

Police Accountability - Personnel Complaints

1008.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation, and disposition of complaints regarding the conduct of UC Irvine Police Department (UCIPD) personnel, except for UCIPD represented dispatch personnel. Guidelines for reporting, investigation, and disposition of complaints regarding the conduct of represented dispatch personnel, personnel, will follow existing UCI Human Resources Policy and Procedure.

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)).

1008.2 POLICY

The UCIPD takes seriously all complaints regarding the service provided by the Department and the conduct of its members. The Department 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 to ensure that the community can report misconduct without concern of reprisal or retaliation.

1008.3 PERSONNEL COMPLAINT DEFINED

A personnel complaint consists of any allegation of misconduct or improper job performance against any UCIPD employee that, if true, would constitute a violation of Department policy, University policy, federal, state, or local law. Personnel complaints may be generated internally or by the public.

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

Community Complaint Sworn Personnel – A complaint initiated by a person who is not an employee of the UCIPD against a sworn police officer, of allegations that, if true, would constitute misconduct, a violation of Department policy, University policy, federal, state, or local law. Such complaints will be investigated under the supervision of the Office of Ethics & Compliance and/or the Police Accountability Board (PAB). The Office of Ethics & Compliance will share the redacted investigation report and findings with PAB. The PAB, after review of the investigation report will provide the Chief of Police with recommendations on the findings. If the Chief of Police is the subject of the complaint, then the recommendation will be made to the appropriate Vice Chancellor for the Division, which oversees the police department, and who will provide the final disposition of matters regarding the Chief of Police.

Community Complaint Non-sworn Police Department Employees – A complaint initiated by a person who is not an employee of the UCIPD against a non-sworn police department employee, of

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allegations that, if true, would constitute misconduct, a violation of Department policy, University policy, federal, state, or local law. Such complaints may be investigated by a Department supervisor of a rank greater than the accused employee depending on the seriousness and complexity of the investigation, as determined by the Chief of Police or their designee.

Internal Complaint – A complaint initiated by any member of the police Department that, if true, would constitute misconduct, a violation of department policy, University policy, federal, state, or local law. Such complaints may be investigated by a department supervisor of a rank greater than the accused employee, depending on the seriousness and complexity of the investigation, as determined by the Chief of Police or their designee.

A complaint of employee conduct which, even if true, would not constitute a violation of any of the above may be handled informally by a Department 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.

Complaints involving allegations of sexual violence, sexual harassment, or discrimination on a protected basis will be referred to the Office of Equal Opportunity and Diversity (OEOD) for review and resolution.

1008.4 AVAILABILITY OF WRITTEN PROCEDURES

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

1008.5 POLICE ACCOUNTABILITY BOARD (PAB)

It is the intent of the University of California, Irvine (UCI) to develop and promote accountability, trust, and communication between the UCI, UCIPD, and campus communities. To that end, UCI established a Police Accountability Board (hereinafter referred to as "PAB") to impartially review redacted investigative reports related to allegations of police misconduct and make recommendations in a timely manner regarding community complaints filed against UCIPD personnel. The Chief of Police will ensure UCIPD cooperation with all investigations.

Consistent with Cal. Penal Code sections 832.5 et seq, UCI has established procedures to investigate community complaints. The complaint procedures provide oversight and investigation by the Office of Ethics & Compliance, investigatory report review, recommendations by the PAB, and final determinations with respect to each complaint by the Chief of Police. If the Chief of Police is the subject of the complaint, then the final determination will be made by the Vice Chancellor of the Division of Finance & Administration.

1008.6 COMPLAINT FORMS

Personnel complaint forms will be made available in a clearly visible location in the public area of the UCI police facility and be accessible through the Department website. Forms may also be available at other University facilities and websites. Personnel complaint forms in languages other than English may also be provided as determined necessary or practicable.

