

# **GENERAL ORDER**

07/20/94

## **CITIZEN COMPLAINTS AGAINST NON-SWORN MEMBERS**

This order outlines the policies regarding citizen complaints against non-sworn members, and the investigative duties of the senior-ranking officer.

### **I. POLICY**

- A. It is the policy of the San Francisco Police Department to encourage citizens to bring forward grievances regarding inadequate service or misconduct by its non-sworn members. The Management Control Division (MCD) shall be responsible for investigating these complaints, and all members shall fully cooperate with the investigation.**
  
- B. Members of the Department shall receive citizen complaints against non-sworn members, whether received by letter, telephone or in person and refer the matter to the senior-ranking officer on duty in the station, division, section or unit where the complaint is received. The senior-ranking officer on duty shall be personally responsible for the conduct of the investigation until relieved as specified in this order.**

### **II. PROCEDURES**

- A. DUTIES OF THE SENIOR-RANKING OFFICER. If you receive a citizen's complaint against a non-sworn member personally, or a complaint is referred to you, follow these procedures:**
  - 1. EVALUATION. Evaluate the seriousness of the allegation and determine whether an immediate investigation is required (see Section B.).**
  
  - 2. FORM PREPARATION. Prepare Management Control Division Case form (SFPD 83) and forward it in a sealed envelope to the Management Control Division before reporting off duty.**

**B. IMMEDIATE INVESTIGATIONS/DUTIES OF SENIOR-RANKING OFFICER**

1. **WHEN.** You must conduct an immediate investigation if a delay imposed by assigning the complaint to MCD will jeopardize the investigation or public safety. The following are examples of situations requiring an immediate investigation and report:
  - a. The member is still on duty.
  - b. The complainant alleges unfitness and the member is still on duty.
  - c. Witness may not be available later.
  - d. The allegation constitutes criminal conduct and the member is either on or off duty.
2. **NOTIFICATION.** If an immediate investigation is required, but the member is not assigned to your unit, notify the senior-ranking officer on duty at the member's unit. If the unit is closed, contact the commanding officer of the unit through the Operations Center. In either case, the senior-ranking officer on duty or the commanding officer of the member's unit will assume responsibility for the immediate investigation, report and completion of SFPD 83.
3. **MCD NOTIFICATION.** If the citizen requests that the immediate investigation not be done by the member's unit, notify the duty MCD investigator by contacting the Management Control Division or the Operations Center after business hours. The MCD investigator will assume responsibility for the investigation.

**C. IMMEDIATE INVESTIGATION REPORT/DUTIES OF SENIOR-RANKING OFFICER**

1. **REPORT.** When an immediate investigation is required, prepare the report on a memorandum addressed to your commanding officer (if applicable). The report must contain information you can reasonably obtain before reporting off duty. The following are examples:
  - a. Full identification of all witnesses.
  - b. Summary statement from all witnesses.
  - c. Preliminary findings and recommendations.
2. **ROUTING.** The report must be directed to your commanding officer (if applicable) for review before it is forwarded to the Management Control Division. Indicate on SFPD 83 that the report was made.

**D. PROCESSING COMPLAINTS**

1. **ASSIGNING COMPLAINTS.** Complaints received directly at the Management Control Division or received on SFPD 83 will be assigned a file number. These complaints may be assigned to a MCD investigator or to the member's commanding officer for formal investigation.
2. **C.O. INVESTIGATIONS.** If the complaint is referred to the member's commanding officer, the commanding officer shall complete the formal investigation and return it to the Management Control Division within 21 days.

**E. FORMAL INVESTIGATION REPORT**

1. **FORMAT.** The results of a formal investigation must be prepared on Department memorandum addressed to the Chief of Police and written in the following format:
  - a. **Page 1:** Include the member's name, assignment, nature of complaint, MCD case number, date, time and place of occurrence, and investigative steps taken.

- b. Page 2: Conclusion with a narrative of the facts supporting it.
  - c. Page 3: Recommendations.
  - d. Page 4: Brief chronology of your investigation; who was interviewed, and any evidence that aided in the investigation.
  - e. Page 5: Statements of those interviewed.
  - f. Page 6: Attachments and documents.
  - g. Page 7: Involved parties.
2. CONCLUSIONS. Each formal investigation must contain one of the following conclusions:
- a. **Improper Conduct:** The investigation disclosed enough evidence to clearly prove the allegation of misconduct.
  - b. **Insufficient Evidence:** The investigation failed to reveal and document enough evidence to clearly prove or disprove the allegation.
  - c. **Proper Conduct:** The act or event alleged did occur but was justifiable, lawful and consistent with Department policy and procedure.
  - d. **Policy Failure:** The act or event alleged did occur but was justified, lawful and consistent with Department policy or procedures; however, those policies and procedures were unconstitutional, illegal or deficient.
  - e. **Unfounded:** The investigation conclusively proves the alleged incident did not occur or the member named in the complaint was not involved.

3. **RECOMMENDATIONS.** The following recommendations shall be made (recommendations a. through e. are not considered punitive action):
- a. The case be closed and filed.
  - b. The member be counseled.
  - c. The member be trained or retrained.
  - d. Policy or procedures be changed.
  - e. The member be verbally admonished.
  - f. The member be given a written reprimand.
  - g. The member be given a Chief's disciplinary suspension (do not specify the number of days).
  - h. The matter be referred to the Chief for further disciplinary action, such as a termination hearing.
  - i. Criminal charges be filed.

**F. CITIZEN NOTIFICATION.** After the completion of each formal investigation, the Commanding Officer of the Management Control Division will ensure that the complainant and the member both receive a letter containing the final disposition of the case.

**G. COMPLAINTS BY OTHER MEMBERS.** When any member of the Department makes a complaint against a non-sworn member, he/she shall prepare the complaint on a memorandum (not SFPD 83) addressed to his/her commanding officer.

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