

4.12 PERSONNEL COMPLAINT POLICY:

A. PURPOSE:

To establish a sound procedure to investigate complaints of poor service or misconduct against members of the Department. The investigation must be thorough and impartial in order to protect the rights of the employee and maintain the Department's high level of integrity and efficiency.

B. DEFINITIONS:

- Complaint:** Any allegation of poor service or misconduct made by a member of the public or employee against a member of the Department is a complaint. Complaints of misconduct must allege a violation of Federal, State or local law, or Riverside Police Department policy or procedure.

Complaints lodged by members of the public will be classified as EXTERNAL COMPLAINTS. Complaints lodged by employees will be classified as INTERNAL INVESTIGATIONS/COMPLAINTS.

- CATEGORY 1 Complaints:** All complaints which involve:

- Excessive Force
- False Arrest
- Discrimination/Harassment
- Criminal Conduct

- CATEGORY 2 Complaints:** All complaints which involve:

- Poor Service
- Discourtesy
- Improper Procedure
- Conduct Unbecoming (CUBO)
- Infractions, Traffic Violations, and Riverside Municipal Code Violations
- Other

- Findings:** Each allegation in a complaint shall have one of the following findings:

- **Unfounded:** The alleged act did not occur.
- **Exonerated:** The alleged act occurred but was justified, legal and proper.
- **Not Sustained:** The investigation produced insufficient information to prove or disprove the allegation.
- **Sustained:** The Department member committed all or part of the alleged acts of misconduct or poor service.
- **Misconduct Noted:** The Department member violated a section of the Department policies, rules or regulations not originally alleged in the complaint.

5. **Inquiry:** If, during the investigation, it is determined that a member of the public is merely requesting clarification of a policy or procedure, that complaint, with the approval of the investigating supervisor's commanding officer and concurrence of the Support Services Captain or Internal Affairs Lieutenant, may be considered an **Inquiry**. The inquiry box on the Complaint Control Form shall only be checked by the Support Services Captain or Internal Affairs Lieutenant, and will be accompanied by his/her signature.

C. COMPLAINT RECEPTION AND ROUTING:

1. The commander, or designee, of each Department facility open to the public shall ensure that Personnel Conduct Reporting Procedure Brochures and Complaint Control Forms are available to the public in that facility.
2. Every employee has a duty to refer members of the public to open police facilities so that they can obtain Personnel Conduct Reporting Procedure brochures and Complaint Control Forms upon request. Employees on-duty in those facilities shall assist members of the public in obtaining those documents upon request.
3. External complaints may be filed with any supervisory member of the Department or directly with the Community Police Review Commission.
4. Non-supervisory employees shall immediately refer complainants to an on-duty supervisor. Whenever possible, civilian supervisors shall refer complaints against sworn personnel to an on-duty sworn supervisor. Supervisors shall accept complaints in writing, in person, by telephone, or from anonymous persons. The purpose for this is to encourage members of the public or employees to bring forward legitimate grievances regarding poor police service or misconduct by Department members. Members of the public and members of the Department shall not be dissuaded in any manner from making a complaint.
5. Supervisors shall immediately record complaints sufficiently serious to warrant investigation on a Complaint Control Form (Appendix A) and obtain a case number.
6. Only one subject employee and the allegations against that employee shall be listed on each Complaint Control Form. The same case number shall be used on multiple Complaint Control Forms arising out of the same incident. In cases where there are multiple Complaint Control Forms arising from the same incident, redundant information need not be repeated on each of them.
7. The supervisor accepting an external complaint shall give the blue copy of the Complaint Control Form to the complainant, if present, and immediately fax a copy of the Complaint Control Form to the Office of Internal Affairs. The supervisor shall forward all remaining copies of the Complaint Control Form to Internal Affairs by the next business day.

NOTE: In the case of an internal investigation the supervisor shall forward all copies of the Complaint Control Form to Internal Affairs.

8. Case numbers will be generated by Internal Affairs. Supervisors taking a complaint will contact Internal Affairs for the case number. In the event that a case number request is outside of normal business hours, Internal Affairs will advise the requesting supervisor of the case number the next business day. Case numbers are deciphered as follows:

- PC Indicates External Personnel Complaint
- PA Indicates Internal Complaint / Investigation
- 01 Year (First two numerical digits, i.e., "01")
- 001 Report File Number (Last three numerical digits, i.e., "001")

9. 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 Executive Director of the Community Police Review Commission.
10. Internal Affairs shall determine whether an external complaint is to be investigated as a complaint or inquiry, and will normally be responsible for assignment of Category 1 complaints for investigation. Category 2 complaints will generally be handled at the division level, but may be handled by Internal Affairs.
11. 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 captain 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.
12. If an external complaint is taken by telephone, the complainant shall be advised that they will receive a copy of the complaint in the mail. The routing procedure will remain the same.
13. 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.
14. Completed complaint investigations shall be forwarded through the chain of command to Internal Affairs.

D. COMPLAINT INVESTIGATION:

1. 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 tape recorded. If an interview is not tape 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.
2. 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 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(s).
3. Internal Affairs shall be responsible for overseeing all external and internal complaint investigations and ensuring that 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.
4. The supervisor first becoming aware of allegations of criminal conduct by a Department member shall initiate appropriate police action to ensure the safety of the Department member and the public and shall immediately notify his/her Watch Commander. The Watch Commander will then make the appropriate notifications.

