
Personnel Complaints

1009.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Inyo County Sheriff Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

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, federal, state or local law.

Inquiries about employee conduct which, even if true, would not qualify as a personnel complaint may be handled informally by a department supervisor and shall not be considered 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)).

Personnel Complaints shall be classified in one of the following categories:

Informal - A matter in which the complaining party is satisfied that appropriate action has been taken by a department supervisor of rank greater than the accused employee. Informal complaints need not be documented on a personnel complaint form and the responsible supervisor shall have the discretion to handle the complaint in any manner consistent with this policy.

Formal - A matter in which the complaining party requests further investigation or which a department supervisor determines that further action is warranted. Such complaints may be investigated by a department supervisor of rank greater than the accused employee or referred to the Internal Affairs Unit depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Internal Affairs Unit, such matters need not be documented as personnel complaints, but may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

1009.2 POLICY

The Inyo County Sheriff Department takes seriously all complaints regarding the service provided by the [Department/Office] and the conduct of its members.

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The [Department/Office] will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this [department/office] to ensure that the community can report misconduct without concern for reprisal or retaliation.

1009.2.1 SOURCE OF COMPLAINTS

- (a) A department employee becoming aware of alleged misconduct shall immediately notify a supervisor.
- (b) A supervisor receiving a complaint from any source alleging misconduct of an employee which, if true, could result in disciplinary action.
- (c) Anonymous complaints and third party complaints should be accepted and investigated to the extent that sufficient information is provided.

1009.2.2 ACCEPTANCE OF COMPLAINTS

A complaint may be filed in person, in writing, 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) 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) When an uninvolved supervisor or the Watch Supervisor determines that the reporting person is satisfied that their complaint required nothing more than an explanation regarding the proper/improper implementation of department policy or procedure, a complaint need not be taken
- (c) When the complainant is intoxicated to the point where his/her credibility appears to be unreliable, identifying information should be obtained and the person should be provided with a Personnel Complaint form
- (d) 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

1009.2.3 COMPLAINT DOCUMENTATION

Formal complaints of alleged misconduct shall be documented by a supervisor on a personnel complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

A supervisor may elect to document informal complaints as a supervisor or Watch Supervisor log entry.

When a Personnel Complaint 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

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complaint may be dictated to the receiving supervisor. In an effort to ensure accuracy in any complaint, it is recommended that a recorded statement be obtained from the reporting party. A refusal by a party to be recorded shall not alone be grounds to refuse to accept a complaint. Whether handwritten or dictated, the complainant's signature should be obtained at the conclusion of the statement. The complainant should be provided with a copy of his/her own original complaint per Penal Code § 832.7.

1009.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of [department/office] policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate [department/office] policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the [Department/Office].

1009.4 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, the Sheriff or his designee, may solicit the County Administrators Office to assign the accused employee to inactive duty pending completion of the investigation or the filing of administrative charges.

1009.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the sheriff's facility and be accessible through the [department/office] website. Forms may also be available at other County facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1009.4.2 AVAILABILITY OF WRITTEN PROCEDURES

The [Department/Office] shall make available to the public a written description of the investigation procedures for complaints (Penal Code § 832.5).

1009.5 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the [Department/Office] should audit the log and send an audit report to the Sheriff or the authorized designee.

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1009.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1009.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Sheriff or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
 1. The original complaint form will be directed to the responsible lieutenant or supervisor of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
 2. 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 member's Division Commander or the Sheriff, who will initiate appropriate action.
- (b) Responding to all complainants in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
 1. Follow-up contact with the complainant should be made within 24 hours of the [Department/Office] receiving the complaint.
 2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the responsible lieutenant or supervisor.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the responsible lieutenant or supervisor and the Sheriff are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Personnel Department and the responsible lieutenant or supervisor for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the responsible lieutenant or supervisor, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.

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- (h) Investigating a complaint as follows:
 - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
 - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused member are followed (Government Code § 3303 et seq.).
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

1009.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Internal Affairs Unit, the following applies to members covered by the Public Safety Officers Procedural Bill of Rights Act (POBR) (Government Code § 3303):

- (a) Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty. If the member is off-duty, he/she shall be compensated.
- (b) Unless waived by the member, interviews of an accused member shall be at the Inyo County Sheriff Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused member.
- (d) Prior to any interview, a member shall be informed of the nature of the investigation, the name, rank and command of the deputy in charge of the investigation, the interviewing officers and all other persons to be present during the interview.
- (e) All interviews shall be for a reasonable period and the member's personal needs should be accommodated.
- (f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
 - 1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Lybarger* advisement. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
 - 2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

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- (h) The interviewer should record all interviews of members and witnesses. The member may also record the interview. If the member has been previously interviewed, a copy of that recorded interview shall be provided to the member prior to any subsequent interview.
- (i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (j) All members shall provide complete and truthful responses to questions posed during interviews.
- (k) No member may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

No investigation shall be undertaken against any deputy solely because the deputy has been placed on a prosecutor's *Brady* list or the name of the deputy 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 deputy has been placed on a *Brady* list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

1009.6.3 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

1009.7 DISPOSITION OF PERSONNEL COMPLAINTS

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

Unfounded - When the investigation discloses that the alleged act(s) did not occur or did not involve department personnel. Complaints which are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.5(c)).

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

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

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

Misconduct Not Based on the Complaint-If an investigation discloses misconduct or improper job performance which was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

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Indebtedness- All complaints for failure to discharge financial obligations that impact the Department or tend to bring the Department into disrepute shall be referred to the Undersheriff or Sheriff.

1009.8 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the [Department/Office], the Sheriff or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any [department/office] badge, identification, assigned weapons and any other [department/office] equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1009.8.1 CONFIDENTIALITY OF PERSONNEL FILES

All investigations of personnel complaints, whether originating from a citizen or internally, shall be considered confidential peace officer personnel files. The contents of such files shall not be revealed to other than the involved employee or authorized personnel except pursuant to lawful process.

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.).

Sustained complaints shall be maintained in the employee's personnel file. Complaints which are unfounded, exonerated or not sustained shall be maintained by the Internal Affairs Unit apart from the employee's personnel file.