

COMPLAINTS AGAINST OFFICERS

2.04.01 **PURPOSE**

This order outlines the policies and procedures for receiving, investigating and processing complaints against officers. It also describes the Department of Police Accountability ("DPA") investigative procedures and findings.

It is the policy of the San Francisco Police Department ("SFPD") to encourage everyone to bring forward complaints regarding inadequate police service or official misconduct by officers, and receive such complaints with courtesy and without delay. The value of an effective complaints system serves to build and maintain public confidence and trust by conducting prompt, fair and impartial investigations. Officers shall cooperate fully with the DPA and provide their full assistance in the expeditious and impartial processing of such complaint.

2.04.02 **POLICY**

- A. It is the policy of the SFPD to accept all complaints of official misconduct regardless of source (e.g. juvenile, anonymous, third party, etc.), whether received electronically, by letter, telephone, or in person.
- B. When a complaint is made to an employee of the Department, the employee receiving the complaint shall immediately refer the matter to the senior-ranking officer on duty in the station, division, section, or unit where the complaint is being made. The senior-ranking officer on duty shall be personally responsible for the conduct of the investigation until relieved of responsibility as specified in this order.

In cases where the senior-ranking officer on duty at the station, division, section, or unit is the subject of the complaint, the employee shall refer the matter to the senior-ranking member's superior officer. The superior officer shall be personally responsible for the conduct of the investigation until relieved of responsibility as specified in this order.

In cases where the Chief of Police is the subject of the complaint, the employee shall refer the matter to the Director of the City and County of San Francisco's

Human Resources Division (“DHR”). The Director of DHR shall forward the complaint to the Director of the DPA.

- C. Attempts to threaten, intimidate, mislead, or harass potential or actual complainants, witnesses, or DPA or IAD investigative staff is prohibited. Sworn employees who are the subject of a complaint shall not contact the complainant or witnesses regarding the issues of the complaint. If such a sworn member must contact the complainant or witness to a complaint in the line of duty, the officer shall not discuss or make any reference to the complaint. This shall not preclude member's representative or attorney from gathering evidence or statements for their defense.
- D. Copies of the DPA Complaint Form (SFPD/DPA 293) and DPA's informational brochure shall be available on display for the public at all District Stations and any division, section or unit open to the public in languages consistent with San Francisco’s Language Access Ordinance, SF Admin Code 91.1-91.9, DGO 5.20, Language Access Services for Limited English Proficient (LEP) Persons, and federal, state and local laws.

Employees shall provide a copy of the form and the informational brochure to any person appearing at a district station, or division, section, or unit open to the public who requests information about the DPA or requests general information about the complaint process.

If a member of the public requests information about the DPA or requests general information about the complaint process at a location other than a district station or division, section or unit open to the public, the employee shall provide the person with written information that includes the SFPD’s and the DPA’s website addresses.

2.04.03

PROCEDURE

A. RECEIVING A COMPLAINT / DUTIES OF SENIOR RANKING OFFICER

- 1. **EVALUATION.** Evaluate the seriousness of the allegation and determine whether an immediate investigation is needed (see Section B).
- 2. **FORM PREPARATION.** If the complaint is against an officer, prepare a DPA Complaint Form (SFPD/DPA 293). If the complainant is present, allow the complainant the option to personally complete the form or to have an officer prepare the form for them. If the complainant requests that an officer complete

the form, write only what the complainant states on this form and allow the complainant to review the form and make any corrections. Provide the complainant a copy. If the complaint is received by telephone, read the complainant's statement to the complainant as it is written on the form to assure accuracy. In either case, tell the complainant that the complaint will be referred to the DPA for investigation.

3. **ADDITIONAL INFORMATION/COMMENTS.** If there is any additional information or comments that should be brought to the attention of the investigator, do not include it on SFPD/DPA 293. Instead, prepare it on a memorandum to your commanding officer for review. The commanding officer shall then forward it promptly to the DPA.
4. **ROUTING.** Route by mail before reporting off-duty the original DPA compliant form to the DPA and forward a copy to your commanding officer.
5. **SFPD MEMBER INITIATED COMPLAINTS.** A DPA Complaint form shall not be completed when a complaint is made by any Department employee against another Department member. Instead, prepare a memorandum specifying the nature of the complaint and forward it to the accused officer's commanding officer, who shall forward the matter to the Internal Affairs Division (IAD) for investigation. Third party internal complaints shall be forwarded to IAD for review and if necessary assignment.
6. **GOVERNMENTAL AGENCY COMPLAINTS.** A complaint referred from a non-law enforcement agency (e.g., Office of the Public Defender, Office of Civil Engagement and Immigrant Affairs, or Department of Public Works) against a member of the SFPD shall be investigated by DPA. Upon receipt of a complaint, the DPA will immediately forward a copy of the complaint to the Chief of Police.
7. **LAW ENFORCEMENT AGENCY COMPLAINTS.** A complaint initiated by any Law Enforcement Agency against an SFPD member shall be investigated by IAD. The complaint shall be written on an SFPD memorandum form and forwarded through the chain of command to IAD.
8. **OFF-DUTY COMPLAINTS.** Off-Duty complaints shall be investigated by IAD. The complaint shall be written on a SFPD Memorandum form and forwarded through the chain of command to IAD. Complaints made against members who place themselves on duty by verbally identifying themselves, displaying a department issued star, or department issued ID card or taking enforcement action, shall be forwarded to DPA.

