

BERKELEY POLICE DEPARTMENT

DATE ISSUED: February 4, 2010

GENERAL ORDER P-26

SUBJECT: PERSONNEL COMPLAINT PROCEDURE AND DISPOSITION AND THE
INTERNAL AFFAIRS BUREAU

PURPOSE

- 1 - The purpose of this order is to establish the policy and procedures for handling personnel complaints and to define the responsibilities of the Internal Affairs Bureau.

POLICY

- 2 - The Berkeley Police Department shall objectively and, in accordance with applicable law, employee Memorandum Agreements and this Order, review and investigate complaints of police misconduct received from any source.
- 3 - All complaints alleging misconduct by a Police Department employee will be promptly investigated.

PROCEDURE

Personnel Complaints and Employee Misconduct

- 4 - A personnel complaint is defined as an allegation of misconduct by a Police Department employee working within the Police Department received from any source.
- 5 - Employee misconduct is defined as follows:
 - (a) Violation of Department rules, regulations, Orders, policies or procedures.
 - (b) Commission of a criminal offense.
 - (c) Categories and definitions of police misconduct.

- (1) Improper Use of Force

All allegations concerning the improper use of force that goes beyond reasonable or lawful limits of physical power that may be used upon a person including:

- (i) Improper use or display of a firearm,
- (ii) Improper use of any object,
- (iii) Improper use of hands or feet.

(As may be defined in Police Regulation 202, 318, 321 or 322)

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(2) Discourtesy

All allegations concerning a failure to be courteous and civil to the public. Complaints may include improper hand gestures or signs, and/or the failure of an employee to give a proper response or explanation to a citizen.

All employees are expected to be quiet, orderly, attentive, and respectful and to exercise patience and discretion in the performance of their duties.

(As may be defined in Police Regulation 234)

(3) Improper Stop/Street Detention/Search/Seizure/Arrest

All allegations concerning police actions conducted without sufficient lawful reason, particularly as they relate to improper stops, street detentions, searches, seizures and arrests. This category does not include complaints about improperly issued traffic citations or improper police tows (see paragraph 5(c)(9)).

(As may be based upon the presumptions of proper police conduct defined in Police Regulation 401.)

(4) Improper Detention Procedures

All allegations concerning a failure to follow proper procedures for arrest, booking, incarceration and release of prisoners. May include allegations concerning a failure to advise of the reasons for an arrest; failure to "Mirandize" a suspect; failure to utilize the proper citation release procedure; a failure to follow proper bail procedures; failure to follow proper juvenile processing procedures; failure to allow phone calls and/or access to attorneys, and unnecessary delays in releasing prisoners.

(As may be defined in reference to Police Regulations, 203, 204, 205, 206, 207, 208, 209, 213, 214, 215, 400, 401 and General Order J-1)

(5) Inadequate Investigation or Improper Police Report

All allegations concerning a failure to adequately and impartially investigate and to accurately provide a written account of an incident. May include the failure of an employee to take a report or to make a lawful arrest.

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(As may be defined in Police Regulations 265, 267 and 401; General Orders C-2 and R-24, and appropriate Penal Code sections)

(6) Discrimination

All allegations concerning a favorable or unfavorable treatment or action by a police employee which exhibits partiality or prejudice based upon a person's race, color, religion, ancestry, national origin, age, sex, gender, sexual orientation, marital status, political affiliation, physical disability or medical condition (including cancer and HIV status).

(As may be defined in Police Regulations 232, 234, 235, 273 and 401)

(7) Harassment

Any allegation asserting a consistent, deliberate annoyance by police employees where the complainant can attest to repetitious contact over a period of time. (Police Regulation 250)

(8) Improper Police Procedures

Any allegation concerning a failure to follow approved Departmental policies, procedures, orders, or guidelines.

(As may be defined in official Police Training and Information Bulletins, Administrative Instructions, Police Regulations, or General Orders)

(9) Improper Traffic Citation or Police Tow

All allegations of improperly issued traffic citations or improper towing by a police employee.