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1008.6.1 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any Department member becoming aware of alleged misconduct shall immediately notify a supervisor, or appropriate chain of command.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints will be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

1008.6.2 COMPLAINT ACCEPTANCE

If a community complaint is received by the police department or any member of the police department, this complaint will be provided to the Office of Ethics & Compliance as soon as practicable for investigation. Internally generated Department complaints will be directed to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants are encouraged to file complaints in person so that proper identification, signatures, photographs, or physical evidence may be obtained as necessary. A complainant shall be provided with a copy of their statement at the time it is filed with the Department (Cal. Penal Code § 832.7).

A community complaint may also be filed using the following:

1. Accessing and submitting a complaint form online at the UCIPD's website;
2. Accessing and submitting a complaint form online at the PAB website;
3. Accessing and submitting a complaint form online at UC Ethics Point;
4. Calling the Office of Ethics & Compliance and/or the PAB at (949-824-5594) to schedule an appointment; or
5. Submitting a completed complaint form to the Office of Ethics & Compliance, the PAB or UCIPD.

1008.7 DOCUMENTATION

Supervisors or university personnel receiving the community complaint shall ensure that all formal and informal complaints are documented on a complaint form. The nature of the complaint should be defined as clearly as possible.

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All community 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. The log and/or any record of complaints against the agency or employees be securely maintained to safeguard the confidentiality of all parties to a complaint. On an annual basis, the designated employee within the agency responsible for the internal affairs function with the authority to report directly to Chief should audit the number of internally investigated complaints and send an audit report to the Chief of Police or the authorized designee. UCI Office of Ethics & Compliance and/or the PAB will also submit an annual report to the Chief of Police or the authorized designee for review. In an effort for transparency, both internal complaints and community complaints data should include affiliation of complainant, type of complaint, category of allegation, and disposition of complaint, and will be shared on the systemwide data dashboard, in compliance with all data privacy laws and POBR (Cal. Government Code § 3303).

1008.8 INVESTIGATION PROCEDURES

The following investigation procedures apply to members covered by the Public Safety Officers Procedural Bill of Rights Act (POBR) (Cal. Government Code § 3303 et. seq.). These rights shall be afforded to all police department employees. The rights afforded under the POBR include, but are not limited to the following:

- (a) Interviews of accused employees shall be conducted during reasonable hours and, if the employee is off-duty, the employee shall be compensated (Cal. Government Code § 3303(a)).
- (b) No more than two interviewers may ask questions of an accused employee (Cal. Government Code § 3303(b)).
- (c) Prior to any interview, an accused employee shall be informed of the nature of the investigation absent any exemption (i.e. ongoing criminal investigation, potential for destruction of evidence, or interference with witnesses) and shall be provided written notice informing them they are the subject of an internal investigation, the allegations, and their rights and responsibilities relative to the investigation (Cal. Government Code § 3303(c)).
- (d) All interviews shall be for a reasonable period, and the employee's personal needs shall be accommodated (Cal. Government Code § 3303(d)).
- (e) No employee shall be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively or be subject to discipline for insubordination. Nothing administratively ordered may be provided to a criminal investigator (Cal. Government Code § 3303(e)).

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- (f) Absent circumstances preventing it, the interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview (Cal. Government Code § 3303(g)).
- (g) If the allegations involve potential criminal conduct, the employee shall be advised of their Constitutional rights pursuant to "Lybarger." This admonishment shall be given administratively whether or not the employee was advised of these rights during any separate criminal investigation (Cal. Government Code § 3303(h)).
- (h) Upon the filing of a formal written statement of charges, or whenever an interrogation focuses on matters that are likely to result in punitive action against any public safety officer, that officer, at his or her request, shall have the right to be represented by a representative of his or her choice who may be present at all times during the interrogation. The representative shall not be a person subject to the same investigation. The representative shall not be required to disclose, nor be subject to any punitive action for refusing to disclose, any information received from the officer under investigation for noncriminal matters. (Cal. Government Code § 3303(i)).
- (i) All employees shall provide complete and truthful responses to questions posed during interviews.
- (j) No employee may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Cal. Government Code § 3307).
- (k) No public safety officer shall have their locker or other space for storage that may be assigned to them searched except in their presence, or with their consent, or unless a valid search warrant has been obtained or where they have been notified that a search will be conducted (Cal. Government Code § 3309).

