

## **VOLUME 3 - CHAPTER 4**

### **SERVICE REVIEWS, PUBLIC COMPLAINT PROCESS, AND PERSONNEL INVESTIGATIONS**

#### **3-04/000.00 PERSONNEL INVESTIGATIONS**

Public trust is vital to our mission, and rests on Departmental responsiveness to community needs and expectations. To foster public confidence in the Department and to promote constructive communication, commendations and complaints must be received with equal professional interest and courtesy, and given appropriate supervisory attention.

#### **3-04/010.00 DEPARTMENT SERVICE REVIEWS**

The Department will accept and review any comment from any member of the public concerning Departmental service or individual performance. These comments fall into three categories:

- External Commendation: an external communication of appreciation for and/or approval of service provided by Department members;
- Service Complaint: an external communication of dissatisfaction with Department service, procedure or practice, not involving employee misconduct; and
- Personnel Complaint: an external allegation of misconduct, either a violation of law or Department policy, against any member of the Department.

#### **3-04/010.05 PROCEDURES FOR DEPARTMENT SERVICE REVIEWS**

A Department Service Review is an externally initiated supervisory review of the Department's or individual employee's performance. Externally initiated input is defined as that which is received from any member of the public. Department service reviews shall be documented on Service Comment Report forms. The Watch Commander of the Unit shall initiate a service review by immediately interviewing any member of the public who, whether in person or by telephone, offers a comment. It is the Watch Commander's or Supervising Lieutenant's responsibility to hear every commendation or complaint, even if another Unit's personnel are involved, and to immediately complete a Watch Commander's Service Comment Report form. In cases of public input received through the mail or electronic means, the Unit Commander shall designate a Lieutenant to complete the Service Comment Report form. If a commendation or complaint concerns an employee not under the supervision of a Lieutenant, that person's designated supervisor shall complete the Service Comment Report form.

NOTE: When a complaint or other form of service inquiry is received from a city official, county official, or member of their staff, or from a city official, county official, or staff member on behalf of a constituent, the complaint or service inquiry shall be immediately forwarded to the concerned unit commander. The concerned unit commander shall personally make the initial contact with the complaining party and personally supervise any subsequent review, inquiry, or investigation.

NOTE: The Service Comment Report process is intended to document and track public input about Department performance. It shall not be used to document internally generated supervisory observations about performance. Supervisory observations shall continue to be documented in the Unit performance log, or through commendations and discipline as appropriate. As an example, if a Lieutenant from another Unit within the Department writes a letter or memorandum commending an employee, a Service Comment Report form would not be filled out. See section 3-02/140.05 for instructions on documenting internal commendations in the Personnel Performance Index.

NOTE: Custody Division procedures apply to inmate complaints about jail incidents and conditions, etc. The Service Comment Report form shall not be used to record complaints by inmates, friends or relatives of inmates who are non-involved or a non-aggrieved party while the inmate is in a Department custody facility. These type of complaints shall be processed pursuant to Custody Division Manual policy regarding "Referred Inmate Complaints." Department members from non-custodial units who receive a referred inmate complaint shall obtain the reporting party's name, return phone number and the inmate's name, booking number and housing facility. The receiving Department member shall inform the caller they will be contacted by the custody facility Watch Commander as soon as notifications are complete. It shall be the responsibility of the receiving member to ensure that the concerned watch commander is immediately notified regarding the complaint.

Complaints received from inmates after they have been released shall be processed on an Inmate Complaint Form (not a Watch Commander Service Comment Report form) pursuant to Custody Division Manual policy regarding "Inmate Complaints." Complaints received by a Watch Commander at a Station or Custody Facility, other than the facility at which the inmate was housed, shall be documented along with the inmate's personal information for notification, and forwarded to the appropriate facility Watch Commander to process.

NOTE: Members of the public who are unable to speak and/or write in English should be encouraged to submit the information in their native language.

The Watch Commander completing the Service Comment Report form shall fill in the information provided by the person offering the comment. The Watch Commander shall not require anyone who has responded to the Unit in person, or made contact by phone, to submit a commendation or complaint in writing at a later time. The Watch Commander shall place a mark in the appropriate box indicating the nature of the comment, and shall mark the appropriate sub-category(s) as accurately as possible. The Watch Commander shall write a brief synopsis of the commendation or complaint in the "Synopsis of Contact/Event" section. This section is transferred verbatim into the data base and therefore it must be completed, even if the member of the public has furnished a written account of the event. The synopsis shall be restricted to 2 to 3 sentences so that the information fits into the data base field. Any written account provided by the member of the public shall be securely attached to the Service Comment Report form.

If the commendation or complaint involves more employees or parties than provided for on the form, the additional names shall be listed on a continuation page for involved employees (SH-R-437B). This page shall be labeled with the Service Comment Report serial number and be securely attached to the Service Comment form. The Watch Commander shall then print and sign his name and employee number on the face page of the form.

NOTE: Watch Commander Service Comment Reports shall be completed within 30 calendar days and forwarded to Division.

