

Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Paul Joseph
Acting Chief of Police

**SUBJECT: DUTY MANUAL REVISION:
C 1715.1 COMPLAINT TIMELINE**

DATE: August 29, 2024

APPROVED

Memo# 2024-023

BACKGROUND

On April 16, 2024, the Interim Independent Police Auditor issued the [2023 IPA's Annual Report](#). The report contained several recommendations, including the following:

- *The SJPD Duty Manual should codify the San José Police Department's Internal Affairs unit and the San José Independent Police Auditor's Procedural Guidelines.*

The San José Police Department's Internal Affairs unit and the San José Independent Police Auditor's Procedural Guidelines are currently codified in the [Internal Affairs Unit Guidelines](#). Included within these guidelines is a mutually agreed upon timeline for completing the Department's internal investigations and disciplinary process.

The purpose of this timeline is to allow the Internal Affairs unit to complete a thorough investigation and provide an appropriate amount of time for the IPA to review the investigation and either agree with or appeal the ruling. Without this timeline in place, there have been instances in which undue delays have prevented adequate time for appeal, when necessary.

To make the procedures and timelines set forth in the Guidelines more accessible to Department members, the Department has included an abridged version of the Guidelines into the Department's Duty Manual.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike-through~~ form.

C 1715.1 **COMPLAINT TIMELINE:**
Added 08-29-24

Pursuant to the Public Safety Officers Procedural Bill of Rights Act (Government Code section 3300 et seq.) the Department must conduct its administrative investigation of misconduct and notify the employee of the proposed discipline within one year of discovery. The one-year limitations period under Government Code section 3304, subdivision (d)(1) begins to run when a person authorized to initiate an investigation discovers, or through reasonable diligence should have discovered, the allegation of misconduct. The exemptions listed in Government Code sections 3304 shall toll these time constraints.

Being mindful of the 365-day investigation limit, the Department will adhere to incremental deadlines throughout the investigative and audit process. Those deadlines are indicated below:

- Days 1-30 of the 365 total days:

The Department's Internal Affairs unit accepts the complaint and determines the proper classification of the complaint (refer to DUTY MANUAL SECTION C 1712).

- Days 31-90 of the 365 total days for cases which require neither subject officer nor witness interviews:

A completed investigation that does not require a subject officer or witness interview shall be closed with a finding (Exonerated, Unfounded, No Finding, or Complaint Withdrawn) or supervisory referral as to each allegation; then reviewed by the Administrative IA Sergeant; and then forwarded to IPA for audit. After audit, the IPA shall notify IA of their determination. If the IA Administrative Sergeant determines that additional investigation or interviews are necessary, the complaint is assigned to an IA investigating Sergeant.

- Days 90-120 of the 365 total days (IPA Audit Period) for cases not requiring finding and recommendations:

The IPA has 30 days to audit IA closed cases that do not require findings and recommendations. The audit includes reviewing the complaint, police reports and other documents, recordings, and materials involved in the IA investigation.

- Days 91-270 of the 365 total days for cases which require subject officer or witness interviews:

An IA investigating sergeant (as opposed to the IA unit Administrative Sergeant) assigned to investigate conduct complaints or DII cases may collect additional evidentiary material, ensure subject officers are notified of IA cases,

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and conduct follow-up interviews with witnesses and the subject officers when appropriate.

Upon completion, the entire case file is given to the IA unit Commander for review and approval. If a closed case requires findings and recommendations, it is sent to the Assistant Chief through the subject officer's chain of command. On all allegations of force, the completed case may be forwarded to the Assistant Chief of Police for review and approval.

- Days 270-300 of the 365 days (IPA audit period) for cases not requiring findings and recommendations:

The IPA shall have 30 days to audit and provide their determination on cases that do not require findings and recommendations.

- Days 91-300 of the 365 total days for cases sent for findings and recommendations:

At any point during the 91-300 day period, if IA determines the case should ultimately go to the Chief of Police for findings and recommendations for training, counseling or discipline, the IA investigation will be reviewed by the subject officer's chain of command. The findings and recommendations shall be returned to IA within 30 days of the send date (refer to Duty Manual section C 1716 COMMAND OFFICER FINDINGS AND RECOMMENDATIONS and C 1717 COMMAND OFFICER'S RESPONSIBILITIES).

- Days 91-314 of the 365 total days (IPA audit period):

The IPA has 14 days to audit cases after they have returned from the command officer for findings and recommendations. Following the audit period, the IPA shall notify IA of their determination.

Note: During any audit period, all information from the IA file will remain available for review by the IPA.

C 1717

COMMAND OFFICER'S RESPONSIBILITIES:

Revised 08-29-24 07-19-21.

The assigned command officer has the responsibility for determining the findings and making recommendations. The command officer will complete the following steps prior to submitting a memorandum in BlueTeam which recommends action:

- REVIEW OF IA INVESTIGATION: A thorough review of the investigation conducted by IA.
- REVIEW EMPLOYEE'S RECORDS: A review of the member's records including, but not limited to, IA and personnel records.
- EMPLOYEE INTERVIEW: The command officer making a finding may interview the Department member involved. If an interview is conducted, it

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shall be audio recorded by the command officer. The involved member has the right to decline a voluntary interview, if offered. However, they do not have a right to decline an involuntary interview, if requested by the command officer.

- SUPERVISORY INPUT: The command officer will discuss the investigation with the Department member's immediate supervisor. Information is solicited concerning the member's present job performance and any other pertinent factors that might influence a disciplinary recommendation. The immediate supervisor's input is documented in the command officer's memorandum.
- COMPLAINT TIMELINES: *The command officer will follow the complaint timelines outlined in Duty Manual section C 1715.1. If any deviation from the prescribed timelines is needed, they will discuss the case with the IA unit Commander or the assigned IA investigating Sergeant. Any requests for extensions of audit timelines by the IPA will be discussed with the IA unit Commander.*

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections.



Paul Joseph
Acting Chief of Police

PJ:PH:BM