No investigation shall be undertaken against any officer solely because the officer has been placed on a prosecutor's "Brady list" or the name of the officer may otherwise be subject to disclosure pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963). However, an investigation may be based on the underlying acts or omissions for which the officer has been placed on a Brady list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Cal. Government Code § 3305.5).

1008.8.1 INVESTIGATION REPORT FORMAT

Investigation reports shall include the following:

Background Summary – Brief summary of the facts giving rise to the investigation, the initial date and source of the complaint, and the identity of the Department employee(s) involved.

Investigative Actions – Summary of the actions taken by the investigator(s) assigned to the case.

Summary Of Allegations – List of the allegations and applicable policy sections.

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Evidence – Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of employee and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion – A recommendation should be provided with reference to the evidence that supports each allegation.

Exhibits – A separate list of exhibits (recordings, photos, documents, etc.) should be attached to the report.

1008.8.2 DISPOSITION OF COMPLAINTS

The investigator will apply the preponderance of the evidence standard, a standard of proof that requires that a fact be found when its occurrence, based on the evidence, is more likely than not.

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

Unfounded – When the investigation discloses that the alleged act(s) are not true or did not involve department personnel. Complaints which are determined to be frivolous (totally and completely without merit or for the sole purpose of harassing an opposing party. Cal. Civ. Proc. Code § 128.5) will fall within the classification of unfounded (Cal. Penal Code § 832.5(c)).

Exonerated – When the investigation clearly established that the actions of the employee that formed the basis for the complaint are not violations of law or Department policy (Penal Code § 832). If an 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 either 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. 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.

1008.8.3 COMMUNITY COMPLAINT PROCEDURES

Any community complaint received by the UCIPD will be forwarded to the Office of Ethics & Compliance and/or the PAB for review and processing as soon as practicable or within two (2) University business days with notification to the Chief of Police. Any community complaint received by the Office of Ethics & Compliance and/or the PAB will be shared with the Chief of Police, within two (2) University business days, or as soon as practicable.

At the initial filing of a community complaint with the police department, when an uninvolved supervisor or the Watch Commander determines that the complainant, after discussion of the matter, is satisfied that their complaint required nothing more than an explanation regarding the proper implementation of Department policy, procedure, or law, the complaint shall be labeled "Resolved" and forwarded to the Office of Ethics & Compliance and/or the PAB within two

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(2) business days. The Office of Ethics & Compliance and/or the PAB may follow-up with the complainant to confirm that they are satisfied with the early resolution.

The Office of Ethics & Compliance and/or the PAB will evaluate each formal complaint not resolved via the procedure in the foregoing paragraph, for information necessary to conduct an investigation and proceed as follows, and in accordance with the law.

1. If additional information is needed, the Office of Ethics & Compliance may request information from the complainant to the extent that the identity of the complainant is known. If the complainant is anonymous and there is insufficient information to warrant conducting an investigation, the Office of Ethics & Compliance will close the file, and no investigation will be conducted.
2. If the Office of Ethics & Compliance determines there is insufficient information to conduct an investigation, the allegations themselves demonstrate on their face that the acts complained of were proper, or the nature of the complaint is not suitable for investigation and review by the body, the Office of Ethics & Compliance will notify the complainant, the Chief of Police, and the PAB of the disposition in writing citing the specific reasons for the determining that the complaint will not be investigated.
3. If the Office of Ethics & Compliance determines there is sufficient information and cause to investigate a community complaint, they will assign the complaint to an investigator external to the police department to initiate an investigation and notify the complainant, the Chief of Police in writing of the complaint's referral to investigation.

Whether conducted by the Office of Ethics & Compliance) or an external investigator jointly selected by the Office of Ethics & Compliance and the UCIPD Chief of Police, the procedures in Sections 1008.8.2 – 1008.8.4 shall govern the investigation process. The investigation of a complaint shall consist of conducting interviews with the complainant, the subject employee(s), and any witnesses, collecting relevant evidence, including, but not limited to, UCIPD reports and records, photographs, video, and audio records related to the subject community complaint.