5. The Department has established a goal of completing Category 2 complaint investigations within thirty (30) calendar days from the date assigned. The Division Commander then has five (5) calendar days to submit the completed investigation with a Memorandum of Finding to Internal Affairs. If additional time is required, the Division Commander will request approval for an extension from the Personnel Services/Internal Affairs Commander.
6. The Department has established a goal of completing Category 1 complaint investigations within sixty (60) calendar days from the date assigned. The Division Commander then has five (5) calendar days to submit the completed investigation with a Memorandum of Finding to Internal Affairs. If additional time is required, the Division Commander will request approval for an extension from the Internal Affairs Lieutenant. .
7. All recognized investigative methods for determining the facts surrounding a complaint will be used. Tape recorded interviews will be conducted with the complainant, employee(s), and all witnesses when practicable. If an interview is not tape 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.
8. Investigating supervisors shall separately set forth and address each issue raised in the complaint and specify the applicable policy sections.
9. 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.
10. When applicable, investigating supervisors shall make credibility determinations on the complainant(s), each witness, and subject employee(s) and expressly set forth the rationale for those determinations in their investigative report. If such credibility determinations are not applicable, the investigating supervisor shall explain why in his/her investigative report.
11. The subject employee's personnel history, including their existing record of complaints, shall be considered in making a determination of their credibility. A copy of the employee's Internal Affairs complaint history summary shall be included as an attachment to the investigative report.

E. COMPLAINT INVESTIGATION FINDINGS, REVIEW AND APPROVAL:

1. Investigating supervisors shall not make findings in their investigative report as to the complaint allegations.
2. Lieutenants/managers charged with reviewing investigations conducted by sergeants/supervisors shall make findings and explain their rationale as to each of the complaint allegations. The specific policies applicable to each of the complaint allegations must be listed and addressed. They will submit those findings and rationale on a Memorandum of Findings which will accompany all completed complaint investigations.
3. In cases of sustained allegations, administrative insight will be included in the Memorandum of Findings.
4. 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.

5. 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.
6. 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.
7. Internal Affairs shall obtain final approval of the complaint investigation from the Chief of Police or designee.
8. Investigating supervisors and reviewing managers shall only discuss or disclose investigative information with superior officers or members currently assigned to Internal Affairs.
9. 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 Executive Director of the Community Police Review Commission for their review as per Chapter 2.76 of the Riverside Municipal Code.
10. 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 a basis for disciplinary action against that member.
11. 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.
12. 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.
13. If a Department member disagrees with the disposition or finding(s) of the investigation, he/she 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.

F. COMPLAINT INVESTIGATION FILES:

Internal Affairs will be responsible for maintaining a comprehensive file of all complaints and inquiries received by the Department for a period of five (5) years.

G. 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.

1. Internal Affairs will handle all Pitchess Motions.
2. Upon the filing of a Pitchess Motion, Internal Affairs will promptly notify, in writing, the Department member whose records are being sought for discovery. Internal Affairs will also notify the involved officer(s) what information, if any, was ordered released. The Department member(s) whose file was the subject of a Pitchess Motion will be given the opportunity to review the information which was released, prior to testifying.
3. 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 which include complaint investigations "in camera" (judge's chambers).
4. 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.

H. COMPLAINT PROCEDURE COMPLIANCE AUDIT:

Internal Affairs will be responsible for conducting random testing at least three times a year to ensure compliance with the Personnel Complaint Policy.

1. 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.
2. 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.
3. 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.
4. 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.

**RIVERSIDE POLICE DEPARTMENT
COMPLAINT CONTROL FORM**

Complaint File Number: _____
Police Report/Cite Number: _____

Location of Incident: _____ Date: _____ Time: _____

Received By: _____ Date/Time: _____ Routed to: _____

Subject Employee: _____ ID# _____

Complainant: _____ Date of Birth: _____ Sex: _____ Race: _____

Address: _____ City: _____ State: _____ Zip Code: _____

Home Phone: _____ Business Phone: _____

Business Address: _____

Witness: _____ Date of Birth: _____ Sex: _____ Race: _____

Address: _____ City: _____ State: _____ Zip Code: _____

Home Phone: _____ Business Phone: _____

Business Address: _____

Witness: _____ Date of Birth: _____ Sex: _____ Race: _____

Address: _____ City: _____ State: _____ Zip Code: _____

Home Phone: _____ Business Phone: _____

Business Address: _____

Complaint: _____

Signature of Complainant (Optional): _____

POLICE DEPARTMENT USE ONLY	
Nature of Complaint:	<input type="checkbox"/> External <input type="checkbox"/> Internal <input type="checkbox"/> Inquiry : _____
	<i>Internal Affairs</i>
Complaint Received:	<input type="checkbox"/> In Person <input type="checkbox"/> Telephone <input type="checkbox"/> Letter <input type="checkbox"/> Other
Complaint Result of:	<input type="checkbox"/> Radio Call <input type="checkbox"/> Traffic Stop <input type="checkbox"/> Arrest <input type="checkbox"/> Investigation <input type="checkbox"/> Other
Copy of Complaint Received by Complainant?	<input type="checkbox"/> Yes <input type="checkbox"/> No If "No," explain: _____
Category I:	Category II:
_____	_____
_____	_____
Specify the allegation	Specify the allegation

Copy of Complaint Received by Employee: _____

Complainant Notified of Results by: _____ Date: _____ Method: _____

Employee Notified of Results by: _____ Date: _____ Method: _____