If a member of the public offers a comment in person or by telephone, the Watch Commander shall inform the person that he will receive a letter in the mail from the Unit Commander acknowledging the comment. During telephonic comments or complaints, the Watch Commander shall field the call on a taped line if equipment is in place to do so, and shall provide the person with the Service Comment Report number prior to the conclusion of the telephone call. If the comment or complaint is made in person, the Watch Commander shall also do the following:

- give the complainant the green copy of the Service Comment Report form; and
- give the complainant a copy of the document "Procedures for Public Complaints" [SH-CR-596 (English or Spanish version as appropriate)].

After the reporting party green copy has been detached, the Watch Commander shall fill out the remainder of the Service Comment Report form as thoroughly as possible. The Watch Commander may also write additional narrative on a memo explaining the commendation or complaint in greater detail, if necessary, to adequately inform the Unit Commander about the service comment. This is appropriate in those cases where the reporting party has not submitted a written account and the synopsis, although sufficient for defining the commendation or complaint for data entry purposes, does not provide adequate detail to allow the Unit Commander to make an informed evaluation. The Watch Commander shall then forward the remaining copies of the Service Comment Report form to the Unit Commander. Unit Commanders shall ensure that the Service

Comment Report is completed and forwarded to the Discovery Unit within 60 days of receipt of the initial complaint.

Although it is the Unit Commander's responsibility to determine the appropriate supervisory response, in some cases the Watch Commander can conduct and document much or all of the review and submit the documentation with the Service Comment Report form for the Unit Commander's approval.

NOTE: When there are allegations of criminal misconduct, the Service Comment Report form shall be forwarded to the concerned Unit Commander immediately and confidentially. If such a complaint is filed at another Unit, the person completing the Service Comment Report form shall also verbally notify the concerned Unit Commander as soon as possible.

### **3-04/010.10 ACKNOWLEDGMENT OF RECEIPT OF PUBLIC INPUT**

The Commander of the Unit to which the subject of the commendation or complaint is assigned shall ensure that a letter is sent to the member of the public acknowledging receipt of the input. The letter shall be sent regardless of whether the public comment was made in person, by telephone, by electronic means, or by mail. The letter shall be accompanied by a receipt copy of the Service Comment Report form unless it is verified that it has already been given to the member of the public who offered the comment.

### **3-04/010.15 EXTERNAL COMMENDATIONS**

External commendations fall into two categories - professional and public. Professional commendations are those received from government entities (law enforcement agencies, county departments, State/Federal agencies, etc.) or law enforcement associations (IACP, POALAC, PORAC, etc.) expressing appreciation for professional services provided by our personnel. Examples include commendations from the aforementioned sources for:

- a presentation or speech to a group;
- providing training to fellow peace officers or government employees;
- participation in a conference or focus group;
- consulting expertise;
- testimony at a trial or hearing; and/or
- assistance in multi-agency investigations.

Public commendations include those received from individual members of the public, businesses, corporations, associations, etc. They are generally received for providing the law enforcement, investigative, custody, or judicial services that our mission entails.

Both kinds of external commendations shall be documented on a Service Comment

Report form and reviewed by the Unit Commander. The Unit Commander is responsible for determining whether a commendation is more appropriately classified as a "public" or a "professional" commendation.

NOTE: Correspondence commending members of other Units shall be forwarded to the concerned Unit for completion of a Service Comment Report.

The Unit Commander shall check the appropriate box in the section of the Service Comment Report labeled "Result of Service Review/Exoneration Request." The Unit Commander shall ensure that the face page of the report is properly and completely filled out and shall ensure that any additional involved employees are listed on the continuation sheet.

The Unit Commander shall sign the Service Comment Report form and shall:

- file the yellow copy in a Unit file;
- send a letter to the member of the public acknowledging receipt and appreciation for the commendation;
- provide a copy to the employee and ensure that the commendation letter is placed in the employee's personnel file; and

NOTE: Do not put a copy of the SCR in the employee's personnel file.

- distribute the remaining copies as indicated on the form.

### **3-04/010.20 SERVICE COMPLAINTS**

Service complaints provide valuable feedback about the Department's effectiveness in identifying and meeting community needs. The concerned Unit Commander shall review all service complaints with this in mind.

- follow-up actions shall be documented by the assigned Watch Commander in a memorandum and forwarded to the Unit Commander, who shall ensure that the memorandum is attached to the Unit copy of the Service Comment Report form;
- when a service complaint is handled to the satisfaction of the concerned Unit Commander, he shall mark the "Result" section of the Result of Service Review/Exoneration Request form, "Review completed; no further action required" and sign it, ensuring that the face page is filled out properly and thoroughly; and
- ensure that the involved employees are listed.

The Unit Commander shall:

- file the yellow copy of the Service Comment Report form in a Unit file;
- provide the involved employee with a copy;
- distribute the remaining copies as indicated on the form; and

- send a letter to the complainant summarizing the results of the service review and informing the complainant that if he is dissatisfied with the results, the complainant may contact the Unit Commander (see Manual of Policy and Procedures, section 3-04/030.00, Procedures for Responding to Complainant Dissatisfaction with Department Service Reviews and Administrative Investigations).