The Chief of Police, or the Chief's designee, will be the investigator's point of contact for purposes of gaining access to UCIPD information, documentation, and personnel. In this role, the Chief will ensure necessary access to subject employee(s), information, records, evidence, and documentation needed to conduct a thorough and timely investigation. If there is a question of relevancy regarding a request for information made by the investigator, the Chief of Police or their designee will review the request and determine whether the requested information is relevant to the scope of the investigation.

Barring mitigating factors, the investigation should be completed, and an investigation report submitted to the PAB within 30 University business days of it being assigned to an investigator, unless an extension is authorized by the Office of Ethics & Compliance) or their designee upon a showing of good cause for the delay or legitimate need for additional time to complete the investigation. The Chief of Police, complainant, and subject employee(s) will be provided notification of the extension. Specifically, if the investigation is likely to (or does) extend beyond 30 days from the date of assignment, and for every subsequent 30-day extension so required,

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the complainant shall be notified of the extension and investigation status, until such time as the investigation is completed.

Upon completion of a formal investigation of a community complaint, a redacted investigation report consistent with California Public Records Act redaction rules shall be provided to the PAB. In closed session, the PAB will collectively review the redacted report. The PAB will vote on its recommendations to either adopt, amend, or reject the investigator's findings. The PAB has the authority to direct the investigator to re-open the investigation to pursue additional information requested by the PAB. In addition to its recommendations with respect to whether the investigator's findings are sustained, the PAB may also recommend other actions to the Chief of Police, including, for example, modifying policies or training.

The PAB, however, will not recommend a particular level of discipline or a specific corrective action, as the Chief of Police retains the responsibility of and discretion to impose discipline. The PAB's policy recommendations may result from issues related to a specific complaint or from a general policy review and analysis.

The PAB's recommendations regarding the investigative findings shall be in writing and forwarded to the Chief of Police within 5 business days after the PAB has voted in closed session.

All copies of the completed investigation (including redacted and original copies) shall be submitted/returned to the police department for placement into the personnel complaint file. UCIPD will retain all copies, summaries, investigator notes, or other documentation related to the complaint and maintain the records according to the University's retention schedule.

1008.8.4 INTERNAL COMPLAINT PROCEDURES

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent further potential misconduct and notify the appropriate chain of command to ensure notification to the Chief of Police for assessment of appropriate action.

In circumstances in which 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 alleged misconduct to the employees' supervisor, chain of command, or the Chief of Police, for assessment of appropriate action.

Every investigator or supervisor assigned to investigate an Internal Complaint or other alleged misconduct shall proceed with due diligence. Barring mitigating factors, the investigation should be completed, and an investigation report submitted to the UCIPD Chief of Police or designee within 30 days of it being assigned to an investigator unless an extension is authorized by the UCIPD Chief of Police or designee upon a showing of good cause for the delay or legitimate need for additional time to complete the investigation. Investigations which extend beyond 30 days from the date of assignment require extension notification with status and provision for the extension (e.g. witness availability, evidence examination or testing, investigator availability, etc.) to be provided

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to the Chief of Police, employee, and complainant. An extension notification with status will be provided for every subsequent 30-day extension until the investigation is completed.

Specifically, if the investigation is likely to (or does) extend beyond 30 days from the date of assignment, and for every subsequent 30-day extension so required, the complainant shall be notified of the extension and investigation status, until such time as the investigation is completed.

Every effort shall be made to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation. In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Cal. Government Code § 3304(d) or Cal. Government Code § 3508.1. If the nature of the allegations dictates that confidentiality is necessary to maintain the integrity of the investigation, the involved employee(s) need not be notified of the pending investigation unless and until the employee is interviewed or formally charged within one year of discovery.

Upon completion of the investigation, the report should be forwarded to the Chief of Police for acceptance or modification of the classification and recommendation for disciplinary action.