(As may be defined by the California Vehicle Code or local ordinance)

(10) Other

All other allegations concerning police employee misconduct that do not fit into any of the other listed categories. These allegations may include, but are not limited to complaints concerning criminal misconduct, abuse of discretion, or failure of a police employee to properly identify self.

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(As may be defined by Police Regulation 248, 266 and General Order A-1)

- 6 - A complaint initiated by a Police Department employee against another Police Department employee working within the Police Department is defined as an "Internal Complaint".
- 7 - A complaint received from any other source is defined as an "External Complaint."
- 8 - Inquiries regarding employee conduct wherein the concerned party specifically requests only advice or that the matter be resolved without a personnel complaint investigation may be handled as an "informal inquiry" by either the Internal Affairs Bureau or by supervisors and/or staff within the Department (See "Informal Inquiries," paragraph 28).

External Complaints

- 9 - External complaints may be made in person, by telephone or by mail and may be initiated by a third party (i.e., a witness, a representative of an organization, the City Manager's Office, District Attorney's Office, etc.).
 - (a) Complaints made to the Police Review Commission shall also be investigated by the Internal Affairs Bureau as "external complaints."
 - (1) As directed by the City Manager, the requirement to testify before the Police Review Commission shall not apply to non-sworn Parking personnel affiliated with the Field Support Division.
 - (2) Personnel falling within the provisions of this exempted classification, however, shall fully cooperate with all aspects of external/internal personnel complaint investigations conducted by IAB and/or other designated Departmental staff.
- 10 - An external complaint should be made within thirty days of the date of the incident upon which the complaint is based unless the complainant, for reasons beyond his/her control, is unable to do so (i.e., illness, injury, out of the immediate area, etc.). The decision as to the acceptability of a complaint shall be made by the Chief of Police.
 - (a) Complaints filed with the Police Review Commission beyond the thirty day limit and accepted for late filing by that body will be accepted for investigation by the Internal Affairs Bureau.

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- 11 - A person making a complaint in person or by telephone during the hours the Internal Affairs Bureau office is open shall be referred there directly.
 - (a) If Internal Affairs Bureau personnel are unavailable, the provisions of paragraph 12 will apply.
 - (b) A brochure has been prepared to provide citizens with a description of the complaint investigation procedure. A supply of these brochures will be maintained in the Internal Affairs Bureau and at the front counter of the Police Department to be available to citizens upon request.
- 12 - During the hours the Internal Affairs Bureau is closed or IAB personnel are unavailable, individuals making a complaint in person or by telephone shall be interviewed by the Patrol Division Watch Commander.
 - (a) If the Watch Commander is not available, the complaint shall be referred to an appropriate Sergeant or supervisor.
 - (b) Complainants shall not be told to return during Internal Affairs Bureau business hours to make their complaint.
- 13 - An Internal Affairs Bureau "Complaint Investigation" form shall be completed by the Command Officer or supervisor receiving the complaint. If possible the complainant should write a brief statement describing the complaint incident on the reverse side of the form. If for any reason that cannot be done, the Command Officer/Supervisor receiving the complaint shall write or type the narrative account for the complainant. The complainant should then sign the form. The completed complaint form shall be forwarded directly to the Internal Affairs Bureau.
- 14 - When an employee, who is not a supervisor, becomes aware of or observes what he/she believes to be possible misconduct by another Department employee, he/she shall, by the end of the employee's current shift or if off duty within 24 hours, notify a supervisor, or in the absence of a supervisor, a Command Officer or the Internal Affairs Bureau.
 - (a) Serious allegations, including but not limited to those listed below, shall be reported immediately.
 - (1) Dishonesty.
 - (2) Any act which may constitute the commission of a misdemeanor or felony crime.
 - (3) Improper use of force.
 - (4) Employee(s) under the influence of intoxicants.