### **3-04/010.25 PERSONNEL COMPLAINTS**

The concerned Unit Commander is responsible for evaluating each personnel complaint to determine the appropriate supervisory response. The nature and seriousness of the allegation(s), the potential for employee discipline, and the concerned employee's performance history are potential factors to consider in the evaluation. Generally, the following courses of action are options:

- request that ICIB conduct a criminal investigation. The result may be sent via e-mail from the concerned Division Chief or Division Director directly to the Captain of ICIB. (Use Exchange Group, "ICIB Investigation Request.");
- request that IAB conduct an administrative investigation. The request may be sent via e-mail from the concerned Division Chief or Division Director directly to the Captain of IAB. (Use Exchange Group, "IAB Investigation Request.");
- conduct a Unit level administrative investigation; and
- initiate a service review.

The selection of a given course of action does not preclude initiation of another course of action if the subsequent uncovering of facts justifies or mandates it.

If the Unit Commander requests a criminal investigation of a personnel complaint reported on a Service Comment Report form, he shall check the box labeled "Department Investigation" in the "Result of Service Review/Exoneration Request" section of the Service Comment Report form and sign it. The Unit Commander shall use discretion in deciding whether or not to notify the involved employee. All copies of the Service Comment Report should be attached to the memo requesting an internal criminal investigation. Preliminary data entry shall not be made in this case.

When the Unit Commander's evaluation of a personnel complaint results in the opening of a Unit-level or an IAB administrative investigation, he shall check the appropriate box in the "Result of Service Review/Exoneration Request" of the Service Comment Report form (either "Unit Level Investigation" or "Department Investigation"), and shall ensure that the administrative investigation file number is included. He shall then sign the report and provide the involved employee(s) with a copy.

When discipline is not an issue, and the complaint can be handled by a service review, the Unit Commander shall direct a Watch Commander or Supervising Lieutenant to gather the additional information necessary for a review and take appropriate steps to handle the complaint. The Watch Commander is encouraged to consider utilizing

Department approved conflict resolution techniques. Conflict resolution techniques may be appropriate in certain situations wherein the complainant and the employee dispute the facts of the complaint and no other objective independent means for resolving the dispute exists. After the complaint is handled, the Watch Commander shall document his activities in handling the complaint in a memorandum to the Unit Commander. The documentation need only be sufficient to summarize the actions taken by the Watch Commander and the results of the review.

The Watch Commander shall also check the fact page of the Service Comment form and ensure that it is filled out completely and correctly. He shall confirm that the proper categories are marked reflecting the nature of the complaint and shall ensure that the "involved employee" information section is filled out and the additional involved employees are listed on the continuation sheet.

When a service review of a personnel complaint is completed to the satisfaction of the concerned Unit Commander, and a formal administrative investigation is deemed unnecessary, the Unit Commander shall complete the "Result of Service Review/Exoneration Request" section of the Service Comment Report. The box labeled "Exonerated" shall only be used in the following situations when it is established by clear and convincing evidence that:

- the employee was not personally involved or in any other way connected with the incident or incidents or allegation in question;
- the allegation giving rise to the investigation was demonstrably false and brought in demonstrable bad faith or by virtue of an obvious and demonstrable mental disease or defect; and
- the allegation in question, broadly construed and even if true, would not in any circumstance constitute a violation of law or Department policies, rules, or procedures and is not otherwise censurable.

The Unit Commander shall designate the specific category of exoneration by marking the appropriate box.

Any disposition of exonerated must be fully documented in writing and the complete reasoning and rationale set forth. In addition, the Unit Commander shall complete and sign a "Result of Service Review/Exoneration Request" form, briefly summarizing the justification for exoneration. In all other circumstances, the Unit Commander shall check the appropriate disposition.

The Unit Commander shall sign the form and shall then:

- file the yellow copy of the Service Comment Report form in a Unit file;
- provide the employee with a copy of the completed Service Comment Report form;
- distribute the remaining copies as indicated on the form, accompanied by any lists of additional names that did not fit on the fact page; and

NOTE: For all service reviews which result in a finding of "Exonerated," intact SCR shall be routed to the concerned Division headquarters accompanied by the "Result of Service Review/Exoneration Request" for review, and signature at the bottom, by the concerned Division Chief or Division Director.

- send a letter to the complainant summarizing the results of the service review and informing the complainant that if he is dissatisfied with the results, the complainant may contact the Unit Commander or County Ombudsman (see Manual of Policy and Procedures Section 3-04/030.00, Procedures for Responding to Complainant Dissatisfaction with Department Service Reviews and Administrative Investigations).

NOTE: The Chief of the Internal Investigations Division is responsible for reviewing all Service Comment Reports with an "Exonerated" result. This ensures Department-wide consistency in the interpretation of policy governing use of the "exonerated" result.

### **3-04/010.30 RETENTION OF SERVICE COMMENT REPORTS**

The retention period for Service Comment Reports is five years. The attendant documentation (original letter of complaint, reference paperwork, audio/video tapes) shall be filed with the final Service Comment Report at Internal Investigations Division.

NOTE: The retention period at Stations and Bureaus is two years.

### **3-04/010.35 PUBLIC ACCESSIBILITY TO INFORMATION ABOUT THE COMPLAINT PROCESS**

Each Bureau, Station and facility shall maintain a supply of the Department forms SH-CR-596 and SH-CR-596A (Spanish version). These forms, entitled "Procedures For Public Complaints," explain how the Department conducts complaint inquiries. The forms also inform the public of their recourse in the event of dissatisfaction after a complaint is handled. The forms shall be kept with the Watch Commanders, not at the public counter, and are to be issued only at the discretion of the Watch Commander.