A complainant who is not satisfied with the findings of the Department concerning their complaint may contact the Chief of Police to discuss the matter further.

1008.9 DISCLOSURE OF FINANCIAL INFORMATION

An employee may be compelled to disclose personal financial information under the following circumstances (Cal. Government Code § 3308):

- (a) Pursuant to a state law or proper legal process
- (b) Information exists that tends to indicate a conflict of interest with official duties

1008.10 REASSIGNMENT AND 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 Chief of Police or other authorized designee may temporarily reassign an accused employee or place the accused employee on administrative leave pending review of a complaint, completion of the investigation, or the filing of administrative charges. Any reassignment or placement on administrative leave pursuant to this section shall not affect the pay or benefits of the employee who is involuntarily reassigned or placed on administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any Department badge, identification, assigned weapons, and any other Department equipment.

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- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.

Any accused employee who is temporarily reassigned to an alternate shift or placed on administrative leave, may be required to remain available for contact during such shift/leave and will report as ordered.

1008.11 CRIMINAL INVESTIGATION

When an employee is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation. However, information obtained through administratively compelled interviews shall not be shared directly or indirectly with any personnel assigned to investigate alleged criminal activities.

The Chief of Police shall be notified as soon as practicable when an employee is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

An employee accused of criminal conduct shall be advised of their constitutional rights prior to interrogation (Cal. Government Code § 3303(h)). The employee shall not be administratively ordered to provide any information in the criminal investigation.

The University of California Irvine Police Department may release information allowable by law concerning the arrest or detention of any employee, including an officer, that has not led to a conviction. No disciplinary action shall be taken until an independent administrative investigation is conducted.

1008.12 CHIEF OF POLICE RESPONSIBILITIES POST-INVESTIGATION

Upon receipt of any written recommendation, the Chief of Police shall review the recommendation and all accompanying materials and, if involving a community complaint, the unredacted investigation report. The Chief of Police may return the file to the investigator for further investigation or action. The Chief of Police may review the entire investigative file, the employee's personnel file, and any other relevant materials. The Chief may adopt all, part, or none of the recommendations, and retains full authority, discretion, and responsibility regarding the final disposition of the matter, including disciplinary determinations.

Once the Chief of Police is satisfied that no further investigation or action is required, the Chief of Police may forward the information to the Chief's designee who will recommend the discipline, if any, that should be imposed. The Chief of Police may accept or modify the recommendation for disciplinary action. In the event disciplinary action is proposed, the Chief of Police shall provide the employee with a pre-disciplinary procedural due process hearing (Skelly) by providing written notice of the charges, proposed action, and reasons for the proposed action. Written notice shall be provided within one year from the date of discovery of the misconduct (Cal. Government Code § 3304(d)). The Chief of Police shall also provide the employee with the following:

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- (a) Access to all materials considered by the Chief of Police in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Chief of Police, or designee, within five days of receiving the notice.
 - 1. Upon a showing of good cause by the employee, the Chief of Police may grant a reasonable extension of time for the employee to respond.
 - 2. If the employee elects to respond orally, the presentation may be recorded by the Department and the employee. Upon request, the employee shall be provided with a copy of the recording.

Once the employee has completed their response or if the employee has elected to waive any such response, the Chief of Police shall consider all information received regarding the recommended discipline. The Chief of Police shall render a timely written decision to the employee and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

1008.13 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police, or designee, after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted, or the employee may offer any additional information or mitigating factors for consideration.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

1008.14 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that an employee tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline (Cal. Penal Code § 13510.8).

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1008.15 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

Within 30 business days of the final review and determination, the Chief of Police or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint (Cal. Penal Code § 832.7(f)), by receiving a written "conclusion of fact" for each allegation of misconduct. This release shall not include what discipline, if any, was imposed (Cal. Penal Code § 832.7(f)).