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- (5) Any discrimination or harassment on the basis of race, color, religion, ancestry, national origin, sexual orientation, gender, marital status, age, political affiliation, family care leave status, physical or mental disability or medical condition.
 - (b) A written report documenting the alleged misconduct shall be made by the reporting employee initiating the complaint if required by the Supervisor, Command Officer or Internal Affairs.
- 15 - A Supervisory or Command Officer with knowledge of, or who is made aware of alleged acts of misconduct, shall take appropriate corrective action. Supervisor shall also notify their Commanding Officer or the Duty Command Officer, who shall give direction as to the proper procedure for documenting the complaint. Generally, the procedures will follow the guidelines listed in this Order relating to either external or internal complaints.
 - (a) Serious allegations, including but not limited to those listed below, shall be reported immediately.
 - (1) Dishonesty.
 - (2) Any act which may constitute the commission of a misdemeanor or felony crime.
 - (3) Improper use of force.
 - (4) Employee(s) under the influence of intoxicants.
 - (5) Any discrimination or harassment on the basis of race, color, religion, ancestry, national origin, sexual orientation, gender, marital status, age, political affiliation, family care leave status, physical or mental disability or medical condition.
- 16 - When the alleged act of misconduct is of a nature that the integrity of the investigation might be jeopardized by reducing the allegations to writing, the concerned Supervisor shall report orally to the on-duty Watch Commander, or if he/she is unavailable, to the on-call Duty Command Officer who will notify the Chief of Police.

Internal Complaints

- 17 - An internal complaint may be initiated by any employee of the Police Department to his or her sworn or non-sworn Supervisor or, in the absence of a supervisor, to his/her Commanding Officer or to a Sergeant from the Internal Affairs Bureau. Complaints will be documented in writing either by the employee making the complaint or by the Supervisor/Command Officer receiving the complaint.

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- (a) The complaint report shall document alleged violation(s) of appropriate Department rules, regulations, Orders, policies or procedures.
 - (b) The report shall also include an explanation of the circumstances surrounding the alleged violation.
- 18 - Employees may make complaints confidentially and the matter shall be investigated without disclosure of the complainant's name unless disclosure of the complainant's identity is necessary to provide the subject employee with his/her procedural due process rights or disclosure of the complainant's identity is required by law.
- 19 - An internal personnel complaint should be initiated within thirty days of knowledge by the employee initiating the complaint of the incident precipitating it.
- (a) Questions as to the acceptability of a complaint shall be resolved by the Chief of Police.
- 20 - The Chief of Police and the Commanding Officer of the division to which the **subject** employee(s) is assigned shall be notified at the earliest possible time as to allegations of misconduct made against the employee(s).
- 21 - Primary responsibility for the investigation of an internal complaint shall rest with the Commander of the division to which the **subject** employee is assigned.
- (a) If the Division Commander feels that the investigation should not be conducted within the division, a request may be made to the Chief of Police that the matter be investigated by the Internal Affairs Bureau.
- 22 - If the internal complaint involves any of the following circumstances, the Division Commander shall make a request to the Chief of Police that the matter be investigated by the Internal Affairs Bureau.
- (a) When the complaint involves employees assigned to different divisions and/or the alleged act(s) of misconduct encompasses more than one division.
 - (b) When the complaint involves serious allegations, including but not limited to the following:
 - (1) Dishonesty.
 - (2) Any act which may constitute the commission of a misdemeanor or felony crime.
 - (3) Improper use of force.
 - (4) Employee(s) under the influence of intoxicants.