Additionally, the Internal Investigations Division is responsible for furnishing the County Chief Administrative Officer with a supply of pre-addressed "business reply mail" public complaint forms for distribution to non-Sheriff's County facilities. The forms may also be maintained at contract city offices at the discretion of the contract city. Each mail-in form has a copy of "Procedures For Public Complaints" attached to it. These forms facilitate the public's ability to lodge complaints by enabling a person who is hesitant to visit a Sheriff's facility to mail his complaint.



These forms are not to be used or provided to complainants in lieu of the Watch Commander's completing the Service Comment Report. The forms shall not be maintained at public counters at Station, jails, etc., except at Station area store front sites, which have no on-site Watch Commander.

Watch Commanders are authorized to keep a supply of these forms for their personal issuance to the occasional complainant who insists on having a form to fill out and refuses to cooperate with the Service Comment Report procedures.

### **3-04/020.00 ADMINISTRATIVE INVESTIGATIONS**

#### **3-04/020.05 INITIATION OF ADMINISTRATIVE INVESTIGATIONS**

Upon receipt of a personnel complaint or upon notification that a personnel incident involving possible misconduct has occurred, a Unit Commander or higher ranking executive may order an administrative investigation.

Administrative investigations may be conducted by the concerned Unit, at the direction of the Unit Commander, or may be conducted by the Internal Affairs Bureau.

Only a Division Chief or Division Director or above may request an administrative investigation by the Internal Affairs Bureau. A Division Chief's or Division Director's decision to request an investigation by Internal Affairs Bureau shall be based upon the severity, complexity, and/or the far-reaching effect that the incident may have or may produce. All requests for Internal Affairs Bureau to conduct an administrative investigation shall be initiated by written memorandum (SH-AD-32A) from the concerned Division Chief or Division Director to Captain of Internal Affairs Bureau. The memo may be sent via e-mail (Use Exchange Group, "IAB Investigation Request").

When an administrative investigation is the result of a complaint from the public, the sequential number of the Watch Commander's Service Comment Report shall be referred to in the memorandum requesting the investigation.

**NOTE:** Upon receipt of a citizen's complaint or an internally initiated complaint of employee misconduct, the concerned Unit Commander shall review the incident for the purpose of determining if it involves criminal culpability on the part of the accused Department member(s). If the Unit Commander determines that criminal culpability may exist, he shall, through channels, discuss the matter with his Division Chief or Division Director. If the Division Chief or Division Director feels that criminal culpability may exist, he will direct that an investigation be conducted by the Internal Criminal Investigations Bureau. Requests for an ICIB investigation shall be initiated by written memorandum (SH-AD-32A) from the concerned Division Chief or Division Director to the Captain of ICIB. The memo may be sent via e-mail

(Use Exchange Group, "ICIB Investigation Request").

If a criminal investigation is conducted and there appears to be no basis for filing or insufficient evidence for prosecution, the Internal Criminal Investigations Bureau will close the case and will notify the concerned Unit Commander and Division Chief or Division Director of the reasons for the closure. It is the responsibility of the Unit Commander to assess the case and to determine whether or not an administrative investigation is warranted. If so, the administrative investigation can be completed at the Unit level or by Internal Affairs Bureau if the case meets the criteria for investigation by IAB.

NOTE: A request for Internal Affairs Bureau to conduct the investigation shall be initiated by written memorandum from the Division Chief or Division Director to the Captain of Internal Affairs Bureau.

NOTE: Criminal prosecution of a complainant charged with Resisting Arrest, Interfering with a Peace Officer or Assaulting a Peace Officer may be cause for delaying the commencement of an administrative investigation. Depending on the circumstances of the case, the concerned Division Chief or Division Director will determine whether to proceed with the administrative investigation or to postpone it until adjudication of the criminal proceedings. In the event an administrative investigation is delayed, the complainant shall be notified that the investigation will commence at the close of criminal proceedings.

### **3-04/020.06 ADMINISTRATIVE INVESTIGATIONS – OFFICE OF INDEPENDENT REVIEW**

Although the ultimate and final decision rests with the Sheriff and Department managers with respect to which Unit will conduct an investigation, whether there are founded policy violation(s), and the appropriate level of discipline, Department managers shall consult with the Office of Independent Review (OIR) as they formulate and/or revise such decisions.

Representatives from OIR shall be afforded the opportunity to review investigative, disciplinary, and other documents generated or received by this Department.

OIR shall be consulted by a Unit Commander or designee prior to engaging in any of the following:

- determining if an investigation shall be conducted by the concerned Unit, the Internal Affairs Bureau, or the Internal Criminal Investigations Bureau;
- making a determination on any policy violation(s);
- making a final determination to inactivate a case;
- committing to a Pre-Disposition Settlement Agreement;

- determining the level of discipline; and/or
- changing the disposition and/or discipline at the grievance or settlement phase.

OIR shall be afforded access to any internal or external investigation, communication, and/or memorandum including, but not limited to, personnel investigations (whether conducted by an individual Bureau, Station, Unit, Detail, the Internal Affairs Bureau, or the Internal Criminal Investigations Bureau); Homicide Bureau investigations into any deputy-involved shooting or inmate death; any use of force investigation or investigation into a non-hit deputy-involved shooting; any non-privileged civil claim or lawsuit information; any Watch Commander Service Comment Report and attendant documentation; and/or any other similar document as requested.