B. IMMEDIATE INVESTIGATION / DUTIES OF SENIOR-RANKING OFFICER

1. **WHEN.** Members must conduct an immediate investigation if a delay imposed by forwarding the complaint to DPA or IAD will jeopardize the investigation or public safety. The following are examples of situations requiring an immediate investigation and report:
 - a. The conduct is still occurring.
 - b. The allegation is that an officer is unfit to perform police duties, and that officer is currently on duty.
 - c. A witness may be unavailable later.
 - d. The complainant alleges criminal conduct.
 - e. The complainant alleges unnecessary force, resulting in serious injury and medical treatment.
2. **DPA/IAD NOTIFICATION.** When an immediate investigation is required, and the complaint is made by anyone other than a Department member or another law enforcement agency, immediately notify the DPA by calling the DPA at 415-241-7711. Calls to that number after business hours will forward to the answering service, which will connect the caller to DPA. IAD shall be notified in all cases of immediate investigations.
3. **INVESTIGATION.** If the accused officer is assigned to your unit, conduct an immediate investigation. Document your investigation on a memorandum and, if the complaint is made by a member of the public or a non-law enforcement agency, complete the DPA 293 form. Send the DPA 293 form to the DPA before reporting off-duty. Forward the investigation memorandum to your commanding officer for review. The commanding officer shall then forward the report promptly to the DPA for further investigation as well as a copy to IAD.
4. **UNIT NOTIFICATION/IMMEDIATE INVESTIGATION.** When the officer is assigned to another unit, immediately notify the senior-ranking officer on-duty at that unit who shall assume responsibility for the immediate investigation and memorandum. If the unit is closed, contact the officer-in-charge through the Operations Center. Prepare and forward a copy of DPA 293 to the DPA.

5. **INVESTIGATION MEMORANDUM.** The immediate investigation memorandum must contain all reasonably obtainable information before you report off duty. This includes, but is not limited to: (1) names, addresses, and telephone numbers of any witnesses, including the complainant; (2) statements from witnesses; and (3) any preliminary findings and recommendations. Document time, date and recipient's name of any notification made to DPA.

C. MEMBER RESPONSE FORMS

1. **RESPONSIBILITIES OF MEMBERS.** A Member Response Form (MRF) must be completed by the member and received by the DPA within twenty-one (21) calendar-days of the notice. Members are not required to respond until the member is on duty. A time extension shall not be granted except upon a showing of good cause submitted in writing by the member to the assigned DPA Investigator as soon as possible. The DPA Director or designee shall have sole authority to determine whether good cause exists. Good cause includes, but is not limited to illness, hospitalization, and unexpected family emergencies. If the member cannot meet this deadline, the member must contact the appropriate DPA investigator prior to the due date.
2. **RESPONSIBILITIES OF COMMANDING OFFICERS.** Commanding Officer, or designee, shall assure that all MRFs and notice of interviews by DPA are served upon the officer and a copy retained electronically in the Department approved platform. The Commanding Officer, or designee, shall assure copies of all DPA 293 Forms are retained at the Station or investigative unit. These functions may be accomplished electronically utilizing processes as designated by the Department.

D. DPA INTERVIEWS

Members shall appear for scheduled interviews and be prepared to proceed. If a member must reschedule, the member must contact the assigned investigator at least 24 hours prior to the interview. The inability to arrange for a specific representative will not necessarily be cause for rescheduling the interview. If an exigent circumstance presents itself, the officer or their representative shall notify the DPA investigator and the on-duty senior ranking supervisor of the officer to be interviewed. The DPA has sole authority to grant a request to reschedule.

