and regular duty, the employee shall be returned to his or her regularly assigned shift with all badges, identification card, and other equipment returned.

1009.6 ALLEGATIONS OF CRIMINAL CONDUCT

Upon becoming aware of alleged misconduct that may reasonably be anticipated to result in criminal prosecution or discipline, a Department employee shall immediately notify a supervisor.

When an employee of this Department is accused of potential criminal conduct, a separate supervisor or assigned detective shall be assigned to investigate the criminal allegations apart

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from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practical when an employee is formally accused of criminal conduct. In the event of serious criminal allegations, the Chief of Police may request a criminal investigation by an outside law enforcement agency.

An employee accused of criminal conduct shall be provided with all rights and privileges afforded to a civilian, and the employee may not be administratively ordered to provide any information to a criminal detective. Furthermore, no information or evidence administratively coerced from an employee may be provided to a criminal detective (Government Code §3303(e)).

No disciplinary action, other than paid administrative leave, shall be taken against the accused employee based solely on an arrest or crime report (Labor Code § 432.7(b)). An independent administrative investigation shall be conducted based upon the allegations in the report, in accordance with Department policy.

1009.7 INTERVIEW OF ACCUSED EMPLOYEES

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

- (a) Complaints shall not be prepared unless the alleged misconduct or job performance is of a nature which, if true, would normally result in disciplinary action.
- (b) Interviews of accused employees shall be conducted during reasonable hours, and if the employee is off duty, the employee shall be compensated (Government Code § 3303(a)).
- (c) No more than two interviewers may ask questions of an accused employee (Government Code § 3303(b)).
- (d) Prior to any interview, an employee shall be informed of the nature of the investigation (Government Code § 3303(c)).
- (e) All interviews shall be for a reasonable period, and the employee's personal needs shall be accommodated (Government Code § 3303(d)).
- (f) No employee shall be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any employee 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)).
- (g) Absent circumstances preventing it, the interviewer shall record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview (Government Code § 3303(g)).
- (h) If the allegations involve potential criminal conduct, the employee shall be advised of his/her Constitutional rights pursuant to *Lybarger*. This admonishment shall be given administratively, whether or not the employee was advised of these rights during any separate criminal investigation (Government Code § 3303(h)).

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- (i) All employees 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 employee's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).
- (j) All employees shall provide complete and truthful responses to questions posed during interviews.
- (k) No employee may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).
- (l) No investigation shall be undertaken against any officer solely because the officer has been placed on a prosecutor's *Brady* list or the name of the officer may otherwise be subject to disclosure pursuant to *Brady v. Maryland*. However, an investigation may be based on the underlying acts or omissions for which the officer has been placed on a *Brady* list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

1009.8 ADMINISTRATIVE SEARCHES

Any employee may be compelled to disclose personal financial information pursuant to proper legal process if such information tends to indicate a conflict of interest with official duties or if the employee is assigned to or being considered for a special assignment with a potential for bribes (Government Code § 3308).

Employees shall have no expectation of privacy when using telephones, computers, radios or other communication equipment provided by the Department.

Assigned lockers and storage spaces may be administratively searched only in the employee's presence; with the employee's consent; with a valid search warrant; or when the employee has been given reasonable notice that the search will take place (Government Code § 3309).

All other Departmentally-assigned areas may be administratively searched by a supervisor, in the presence of an uninvolved witness, for non-investigative purposes. An investigative search of such areas shall only be conducted upon a reasonable suspicion that official misconduct is involved.

1009.9 COMPLAINT INVESTIGATION

- (a) The supervisor accepting the complaint shall be responsible for accurately and fully completing the Complaint Control Form. The supervisor shall obtain preliminary statements from the complainant and any immediately available witnesses. When practicable to do so, all interviews will be recorded. If an interview is not recorded, the supervisor must provide a written explanation. Additionally, the supervisor shall collect and preserve any physical evidence that is readily available or may be time or weather sensitive.
- (b) The supervisor accepting the complaint must clearly, accurately, and completely document each allegation made by the complainant on the Complaint Control Form. It is essential that

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the specifics (date, time, location) of the allegation(s) are obtained and included on the Complaint Control Form. If additional space is required, supervisors shall use a continuation page.