NOTE: Absent the most compelling of circumstances, these documents shall be provided to representatives of OIR upon request. Exceptions to this policy shall be resolved only after consultation with the concerned Unit Commander's chain of command.

When an administrative investigation is completed by the concerned Unit, a copy of the completed file shall be forwarded to OIR. The Unit Commander shall review the case and determine an appropriate course of action only after consultation with OIR.

If OIR determines a case requires additional investigation, the concerned Unit Commander shall discuss the case with OIR to determine the level of additional investigation proposed. Any dispute regarding the need for and/or scope of additional investigation shall be addressed by OIR through the concerned Unit Commander's chain of command.

The case shall then be forwarded to the concerned Area Commander and Division Chief or Division Director, irrespective of the disposition, for review. If OIR did not concur with the findings and/or discipline, no disposition shall be made until after OIR has had the opportunity to address the case through the Department's chain of command. No proposed disposition shall be communicated to the involved employee(s) until after OIR has been provided the opportunity to address the case through the concerned Unit Commander's chain of command.

When an administrative investigation is completed by the Internal Affairs Bureau, the completed case file shall be forwarded to the Unit Commander of the Unit where the incident occurred. A copy of the completed case file shall be forwarded to OIR. The Unit Commander shall review the case and determine an appropriate course of action only after consultation with OIR.

If OIR determines a case requires additional investigation, the concerned Unit Commander shall discuss the case with OIR to determine the level of additional investigation proposed. Any dispute regarding the need for and/or scope of additional investigation shall be addressed by OIR through the concerned Unit Commander's chain of command.

The case shall then be forwarded to the concerned Area Commander and Division Chief or Division Director, irrespective of the disposition, for review. If OIR did not concur with the findings and/or discipline, no disposition shall be made until after OIR has had the opportunity to address the case through the Department's chain of command. No proposed disposition shall be communicated to the involved employee(s) until after OIR has been provided the opportunity to address the case through the concerned Unit Commander's chain of command.

If the employee grieves or appeals the discipline, the concerned Division Chief or Division Director shall consult OIR prior to approving any settlement agreement.

### **3-04/020.10 EMPLOYEE RELIEVED OF DUTY**

At any stage of a personnel investigation, commensurate with the seriousness of the action or conduct involved in the case, the concerned employee may be relieved of duty by the Unit Commander, his designated representative at the direction of the Unit Commander or higher rank, or by personnel from the Internal Affairs Bureau when acting as the agent of a Division Chief or Division Director or higher.

Internal Affairs Bureau shall be notified in all cases where an employee has been relieved of duty, or a Unit Commander becomes aware of an employee being the subject of a criminal or administrative investigation.

Internal Affairs Bureau is responsible for monitoring all cases involving Department employees who have been relieved of duty, and shall report this information monthly to the concerned Division headquarters.

In relieving an employee of duty, the supervisor or manager acting on behalf of the Department shall:

- complete a Relieved of Duty Admonition and Receipt (SH-R-392) in duplicate with one copy issued to the employee and one copy entered into the investigative file;
- take custody of any Departmental identification and County firearm. They shall be distributed as follows:
- County firearm returned to the Logistics Section, Sheriff's Training and Regional Services Center, and a receipt obtained; and
- uniform badge, flat badge, cap piece, and identification card returned to Personnel Services and a receipt obtained;
- telephone Internal Affairs Bureau and provide the employee's name and Unit of assignment. If the employee is not to remain at his Unit of assignment, Internal Affairs Bureau will arrange for a temporary work assignment and arrange issuance of a County employee identification card;
- telephone Sheriff's Headquarters Bureau and request that a confidential entry be made on the Sheriff's Operational Log regarding the employee's status; and

- advise the employee that participating in any Department organized team activity, sporting event, Police Summer Games, or engaging in physical conditioning or training at any Department facility is prohibited while on relieved of duty status.

NOTE: Timekeeping responsibilities will remain with the employee's regular Unit of assignment.

### **3-04/020.12 SUPERVISORS' AND MANAGERS' RESPONSIBILITY FOR ENSURING THE TIMELY COMPLETION AND ADJUDICATION OF ADMINISTRATIVE INVESTIGATIONS**

Department supervisors are responsible for completing administrative investigations in a timely manner (generally within 90 calendar days).

Department managers are responsible for adjudicating administrative investigations in a timely manner (generally within 40 calendar days).

With respect to sworn Department members, California state law requires that the letter of intent to discipline be served prior to the expiration of the one-year statute date, which generally is one year from the date the Department became aware of the incident that gave rise to the intended discipline.

Department supervisors shall be held accountable if the delay in completing an administrative investigation results in the letter of intent not being served prior to the expiration of the one-year statute date.

Department managers shall be held accountable if the delay in adjudicating an administrative investigation results in the letter of intent not being served prior to the expiration of the one-year statute date.

Division Chiefs/Directors shall track and monitor the status of all open administrative investigations of personnel within their command to ensure that the provisions of this section are fulfilled.

### **3-04/020.15 ADMINISTRATIVE INVESTIGATION PROCEDURES**

Refer to the Administrative Investigations Handbook, published by Internal Affairs Bureau, for current procedural information.