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- (5) Any discrimination or harassment on the basis of race, color, religion, ancestry, national origin, sexual orientation, gender, marital status, age, political affiliation, family care leave status, physical or mental disability or medical condition.
- 23 - Investigations handled within the involved division shall be conducted in a complete and thorough manner. Such investigations should include the following:
 - (a) Summary of the complaint incident.
 - (b) Identification of specific violations of Departmental rules, regulations, policy, Orders or procedures.
 - (c) Statements from all involved parties (complainant, witnesses, **subject** employees).
 - (d) Notification of the "**subject**" employee(s) in writing and verbally as to the nature of the allegations made against them as well as their rights and responsibilities relative to the investigation.
 - (1) To satisfy the written requirement, the employee will be provided with a copy of the IAB Notification form, (copies of which will be available to all supervisors and staff for this purpose).
 - (e) All relevant background material associated with the complaint (police reports, Communication Center tape recordings, supervisor's logs, citations, stop cards, etc.).
- 24 - When an internal complaint investigation is handled within the division, it shall be forwarded directly to the Chief of Police who may consult with the appropriate Division Commander(s) prior to making a disposition.
- 25 - When an internal complaint is investigated by the Internal Affairs Bureau, the completed investigation shall be forwarded directly to the Chief of Police who may consult with the appropriate Division Commander(s) prior to making a disposition.
- 26 - Internal personnel complaint dispositions shall be consistent with paragraphs 44-46 of this Order.
- 27 - The Division Commander or Chief of Police shall advise the **subject** employee of the final disposition of the complaint.
 - (a) The complaining employee shall be advised of the disposition to the complaint by his/her Division Commander.

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Informal Inquiries

- 28 - As noted in paragraph 8, inquiries regarding employee conduct wherein the complaining party specifically requests only advice or that the matter be resolved without a personnel complaint investigation may be handled by the Internal Affairs Bureau and/or supervisors/staff within the Department as an "informal inquiry."
- (a) Serious allegations including, but not limited to those listed below, require a personnel complaint investigation.
 - (1) Dishonesty.
 - (2) Any act which may constitute the commission of a misdemeanor or felony crime.
 - (3) Improper use of force.
 - (4) Employee(s) under the influence of intoxicants.
 - (5) Any discrimination or harassment on the basis of race, color, religion, ancestry, national origin, sexual orientation, gender, marital status, age, political affiliation, family care leave status, physical or mental disability or medical condition.
 - (b) Informal inquiries will be recorded in a log kept for such "inquiries."

INTERNAL AFFAIRS BUREAU

- 29- The Internal Affairs Bureau is organized under the supervision of two Sergeants who report directly to the Chief of Police.
- 30 - The Internal Affairs Bureau shall:
- (a) Investigate all externally received complaints alleging employee misconduct.
 - (b) Investigate internally initiated complaints of misconduct as may be assigned by the Chief of Police.
 - (c) Prepare investigations and reports on inquiries into employee conduct as may be required by the Chief of Police.
 - (d) Prepare letters, documents and memoranda associated with the disciplinary process in complaint matters.
 - (e) Prepare letters and correspondence on other matters as may be required by the Chief of Police.

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- (f) Maintain liaison with the District Attorney's office during investigations involving alleged criminal conduct on the part of an employee.
- 31 - No Supervisor or Command Officer shall conduct a complaint or administrative investigation of a subject employee who is a "near relative," as defined in City of Berkeley Administrative Regulation 2.12, or when the investigator and the subject of the investigation have a personal relationship that could compromise objectivity.
- (a) When there is a question regarding what constitutes a "personal relationship that could compromise objectivity," the investigator shall inform his/her Commanding Officer or Chief of Police of any such relationship, and the Chief shall determine if the investigation should be reassigned.
- 32 - The Internal Affairs Bureau has responsibility for record keeping and preservation duties associated with all complaint investigation matters and associated records, to include:
- (a) Registering/recording the receipt of all external and internally generated complaints, assigning an appropriate file number to each.
 - (b) Logging and preserving a record of the status and disposition of each external and internal complaint received.
 - (c) Finalizing or closing the file on all complaints and supervising the routing of the cover/disposition sheet of each complaint.
- 33 - The Internal Affairs Bureau is responsible for storing and keeping secure in its offices the files and records associated with all external and internal complaints received and investigated.
- (a) Personnel complaint files shall not include information other than materials directly associated with complaint matters and process; other personnel files shall be maintained under the control of the Administrative Division Captain.
 - (b) Complaint files are confidential documents and may not be released except as prescribed by law and as directed by this Order.
 - (c) The offices of the Internal Affairs Bureau shall be kept secure at all times, with keys distributed only to Bureau staff and the Chief of Police.

Complaint Investigations

- 34 - Following receipt of an external personnel complaint, the Internal Affairs Bureau will conduct an investigation of the complaint incident.