- (c) Internal Affairs shall be responsible for overseeing all external and internal complaint investigations and ensuring they are completed in a thorough and timely manner. The Support Services Captain and Internal Affairs Lieutenant shall have the authority to assign investigations to other divisions or to assign Internal Affairs personnel to conduct investigations.
- (d) Internal Affairs will issue a due date for each complaint investigation. All effort should be made to complete investigations within 60 days of the receipt of the complaint. If additional time is required, the Division Commander will request approval for an extension from the Internal Affairs Lieutenant. If an extension is needed, then a letter should be drafted to the complainant with a status update.
- (e) All recognized investigative methods for determining the facts surrounding a complaint will be used. Recorded interviews will be conducted with the complainant, employee(s), and all witnesses when practicable. If an interview is not recorded, the supervisor must provide a written explanation. To avoid having to interview the Department member against whom the complaint is lodged more than once, it is recommended the employee be the last person interviewed.
- (f) Investigating supervisors shall separately set forth and address each issue raised in the complaint and specify the applicable policy sections.
- (g) Investigating supervisors shall thoroughly investigate, evaluate, and specifically address in their investigation report the rationale and actual reason for any stop or search related to the complaint.
- (h) Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation and final disposition within one year from the date of discovery by an individual authorized to initiate an investigation. In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1. If the nature of the allegations dictates that confidentiality is necessary to maintain the integrity of the investigation, the involved employee(s) need not be notified of the pending investigation unless and until the employee is interviewed or formally charged within one year of discovery. Ideally, each investigation will be processed and reviewed by both the Department, the CPRC, and the City Manager within the one-year time period.

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1009.10 DISPOSITION OF PERSONNEL COMPLAINTS

Each allegation shall be classified with one of the following findings:

Sustained – When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

Not Sustained – When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.

Unfounded – When the investigation discloses that the alleged act(s) either did not occur or did

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not involve Department personnel.

Exonerated – When the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.

Incomplete – A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. Depending on the seriousness of the complaint and the availability of sufficient information, Incomplete matters may be further investigated.

Previous Administrative Review – A matter in which the actions of the employee(s) have been determined to be within policy in a previous Supervisor Administrative Review or other administrative investigation. If no further information is provided or discovered, beyond the facts already known at the time of the Previous Administrative Review, the Department supervisor, with approval of his or her commanding officer and the Internal Affairs Lieutenant, may classify the allegation with a finding of Previous Administrative Review.

Other Judicial Review – This finding is intended to address complaints in which the matter has been handled or would most appropriately be handled, by a judicial authority having jurisdiction over the matter.

Example 1: A member of the public complains that an officer failed to interpret a child custody order in the same manner as the community member interpreted it.

Example 2: A motorist complains about a traffic citation and the only issue is the motorist's guilt or innocence for the violation. No other issue of employee behavior is raised.

Example 3: A person complains that they were convicted of a crime that they did not commit. Assuming that no new evidence is provided beyond what the defendant raised or had the opportunity to raise in court, the appropriate finding would be Other Judicial Review.

Frivolous – Complaints that are totally and completely without merit, or which are made for the sole purpose of harassing a police employee may be classified with a finding of Frivolous as approved by the Internal Affairs Lieutenant or a chief officer¹.

Findings for each allegation shall be made by the Chief of Police or another chief officer acting in the place of the Chief of Police. The completed investigation will be forwarded to the CPRC. The CPRC, by majority vote, will make independent recommendations of findings for each allegation. Following CPRC review, the investigation shall be forwarded to the City Manager's Office for the final determination of findings.

1009.11 ADMINISTRATIVE INVESTIGATION REPORT FORMAT

Investigations of personnel complaints shall be detailed and complete, and shall essentially follow this format:

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¹ Per CA Penal Code §832.5 and as defined in section 128.5 of the Code of Civil Procedure

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Introduction – The initial portion of the complaint should include the following headings: Date of Complaint; Date of Incident; Location of Incident; Complainant; Subject Officer(s); Witness Officer(s); Civilian Witnesses; Police File Number; Related File Number(s).

Summary – Provide a very brief summary of the facts giving rise to the investigation.

Allegations – List the allegations separately, including applicable policy sections, with a very brief summary of the evidence relevant to each allegation.

Investigation – Provide a brief description of the steps taken during the investigation.

Interviews – Under separate headings, list a summary of the interviews of the Complainant(s), Witnesses, and Subject Officer(s).

Exhibits – A separate list of exhibits, e.g. recordings, photos, documents, etc., should be attached to the report.

Investigating supervisors shall not make findings in their investigative report.