### **3-04/020.18 USE OF COMMEMORATIVE BOOK PHOTOGRAPHS**

The Sheriff's Department's Commemorative Book photographs exclusively contained therein and/or accessible via other means, including any electronic medium, SHALL NOT

BE USED in any investigative identity search concerning Sheriff's Department employees for alleged administrative policy violations and/or criminal misconduct in any investigation conducted by Los Angeles County Sheriff's Department personnel at the unit level, or by representatives assigned to Internal Affairs Bureau (IAB), or Internal Criminal Investigations Bureau (ICIB).

### **3-04/020.20 INACTIVATION OF ADMINISTRATIVE INVESTIGATIONS**

Inactivation of administrative investigations requires the approval of the concerned Division Chief or Division Director. Inactivation shall not occur merely because a complainant withdraws the complaint. There must also be independent reasoning that indicates that the alleged misconduct did not occur or that all investigative leads have been exhausted. All complainants who withdraw their complaint prior to the completion of an administrative investigation shall be queried as to the reason for the withdrawal. The investigator shall ask each such complainant if any Department member, or anyone else, has discouraged or intimidated the complainant in any way.

A request to inactivate an administrative investigation shall be in the form of a memo from the concerned Division Chief or Division Director to the Captain of Internal Affairs Bureau, detailing the reasons for the inactivation.

### **3-04/020.25 ADMINISTRATIVE INVESTIGATION TERMINOLOGY**

- **Exonerated** – a complaint shall be classified as exonerated when the investigation establishes by clear and convincing evidence either (1) that the employee was not personally involved or in any other way connected with the incident or incidents or allegation in question or (2) that the allegation giving rise to the investigation was demonstrably false and brought in demonstrable bad faith or by virtue of an obvious and demonstrable mental disease or defect or (3) that the allegation in question, broadly construed and even if true, would not, in any circumstance, constitute violation of law or Department policies, rules, or procedures and is not otherwise censurable. Any disposition of exonerated must be fully documented in writing and the complete reasoning and rationale set forth;
- **Founded** – when the investigation that the allegation is true, and when the action on the part of the Department members is prohibited by law or Department policy;
- **Unfounded** – when the investigation establishes by a preponderance of the evidence that the allegation is not true; and
- **Unresolved** – when the investigation fails to resolve the conflict between the complainant's allegation and the Department member's version of the incident; when there is no preponderance of the evidence to support either version of the incident.

These terms shall be applied individually to each allegation contained within an incident or complaint.

### **3-04/020.28 EFFECTIVE DATE OF REVISIONS TO FINDINGS**

The revisions to the definitions of categories of findings shall take effect upon approval of this manual subsection but shall not be applied retroactively, in order to preserve the consistency of historical records.

### **3-04/020.30 ADMINISTRATIVE INVESTIGATION DISPOSITION**

When an administrative investigation is completed at the Unit level, the Unit Commander shall review the case and determine an appropriate disposition. The case shall then be forwarded to the concerned Area Commander and Division Chief or Division Director, irrespective of the disposition, for review.

When an administrative investigation is completed by Internal Affairs Bureau, the completed case file shall be sent to the Unit Commander of the Unit that the subject(s) was assigned to at the time of the incident occurred. The Unit Commander shall review the case and determine an appropriate disposition. The case shall then be forwarded to the concerned Area Commander and Division Chief or Division Director, irrespective of the disposition, for review.

The disposition sheet shall be prepared by the employee's Unit of assignment and processed through the concerned Division. It shall be forwarded to Internal Affairs Bureau (along with the completed investigation) consistent with the following time frames:

- within 130 calendar days of initiating a Unit-level administrative investigation (90 days to complete the investigation and 40 days to prepare and process the disposition sheet); and
- within 40 calendar days of the Unit's receipt of a completed IAB administrative investigation (25 calendar days if the subject employee is relieved of duty).

The concerned Unit Commander may, without further approval, impose a written reprimand or a suspension of up to fifteen (15) days for violations of the Department's Manual of Policy and Procedures.

The Division Chief or Division Director shall review all completed investigations and, when required, determine if the level of discipline should be in excess of a 15-day suspension disciplinary action. When discipline has already been determined by the Unit Commander, the Division Chief or Division Director shall review the discipline.

If a Division Chief or Division Director determines that the discipline is to be a suspension of 16 or more days, a demotion, or discharge, the case shall be reviewed by a Department's Case Review Board.

### **3-04/020.35 NOTIFICATION TO COMPLAINANT**

Within 30 days of the completion of the investigation, the investigating Unit is responsible for notifying the complainant, in writing, of the results.

### **3-04/020.40 DISCIPLINE**

Refer to the Administrative Investigations Handbook and the Guidelines for Discipline for procedural information on administering discipline.

### **3-04/020.45 RETENTION OF INVESTIGATIVE RECORDS AND DOCUMENTS**

All records, correspondence, documents or other materials relating to an administrative investigation, not otherwise entered electronically into the Personnel Performance Index, shall be forwarded to Internal Affairs Bureau for filing. No administrative investigation copies shall be retained at the Unit level.

NOTE: This procedure shall also be followed when discipline, including a written reprimand, is to be imposed for preventable traffic accidents. However, adherence to the above procedure does not exempt the Unit from compliance with the distribution requirements outlined in Volume 3, chapter 9.