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- (a) Complainants will be notified by the Internal Affairs Bureau of the existence/availability of the Police Review Commission.
 - (b) Complainants will be notified in writing that their complaint has been received and that it will be investigated.
 - (c) Allegations of misconduct made by complainants will be attached to the complaint as the initial basis for receipt and investigation of the complaint. The complainant shall be provided with a copy of his or her statement, if requested.
 - (d) Employees who are designated as "**subject**" employees will be notified in writing and verbally as to the nature of the allegations made against them and their rights and responsibilities relative to the investigation.
 - (e) To insure that all possible allegations of apparent misconduct are brought forth, investigated and presented to the Board of Review and that individual employee's rights to due process are protected, obvious or apparent violations of Departmental rules, regulations, Orders, policies, procedures, directives and/or training guidelines noted by the Internal Affairs Bureau at any time during the complaint investigation process will be added to the complaint by the Internal Affairs Bureau. Each new allegation will be matched with the "**subject**" employee (where possible), bureau, division or the Department (policy complaint) with each new allegation.
- 35 - The Internal Affairs Bureau will advise the Chief of Police of all external complaints received, providing an update as to the status of each as it progresses through the investigative process towards disposition. This will be accomplished by providing weekly updates to the Chief of Police outlining complaint investigations on file with the Internal Affairs Bureau.
- (a) The Chief of Police will be immediately notified of the receipt of external complaints of a sensitive or urgent nature.

BOARD OF REVIEW

- 36 - Following the investigation of each complaint by a member of the Internal Affairs Bureau, a Board of Review may be convened by the Chief of Police for the purpose of reviewing and making findings on the complaint matter.
- (a) The Chief of Police may choose to make findings on an external personnel complaint without sending the complaint to the Board of Review.
- 37 - The Board of Review shall be presided over by a captain appointed by the Chief of Police **to** serve as the Board of Review Hearing Officer.

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- (a) The Chief of Police may attend the Board of Review hearing, but will not participate in the **recommendation consideration** process.
- 38 - **Unless directed otherwise by the Chief of Police or the Hearing Officer**, the Board of Review shall consist of a **designated on-duty Patrol Division Sergeant, the Division Commander of the subject employee, a representative of the City Manager's Office, and two representatives of the subject employee's labor group (i.e., Berkeley Police Association, SEIU Local 1021, etc.)**.
 - (a) All sworn participating members of the Board of Review must be of equal or higher rank than the **subject** officer in the complaint under consideration.
 - (1) BPA representation of the same or higher rank at the Board of Review shall still apply, if requested.
 - (b) The Chief of Police may invite other person(s) to sit with the Board as participating members as he/she deems appropriate.
- 39 - The **subject** employee and/or his/her chosen representative is encouraged to attend the Board of Review hearing to present arguments or explanations and to answer questions which may be presented to them by Board members. **Subject** employees are not required to attend unless specifically ordered to do so by the Chief of Police. The **subject** employee will be excused during the decision-making stage of the review process.
- 40 - Following the Board's review and discussion, each Board member will make a recommendation to the Board of Review Hearing Officer relative to finding(s) and possible dispositions.
 - (a) The Board of Review Hearing Officer will listen to the recommendations made by other Board members but will have the responsibility for making the final disposition recommendation to the Chief of Police.
- 41 - The Chief of Police retains the right to agree or disagree with the final recommendations of the Board of Review, and to limit or augment **those** recommendations.
- 42 - The **subject** employee will be notified of the decision of the **Chief of Police** as soon as possible after the decision is made.
- 43 - The Internal Affairs Bureau investigation is a confidential document that will not be released to the **subject** officer or his/her chosen representative prior to the time that copies of the complaint investigation are sent to members of the Board of Review and/or Chief of Police.

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- (a) In cases of great sensitivity the Chief of Police retains the right to maintain full confidentiality of the investigative report until such time as required by law to release the information.