A separate Memorandum of Finding shall be prepared by the Lieutenant or manager charged with reviewing investigations conducted by sergeants and supervisors. This document shall detail the findings and explain their rationale as to each of the complaint allegations. The Memorandum of Finding shall include the following headings: Summary; Allegation(s); Finding; and Rationale. When there is a sustained finding, the following sections shall be included: Administrative Insight and Recommended Discipline and/or Training.

1009.12 COMPLAINT INVESTIGATION, REVIEW, AND APPROVAL

- (a) Upon completion, the report should be forwarded through the chain of command to the commanding officer of the involved employee(s). Each level of management shall review the completed investigation for objectivity, thoroughness, timeliness, and compliance with Department policies and procedures.
- (b) Completed complaint investigations will be routed through the chain of command to Internal Affairs. Each level of management shall review the completed investigation for objectivity, thoroughness, timeliness, and compliance with Department policies and procedures.
- (c) Each command officer responsible for reviewing the investigation shall provide a written statement of concurrence or disagreement with the conclusions and findings of the investigation. If there is a disagreement, a full written explanation of the reason(s) for the disagreement shall be provided.
- (d) Command personnel charged with reviewing investigations conducted by sergeants/supervisors who directly supervise the employees that are the subject of a complaint shall review the investigation to ensure that a fair, unbiased, and thorough investigation was conducted.
- (e) Internal Affairs shall obtain final approval of the complaint investigation from the Chief of Police or designee.
- (f) Investigating supervisors and reviewing managers shall only discuss or disclose investigative information with superior officers or members currently assigned to Internal Affairs.

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1009.12.1 DISPOSITION OF INTERNAL INVESTIGATION AND EXTERNAL COMPLAINTS AGAINST CIVILIANS

- (a) In cases of internal investigations or external complaints where the subject employee(s) is a civilian, the completed investigative report will be forwarded through the chain of command to the Chief's Office via Internal Affairs and the Support Services Captain. The subject civilian employee's commanding officer or designee, shall review the investigation and findings with the involved Department member(s). The commanding officer will have the Department member(s) read and sign a copy of the investigative report. Department members will not be given a copy of an investigative report unless it is to be used as a basis for disciplinary action against that member.
- (b) If a Department member disagrees with the disposition or finding(s) of the investigation, they may submit a written rebuttal within thirty (30) days to the Support Services Captain. The Department member's written rebuttal will be filed with the completed investigation.

Except as to external complaints, the Chief of Police may accept or modify the findings and recommendation for disciplinary action contained in the report.

Within thirty (30) days after the findings are issued, written notice of those findings shall be sent to the complaining party. This notice shall indicate the findings, however, it will not disclose the amount of discipline imposed, if any. The complaining party should also be provided with a copy of their own original complaint (Penal Code § 832.7).

Any complaining party who is not satisfied with the findings of the Department concerning his or her complaint may contact the Chief of Police to discuss the matter further.

1009.12.2 DISPOSITION OF INQUIRIES

Completed inquiries will be routed through the chain of command to Internal Affairs. Once the inquiry is approved, in cases where the inquiry involved a sworn officer, Internal Affairs will forward the investigative report to the **Manager** of the Community Police Review Commission for their review as per Chapter 2.76 of the Riverside Municipal Code.

1009.13 COMMUNITY POLICE REVIEW COMMISSION

- (a) The approval process should be completed within 60 days.
- (b) All completed investigations of complaints and inquiries initiated by members of the community against sworn members of the Department, and filed within 6 months of the event, shall be forwarded to the CPRC, along with all items of evidence (interviews, audio and video evidence, related reports, etc.). All information upon which the Department relies to arrive at its findings will be provided to the CPRC so that the commission may make its recommendations on the findings, independent of the Department's rationale.
- (c) The CPRC will review all of the documentation provided in a closed session to maintain the officer's confidentiality. They will reach an independent conclusion as to the finding in the case. (See Section 1009.10 Disposition of Personnel Complaints.) The case will then be

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forwarded to the City Manager for a final decision on the case finding.

- (d) Once the completed investigation is approved, in external complaint cases where the subject employee(s) is a sworn officer, Internal Affairs will forward the investigative report to the Manager of the Community Police Review Commission for their review as per Chapter 2.76 of the Riverside Municipal Code.
- (e) Upon receipt of a finding from the City Manager's Office in cases where the subject employee(s) is a sworn officer, the subject employee's commanding officer or designee shall review the investigation and findings with the involved Department member(s). The commanding officer will have the Department member(s) read and sign a copy of the investigative report. Department members will not be given a copy of an investigative report unless it is to be used as basis for disciplinary action against that member.
- (f) The City Manager will be responsible for notifying the external complainant, in writing by certified mail, within thirty (30) days of the disposition of the complaint. Additionally, Internal Affairs will notify, in writing, the Department member against whom the complaint was lodged and the member's commanding officer of the disposition of the complaint upon receipt of the finding from the City Manager.