NOTE: Previously, Internal Affairs Bureau investigative files were purged after five (5) years. All investigative files maintained at Internal Affairs Bureau shall now be retained indefinitely.

### **3-04/020.50 GRIEVANCE PROCEDURES**

Employees are entitled to grieve intended discipline. Refer to the appropriate MOU and MPP section 3-02/150.00 for procedural information.

### **3-04/030.00 PROCEDURES FOR RESPONDING TO COMPLAINANT DISSATISFACTION WITH DEPARTMENT SERVICE REVIEWS AND ADMINISTRATIVE INVESTIGATIONS**

The Department provides recourse for public complainants who are dissatisfied with the outcome of a service review or an administrative investigation of their complaint. The options available to the complainant for an additional review of the complaint, and the Department's handling of and response to it, depend on how the complaint was originally processed.



### **3-04/030.05 DEPARTMENT PROCEDURES FOR RESPONDING TO COMPLAINANT DISSATISFACTION -- DEPARTMENT SERVICE REVIEWS**

Every public complainant whose complaint is handled by means of a service review shall be sent a letter, signed by the concerned Unit Commander, providing feedback on the outcome of the review. The letter will inform the complainant that if he is dissatisfied with the results of the review, the complainant may contact the Unit Commander or the County Ombudsman within 10 business days of the date of the letter. Moreover, a complainant who is dissatisfied with the outcome of the complaint may choose to report their dissatisfaction directly to the County Ombudsman. The County Ombudsman will evaluate all of the complainant's explanations for dissatisfaction and proceed as indicated in the following subsection.

NOTE: The letter will provide the complainant with the name, address, and telephone number of the County Ombudsman.

If the complainant chooses to discuss his dissatisfaction with the Unit Commander, the Unit Commander shall evaluate the complainant's explanation for his dissatisfaction with the review. In response, the Unit Commander shall do one of the following:

- determine that the review already conducted has been thorough and fair;
- personally conduct a conflict resolution session with the dissatisfied complainant and the concerned employee;
- order additional steps to be taken to complete the review process; or
- initiate an administrative investigation, if appropriate.

If the Unit Commander determines that the review has been thorough and fair, or if additional steps taken fail to resolve the complaint, and the complainant is still not satisfied, the Unit Commander shall again explain to the complainant the option of voicing his dissatisfaction to the County Ombudsman. The County Ombudsman will review complainant dissatisfaction with service reviews in the same manner utilized for administrative investigations as detailed below.

### **3-04/030.10 DEPARTMENT PROCEDURES FOR RESPONDING TO COMPLAINANT DISSATISFACTION -- ADMINISTRATIVE INVESTIGATIONS**

Every public complainant whose complaint is investigated by means of an administrative investigation shall be sent a letter, signed by the concerned Unit Commander, providing feedback on the outcome of the investigation. The letter will inform the complainant that if he is dissatisfied following completion of an unfounded or unresolved investigation, the complainant has an option to call either the Unit Commander or the County Ombudsman within 10 business days of the date of the letter.

If the complainant chooses to discuss his dissatisfaction with the Unit Commander, the Unit Commander shall carefully listen to the complainant's explanation and determine whether any avenues yet remain, at the Unit-level, for satisfying the complainant. The Unit Commander should explain to the complainant any significant factors that influenced his decision to classify the investigation as either unfounded or unresolved. The Unit Commander may consider utilizing the conflict resolution process if the circumstances indicate that such an option might facilitate satisfaction, or enhance communication or understanding between the respective parties. If the Unit Commander determines that he cannot bring about complainant satisfaction concerning an unfounded/unresolved administrative investigation, he shall refer the complainant to the County Ombudsman.

A complainant who is dissatisfied with an unfounded/unresolved administrative investigation may choose to report his dissatisfaction directly to the County Ombudsman. The County Ombudsman will evaluate all of the complainant's explanations for dissatisfaction and proceed as indicated in the following subsection.

### **3-04/030.15 COUNTY OMBUDSMAN**

The County Ombudsman's principal responsibilities are to facilitate timely investigations of public complaints involving the Sheriff's Department and, upon complainant request, to provide information regarding the progress of an investigation and the final results to the extent permitted by law. It is also the County Ombudsman's responsibility to assist in the resolution of public complainant dissatisfaction with the results of a Department service review or an unfounded/unresolved administrative investigation. If the original allegation does not involve a use of force resulting in hospital examination or treatment, the County Ombudsman himself shall review the Department's investigation. If a complainant voices dissatisfaction with an unfounded/unresolved administrative investigation of a complaint involving use of force resulting in hospital examination or treatment, the County Ombudsman shall select a judge from a pre-designated panel of retired judges to conduct the review.

**NOTE:** The County Ombudsman is only authorized to review completed service reviews or investigations which have been appealed to him by dissatisfied public complainants. The County Ombudsman does not have independent investigative authority and is not empowered to initiate or conduct an administrative investigation, nor will the County Ombudsman involve himself in criminal investigations of misconduct. The County Ombudsman shall be provided access to Department files as necessary to accomplish his tasks; however, the Sheriff shall determine the appropriate location of the Ombudsman's file review.