2.04.04

DPA PROCEDURES

- A. JURISDICTION.** The DPA shall completely, promptly, fairly and impartially investigate any incident occurring within the City in which a member of the uniformed ranks of the Department discharges a firearm resulting in the physical injury or death of a person, even if the discharge is accidental, and all complaints regarding police use of force, misconduct or allegations that a member of the SFPD has not properly performed a duty. The DPA shall investigate all such matters, except those complaints which clearly indicate that the acts complained of were proper, and those complaints lodged by other members of the San Francisco Police Department.
- B. ALLEGATIONS OF CRIMINAL CONDUCT.** If any portion of the complaint alleges criminal misconduct by a Department member, the DPA shall immediately forward the information presented by the complainant to the Department and District Attorney's Office. The District Attorney's Office shall only receive complaint forms or personnel files in accordance with Penal Code section 832.7(a). The OIC of the assigned criminal investigative unit will notify the OIC of IAD that the District Attorney has dismissed or filed charges in the case. The OIC of IAD will coordinate the notification and the production of a copy of the completed criminal case file to DPA.
- C. NOTIFICATION AND REVIEW.** After completing an investigation, the DPA shall ensure that every named officer and complainant receive a letter containing the disposition of the complaint and instructions for requesting a hearing. For investigations that contain multiple allegations against a member, the DPA will list the findings for each of the allegations.

2.04.05

INTERNAL AFFAIRS INVESTIGATIONS

Internal Affairs shall investigate complaints of members made by any Department member or Law Enforcement Agency, and all off-duty alleged misconduct. Additionally, all EEO complaints shall be referred to IAD's EEO Liaison, who shall in turn forward the complaints to the Department of Human Resources.

2.04.06

COMPLAINTS AGAINST DPA

Members who have a complaint regarding a DPA investigation, investigator, or attorney may file a written complaint with the DPA.

2.04.07

CLASSIFICATIONS OF COMPLAINTS AND FINDINGS

A. INVESTIGATIVE FINDINGS

The DPA and SFPD shall use the following terms and definitions to maintain consistency at the conclusion of investigations.

1. IMPROPER CONDUCT A preponderance of the evidence proves that the alleged conduct occurred and that the conduct violated Department policy or procedure.
2. INSUFFICIENT EVIDENCE The evidence fails to prove or disprove that the alleged conduct occurred.
3. PROPER CONDUCT The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.
4. POLICY FAILURE The evidence proves that the alleged conduct occurred but was justified by Department policy or procedures; however, the SFPD or DPA recommends that the policy or procedure be changed or modified.
5. SUPERVISION FAILURE The evidence proves that the alleged conduct occurred and was the result of inadequate supervision.
6. TRAINING FAILURE The evidence proves that the alleged conduct resulted from inadequate or inappropriate training.
7. UNFOUNDED The evidence proves that the conduct alleged did not occur or that the accused officer was not involved.
8. REFERRAL TO OTHER AGENCY The evidence proves that the alleged conduct did not involve a sworn member of the Department or that the complaint raised issues not within the scope of DPA or IAD. Referral to other agency allegations are not counted as complaints against sworn members of the Department.

9. WITHDRAWAL

The complainant failed to provide additional requested evidence, or the complainant requested a withdrawal of the complaint.

10. MEDIATED

The complainant and officer agreed to mediation as a non-disciplinary resolution. (DPA finding only)

B. CLASSIFICATIONS

DPA and the SFPD have agreed to formulate consistent language to refer to categories of alleged misconduct. The classifications are contained within the MOU between SFPD and DPA.

2.04.08

QUARTERLY MEETINGS BETWEEN DPA AND THE POLICE DEPARTMENT

A. Disciplinary Review Board (DRB) shall consist of the following:

1. The Assistant Chief of Staff or designee from the Risk Management Office;
2. The Deputy Chief of the Administration Bureau;
3. The Deputy Chief of the Field Operations Bureau;
4. A member of the Police Commission (Advisory);
5. The Director of the DPA, or designee (Advisory).

B. The DRB shall review and discuss:

1. Aggregate trends related to DPA and IAD complaints, both alleged and sustained.
2. Policy failure or training failure cases closed in the prior quarter.
3. The Department in consultation with the DPA will select sustained cases from the previous quarter for review to determine the need for training or policy changes.
4. SFPD and DPA Recommendations.

The DRB shall consider whether any policy, procedures or training needs to be revised, added or re-issued if it relates to the subject matter reviewed. The DRB may make written recommendations that include the manner in which the recommendation shall be implemented and a timeline for completion based upon identified priority level and complexity of recommendation.

The DRB shall report quarterly to the public and to the Commission those policy and training changes it recommends, and the measurement of the success or failure of each change, in a manner consistent with individual police officer privacy rights. The guidelines for the report are contained within the MOU between SFPD and DPA.

References:

MOU between SFPD and Department of Police Accountability

DGO 1.06, Duties of Superior Officers

DGO 5.20, Language Access Services for Limited English Proficient (LEP) Persons

San Francisco Administrative Code, Chapter 91.1 – 91.9

Penal Code Section 13012