1008.16 NOTICE OF FINAL DISPOSITION TO THE POLICE ACCOUNTABILITY BOARD (PAB)

Within 30 business days of the final review and determination by the Chief of Police of a community complaint, written notice of the Chief of Police's final decision shall be provided to the Office of Ethics & Compliance and/or PAB. If the Chief amends or rejects the Office of Ethics & Compliance and/or PAB's finding, a rationale for the amendment will be provided to the Office of Ethics & Compliance and/or PAB in the written notice. This notice shall indicate "conclusion of fact" for each allegation of misconduct, but will not disclose the discipline, if any.

1008.17 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a written reprimand, suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement, Memorandum of Understanding, and/or personnel rules.

In the event of punitive action against an employee covered by the POBR, the appeal process shall be in compliance with Cal. Government Code § 3304 and Cal. Government Code § 3304.5.

During any administrative appeal, evidence that an officer has been placed on a Brady list or is otherwise subject to Brady restrictions may not be introduced unless the underlying allegations of misconduct have been independently established. Thereafter, such Brady evidence shall be limited to determining the appropriateness of the penalty (Cal. Government Code § 3305.5).

1008.18 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and those members other than non-probationary employees may be released from employment for non-disciplinary reasons (e.g., failure to meet standards) without adherence to the procedures set forth in this policy or any right to appeal. However, any probationary officer subjected to an investigation into allegations of misconduct shall be entitled to those procedural rights, as applicable, set forth in the POBR (Cal. Government Code § 3303 and Cal. Government Code § 3304).

At-will, probationary employees, and those other than non-probationary employees subjected to discipline or termination as a result of allegations of misconduct shall not be deemed to have acquired a property interest in their position but shall be given the opportunity to appear before the Chief of Police or authorized designee for a non-evidentiary hearing for the sole purpose of

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attempting to clear their name or liberty interest. There shall be no further opportunity for appeal beyond the liberty interest hearing, and the decision of the Chief of Police shall be final.

1008.19 RETENTION OF PERSONNEL INVESTIGATION FILES

All copies of the completed investigation (including redacted and original copies) shall be submitted/returned to the police department for placement into the personnel complaint file. UCIPD will retain all copies, summaries, investigator notes, or other documentation related to the complaint and maintain the records as required under Cal. Penal Code section 832.7 in a file separate from the employee's personnel file or the University's records retention schedule, whichever is longer.

1008.20 REQUIRED REPORTING TO PEACE OFFICER STANDARDS AND TRAINING (POST)

The Chief of Police or the authorized designee shall notify POST on the appropriate POST form within 10 days of certain officer personnel events, including but not limited to (Cal. Penal Code § 13510.9):

- (a) Termination or separation from employment or appointment. Separation from employment or appointment includes any involuntary termination, resignation, or retirement.
 - 1. A POST affidavit-of-separation form shall be executed and maintained by the Department and submitted to POST as required by Cal. Penal Code § 13510.9.
- (b) Events that could affect an officer's POST certification, such as:
 - 1. Complaint, charge, or allegation of conduct against an officer that could render an officer subject to suspension or revocation of certification by POST pursuant to Cal. Penal Code § 13510.8
 - 2. Findings or recommendations by a civilian review board that an officer engaged in conduct that could render an officer subject to suspension or revocation of certification by POST pursuant to Cal. Penal Code § 13510.8
 - 3. Final dispositions of any investigations that determines an officer engaged in conduct that could render an officer subject to suspension or revocation of certification by POST pursuant to Cal. Penal Code § 13510.8, regardless of the discipline imposed
 - 4. Civil judgments or court findings against an officer based on conduct, or settlement of a civil claim against an officer or the University of California Irvine Police Department based on allegations of officer conduct that could render an officer subject to suspension or revocation of certification by POST pursuant to Cal. Penal Code § 13510.8

The Chief of Police or the authorized designee shall be responsible for providing POST access to or duplication of investigation documentation (e.g., physical or documentary evidence, witness statements, analysis, conclusions) for up to two years after reporting of the disposition of an investigation (Cal. Penal Code § 13510.9) or otherwise required by law.

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