If a complainant contacts the County Ombudsman to complain, but has not yet registered a complaint with the Sheriff's Department, the County Ombudsman will provide the requisite instructions and will assist in transmitting the complaint to the Sheriff's Department.

A complainant who wishes to inquire about the status of an administrative investigation may contact the County Ombudsman, who in turn will inquire of the Department and then inform the complainant of the progress of the investigation.

### Review Procedures

Upon request by a public complainant, the County Ombudsman may conduct a review of a Department service review or unfounded/unresolved administrative investigation of incidents not involving force resulting in hospital examination or treatment. The County Ombudsman has thirty calendar days to complete his review. If a review is particularly complex, the Chief of the Internal Investigations Division may extend the deadline. When the unfounded/unresolved administrative investigation is of an incident involving the use of force which resulted in hospital examination or treatment, the County Ombudsman will select a judge from the panel of judges to conduct the review.

NOTE: The Sheriff may, at his discretion, determine that a review otherwise within the jurisdiction of the County Ombudsman will be conducted by a judge from the panel of judges rather than the County Ombudsman.

The County Ombudsman shall first attempt to resolve the complainant's dissatisfaction and shall attempt, whenever possible, to facilitate a dialogue leading to a resolution between the complainant and the concerned Unit Commander. If those efforts are unsuccessful, then the County Ombudsman is authorized to initiate a formal review at the request of the complainant.

If, upon review, the County Ombudsman determines that the investigation is inadequate, he shall give the Department an opportunity to amplify the investigation and to reconsider the results. Thereafter, if the County Ombudsman determines that the investigation is still inadequate, he shall prepare written findings and shall transmit his findings and the case to the Sheriff for his final determination. The County Ombudsman will notify the complainant that the investigation has been referred back to the Sheriff for additional review. The Sheriff will notify the complainant in writing of his final decision.

If, upon review, the County Ombudsman determines that the investigation is adequate, but does not reasonably support the results, the County Ombudsman shall prepare written findings and shall transmit his findings and the case to the Sheriff for his final determination. The County Ombudsman will notify the complainant that the investigation has been referred back to the Sheriff for additional review. The Sheriff will notify the complainant in writing of his final decision.

If upon review the County Ombudsman determines that the investigation is adequate and reasonably supports the results, the County Ombudsman will promptly report his findings to the Department and the complainant.

### **3-04/030.20 PANEL OF JUDGES**

A judge from a pre-designated panel of retired judges is responsible for accepting those cases from the County Ombudsman that have been appealed by complainants who are dissatisfied with unfounded/unresolved administrative investigations of complaints involving use of force resulting in hospital examination or treatment. In addition, the Sheriff may, at his discretion, determine that a review otherwise within the jurisdiction of the County Ombudsman shall be conducted by a judge from the panel of judges rather than the County Ombudsman.

**NOTE:** The panel of judges is only authorized to review unfounded/unresolved administrative investigations of complaints which have been appealed by a dissatisfied complainant. The panel of judges does not have independent investigative authority and is not empowered to initiate or conduct an administrative investigation, nor will the panel of judges involve itself in criminal investigations of misconduct. A panel judge shall be provided access to Department files as necessary to accomplish his tasks; however, the Sheriff shall determine the appropriate location of the panel judge's file review.

#### **Review Procedures**

Cases will be assigned individually, on a rotation basis, to judges from the panel of judges by the County Ombudsman, who will monitor their progress. Each judge has thirty calendar days to review an administrative investigation and to make a determination. If a case is particularly complex, the Chief of the Internal Investigations Division may extend the deadline.

Once a judge receives a case from the County Ombudsman, it is his responsibility to contact the complainant regarding the reasons for his dissatisfaction. The judge shall review the administrative investigation and determine if it is adequate and the results appropriate.

If, upon review, the judge determines that the investigation is inadequate, he shall give the Department an opportunity to amplify the investigation and to reconsider the results. Thereafter, if the judge determines that the investigation is still inadequate, he shall prepare written findings and shall transmit his findings and the case to the Sheriff for his final determination. The complainant will be notified by the County Ombudsman that the investigation has been referred back to the Sheriff for additional review. The Sheriff will notify the complainant in writing of his final decision.

If, upon review, the judge determines that the investigation is adequate but does not reasonably support the results, he shall prepare written findings and shall transmit his findings and the case to the Sheriff for his final determination. The complainant will be notified by the County Ombudsman that the investigation has been referred back to the Sheriff for additional review. The Sheriff will notify the complainant in writing of his final

decision.

If, upon review, the judge determines that the investigation is adequate and reasonably supports the results, he will promptly report his findings to the Department and the complainant through the County Ombudsman.

**3-04/030.25 UNIT COMMANDER'S RESPONSIBILITY FOR NOTIFICATIONS TO  
SUBJECT DEPUTIES**

The concerned Unit Commander shall delay notification of findings to the subject(s) of an unfounded or unresolvable administrative investigation until 15 business days after the date of the letter to the concerned complainant.

If the County Ombudsman requests the file to review the investigation during that time period, the Unit Commander shall delay notification to the subject(s) until the Ombudsman's review is complete.

In any case in which the County Ombudsman or a panel judge refers a case to the Sheriff for reconsideration, the Unit Commander shall notify, as soon as possible, the subject of the complaint investigation of the final outcome after the Sheriff has completed his review.