Complaint Disposition

- 44 - Reviewer(s) must determine whether or not the allegations made in a complaint are supported by the investigation. The conclusion or finding in a complaint shall fall within one of the following categories:
 - (a) If the investigation clearly establishes that the allegation is not true, the finding shall be "Unfounded."
 - (b) If the investigation fails to support the allegation(s), but the allegation(s) cannot be shown as false, the finding shall be "Not Sustained."
 - (c) If the investigation clearly establishes that the actions of the Employee that formed the basis for the complaint are not violations of law or departmental policy, the finding shall be "Exonerated."
 - (d) If the investigation shows the allegation did occur and disciplinary action may be warranted, the finding shall be "Sustained."
- 45 - If the finding of a complaint is "Sustained," a disciplinary disposition must be selected. Disciplinary actions that may be selected include:
 - (a) Written Advice.
 - (b) Written Reprimand.
 - (c) Suspension (including forfeiture of compensatory or vacation time).
 - (d) Dismissal.
 - (e) Dismissal with criminal charges pending.
- 46 - The dispositions made in Section 45 are not all inclusive and may be modified or expanded upon at the discretion of the Chief of Police.

EXTERNAL COMPLAINTS, COMPLAINANT NOTIFICATION

- 47 - The Internal Affairs Bureau investigator shall advise the complainant of the disposition of his/her complaint. The Internal Affairs Bureau investigator shall advise the complainant in writing of the disposition of his/her complaint, within 30 days of the disposition being reached. If the complainant is not satisfied with the disposition or the manner in which the complaint was investigated, he/she shall again be advised of the existence/availability of the Police Review Commission.

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APPEAL PROCESS

- 48 - Employees receiving discipline as a result of a "Sustained" finding made against them in any personnel complaint matter may appeal/grieve the findings such appeal or grievance shall be based upon and follow guidelines established by appropriate Memoranda of Understanding, City Personnel Rules and Regulations and Department Regulations.

POLICE OFFICER BILL OF RIGHTS

- 49 - When a sworn employee of the Berkeley Police Department is subject to either an external or internal complaint, the investigator(s) conducting that investigation shall ensure that the **subject** officer is aware of his/her rights enumerated within Sections 3300-3311 of the Government Code (the Public Safety Officers Procedural Bill of Rights Act).
- 50 - Employees may be photographed for purposes of a complaint investigation. This is to include photographing for purposes of formation/presentation of a photo line-up by Internal Affairs investigators.
- (a) Employees shall not be required to stand in "physical" line-up proceedings for the purpose of complaint investigations.
- 51 - **Subject** employees shall not be required to submit financial disclosure statements or other items of personal property records in connection with complaint investigations.

POLYGRAPH EXAMINATIONS

- 52- Employees, sworn and civilian, shall not be required to submit to a polygraph examination or to similar tests which test for deception.
- (a) This shall not preclude the Internal Affairs Bureau from administering such tests at the request of a "**subject**" employee, following approval **by** the Chief of Police.

CHEMICAL SUBSTANCE EXAMINATION

- 53 - During the administrative investigation of an incident covered by this Order, the Department shall adhere to the existing City of Berkeley and department policy regarding chemical substance testing.

EMPLOYEES - RELIEF FROM DUTY

- 54 - An employee may be temporarily relieved from duty, with pay and benefits intact, due to demonstrated or suspected physical or psychological inability to perform his/her duties, allegations of misconduct made in a complaint against the

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employee, or in any other situation where such action is deemed immediately necessary by the Chief of Police.

- (a) An employee may only be relieved from duty by the Chief of Police, the Acting Chief of Police, or a Command Officer acting pursuant to the authority of the Chief of Police.
 - (1) A supervisor may relieve an employee from duty with the approval of the Chief of Police or a command officer acting in accordance with paragraph 54(a) of this Order.
 - (b) In the absence of emergency or immediate necessity, an employee may only be relieved from duty and placed on administrative leave upon the approval of the City Manager.
 - (1) If circumstances require an employee's immediate relief from duty, the City Manager shall be notified as soon as practical.
- 55- An employee relieved from duty shall refrain from engaging in work-related activity, exercising authority associated with his/her office, and, upon demand, surrender any requested Department equipment (i.e., badge, identification, firearm, etc.).
- 56 - Unless otherwise directed, the employee shall report to his/her Division Commander every duty day for instructions and other information until the employee returns to active duty status.
- (a) Unless otherwise directed or authorized, the employee should remain at home during his/her assigned duty hours while on administrative leave.