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1009.14 CONFIDENTIALITY OF PERSONNEL FILES

All investigations of personnel complaints, whether originating from a community member or internally, shall be considered confidential peace officer personnel files. The contents of such files shall not be revealed to anyone other than the involved employee or authorized personnel, except pursuant to lawful process (Penal Code §832.7).

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In the event that an accused employee (or the representative of such employee) knowingly makes false representations regarding any internal investigation and such false representations are communicated to any media source, the Department may disclose sufficient information from the employee's personnel file to refute such false representations (Penal Code § 832.5).

All sustained citizen's complaints shall be maintained for a period of at least five years (Penal Code § 832.5). All internally initiated complaints shall be maintained at least two years (Government Code § 34090 et seq.). Internal Affairs will be responsible for maintaining a comprehensive file of all complaints received by the Department.

Any and all complaints, regardless of findings, shall be kept on file in the Internal Affairs Bureau.

1009.15 PITCHESS MOTION

A Pitchess Motion is a motion for discovery of peace officer personnel records where the defense counsel is attempting to establish a custom, habit or practice of excessive force, untruthfulness or false arrest against an arresting officer. Pitchess Motions generally are filed in cases where the defendant is charged with violating Penal Code sections 148, 241, 243, 245, or similar statutes (CA Evidence Code §1043 and §1046).

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- (a) Internal Affairs will handle all Pitchess Motions.

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- (b) Upon the filing of a Pitchess Motion, Internal Affairs will promptly notify, in writing, the employee whose personnel records are being sought for discovery. Internal Affairs will also notify the employee what information, if any, was ordered released. The employee whose personnel records were the subject of a Pitchess Motion that resulted in information being released will be given the opportunity to review the information that was released, prior to testifying in the related criminal case.
- (c) If the affidavit filed by the defense attorney is found by the judge to fulfill certain legal requirements, the judge will review the records requested "in camera" (judge's chambers).
- (d) In those cases where the judge feels that one or more of the complaints are relevant to the case in question, the judge may order the release of the names, addresses and telephone numbers of the complainants and any witnesses identified in those investigations, as well as the disposition of the complaint.

1009.16 COMPLAINT PROCEDURE COMPLIANCE AUDIT

Internal Affairs will be responsible for conducting two audits a year to ensure compliance with the Personnel Complaint Policy.

- (a) The Internal Affairs Lieutenant may solicit the cooperation of any person to act on behalf of the Department posing as a member of the public requesting to file a personnel complaint or requesting information on the complaint procedure. The details of the fictitious complaint shall be sufficiently serious to cause a supervisor to complete the Complaint Control Form.
- (b) Upon receipt of the completed Complaint Control Form, Internal Affairs will immediately make the necessary changes to the Complaint Control Log to reflect the complaint as an audit.
- (c) The Internal Affairs Lieutenant will review the audit complaint for completeness, accuracy, and compliance with the complaint policy and procedure. A report summarizing the results of the audit will be prepared and forwarded to the Chief of Police and the CPRC.
- (d) Failure of any supervisor to follow the complaint procedure shall be referred to that supervisor's Division Commander for appropriate action. This section shall also apply during any testing or audit exercise.

1009.17 CPRC EVALUATION OF COMPLAINT PROCEDURE COMPLIANCE

- (a) The CPRC will meet with RPD at least twice a year to review and ensure compliance of this policy.
 - 1. The Chair and Manager will represent the CPRC while meeting with RPD's Internal Affairs Lieutenant or other designee.
- (b) The CPRC will select for review no less than five completed complaint cases every six months.
 - 1. The CPRC and RPD will review cases for compliance from the point of initiation until final review by the City Manager's Office. These reviews could include an additional contact of the complainant by CPRC to help determine overall compliance of this policy.
 - 2. Public employee personnel information obtained from cases reviewed will remain

CPRC REFORMAT w / COMMENTS

Riverside Police Department

Riverside PD Policy Manual

Personnel Complaints

confidential as per CA Government Code §3300 et. al.

3. CPRC will prepare a report summarizing the results of its compliance evaluation. The report will be forwarded to the City Manager's Office, the Chief of Police, and the CPRC.

Commented [PS33]: Robin's addition re CPRC's audit