RETENTION OF RECORDS

- 55 - When a complaint has been reviewed and disposition made, the completed complaint investigation file or a legible copy thereof shall be reviewed and initialed by the **subject** employee and other employees listed on the face sheet of the complaint package. The original (initialed) copy of the completed complaint package will then be placed in the employee's personnel complaint file located in the Internal Affairs Bureau office.
- (a) Records so maintained shall include all letters, documents or statements provided by complainants, **subject employees** and witnesses, all investigative reports, a face sheet summarizing the complaint, disposition of the complaint and related information and the endorsement by the employee acknowledging the material being entered into his/her complaint file.
 - (b) The Internal Affairs Bureau will maintain a separate numbered file

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containing complete copies of all external and internal complaints received and processed. In this file the reports/investigations will be filed sequentially by the Internal Affairs Bureau control number.

- (c) Both files shall be maintained in the offices of the Internal Affairs Bureau.
- 56 - Access to the employee's personnel complaint file is limited to the employee, the Chief of Police, authorized administrative staff, the employee's Division Commander, the City Attorney, Internal Affairs Bureau personnel, the Human Resources Director and the City Manager and others as required by law.
- 57 - When an employee terminates employment with the Department, his/her personnel complaint records shall be retained in accordance with the records management timetable set by the Department.
- (a) If an investigation of officer conduct results in a suspension or dismissal, the officer shall receive a statement citing the reason for suspension or dismissal and the effective date(s) as provided for by *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194.
- (1) If the misconduct results in dismissal, the employee is referred to the following agencies for information concerning the status of fringe and retirement benefits:
- | | |
|---|-----------------|
| Public Employees' Retirement System: | City Auditor |
| Medical and Dental Benefits (COBRA): | Human Resources |
| Supplemental Retirement Income Program: | Finance |
- (b) The City of Berkeley Employee Transaction Form will be completed by designated administrative staff and will describe the specific reason for the suspension or termination. A copy of this form is provided to the employee.

POLICY COMPLAINTS

- 58 - Either the Internal Affairs Bureau or a designated command officer, as directed by the Chief of Police, will investigate policy complaints, generally received as a result of external complaints, Police Review Commission complaints, findings made by the Police Department's Board of Review (e.g., when an officer followed an existing policy in need of revision), or special Review Boards (see General Order R-3).

MONTHLY AND ANNUAL REPORTS

- 59 - The Internal Affairs Bureau Sergeants are responsible to insure that the Monthly Management Report and Annual Report, as described in General Order M-3, are completed. These reports provide statistical summaries which include the type

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of complaints received on a monthly basis, as well as the total number of complaints received during the calendar year. The reports also compare statistics from previous years.

TRAINING NEEDS

- 60 - The Internal Affairs Bureau Sergeants are responsible for identifying areas of disciplinary concern where remedial/refresher training may be beneficial to one or more employees. After discussing the perceived training need with the Chief of Police and gaining his/her concurrence, IAB will work with the Personnel and Training Sergeant to devise an appropriate training course to address the problem(s).

References: Penal Code §832.7(a)
Government Code §§3300 - 3311, "Public Safety Officers Procedural Bill of Rights of Act"
Skelly v. State Personnel Board (1975) 15 Cal.3d 194)
General Orders A-1, C-2, E-3, J-1, M-3, P-12, R-3, R-24 and Appendix 2
Police Regulations 200, 201, 202, 213, 214, 215, 232, 234, 235, 248, 250, 265, 266, 267, 273, 400 and 401
Administrative Regulation 2.12, "Employment of Near Relatives Policy (9/9/2005)"
Memorandum re "Subject Officer Testimony" from City