



**POLICE ADVISORY AND ACCOUNTABILITY COMMITTEE**  
**WEDNESDAY, MARCH 20, 2024 AT 6:00 PM**

**In-Person:**

**San Rafael City Council Chambers**  
**1400 Fifth Ave, San Rafael, California**

**Virtual:**

**Watch Online:** <https://tinyurl.com/PAAC-2024-03-20>

**Listen by Phone:** (669) 444-9171

**Meeting ID:** 898-5264-7245#

**AGENDA**

How to participate in the meeting:

- You are welcome to provide comments in-person at the meeting. Each speaker will have 2-minutes to provide public comment.
- Submit your comments by email to [PAAC@cityofsanrafael.org](mailto:PAAC@cityofsanrafael.org) by 4:00 p.m. the day of the meeting.

**CALL TO ORDER – 6:00PM**

**MINUTES**

1. Approve regular meeting minutes from the meeting of February 21, 2024.

**SPECIAL PRESENTATIONS**

2. Special Presentations
  - a. Public Safety Officers Procedural Bill of Rights. Mark Wilson, Attorney for Burke, Williams & Sorensen, LLP
  - b. Internal Affairs. Lieutenant Todd Berringer, San Rafael Police Department.

**OTHER AGENDA ITEMS**

If necessary to ensure completion of the following items, the Chairperson may establish time limits for the presentations by individual speakers.

3. Other Agenda Items:
  - a. Provide feedback on the San Rafael Police Department's Recruitment and Selection Plan.  
*Recommendation: Provide feedback*

**STAFF LIAISON REPORT**

4. Other brief program updates or reports on any meetings, conferences, and/or seminars attended by staff.

## **COMMITTEE REPORTS**

5. Other brief reports on any meetings, conferences, and/or seminars attended by the Committee members.

## **OPEN TIME FOR PUBLIC EXPRESSION**

The public is welcome to address the Police Advisory and Accountability Committee at this time on matters not on the agenda that are within its jurisdiction. Comments may be no longer than 2 minutes and should be respectful to the community.

## **ADJOURNMENT**

*Any records relating to an agenda item, received by a majority or more of the Board less than 72 hours before the meeting, shall be available for inspection online and in the city hall large conference room, third floor, 1400 5th Avenue, San Rafael, California placed with other agenda-related materials on the table in front of the location prior to the meeting. Sign Language interpreters may be requested by calling (415) 485-3066 (voice), emailing [city.clerk@cityofsanrafael.org](mailto:city.clerk@cityofsanrafael.org) or using the California Telecommunications Relay Service by dialing "711", at least 72 hours in advance of the meeting. Copies of documents are available in accessible formats upon request. To request Spanish language interpretation, please submit an online form at <https://www.cityofsanrafael.org/request-for-interpretation/>.*



**SAN RAFAEL**  
THE CITY WITH A MISSION

**POLICE ADVISORY AND ACCOUNTABILITY COMMITTEE (PAAC)  
WEDNESDAY, FEBRUARY, 21 2024 AT 6:00 PM**

**In-Person:**  
San Rafael Public Safety Center  
1375 Fifth Ave, San Rafael, California

**Virtual:**  
**Watch Online:**  
<http://tinyurl.com/PAAC-2024-02-21>  
**Listen by Phone: (669) 444-9171**  
**Meeting ID: 898-5264-7245#**

**MINUTES**

**CALL TO ORDER**

Chairperson Paula Kamena called the meeting to order at 6:01 PM.

**ROLL CALL**

**Present:**

Member Daniel Alm  
Member Marilyn Alvarez  
Chair Paula Kamena  
Member Mydung Nguyen (Arrived at 6:02pm)  
Member Darlin Ruiz (Arrived at 6:36pm)  
Vice Chair Fatai Tokolahi  
Member Salamah Locks  
Alternate Member Karla Valdez

**Absent:** Member Daryoush Davidi

\*Member Locks was a voting member for this meeting due to Member Davidi's absence.

**Also Present:** Angela Robinson Piñon, Assistant City Manager  
David Spiller, Chief of Police, San Rafael Police Department  
Scott Eberle, Lieutenant, San Rafael Police Department

Lieutenant Scott Eberle informed the community that the in-person meeting would also be recorded and streamed live to YouTube and through Zoom. He noted the two-minute timer for public comment and closed

captioning on Zoom.

## 1. MINUTES

Chair Kamena invited public comment.

**Speakers:** Name withheld

Member Tokolahi moved, and Member Alm seconded to approve the minutes from the January 17<sup>th</sup> meeting as presented.

Members and staff provided comments.

AYES: MEMBERS: Alm, Nguyen, Ruiz, Alvarez, Tokolahi & Chair Kamena

NOES: MEMBERS: Locks

ABSENT MEMBERS: Davidi

The motion carried 6-1.

## SPECIAL PRESENTATION

### 2. Special Introductions:

#### a. **Police Department Orientation, Structure, Policy & Command Staff Introduction**

Chairperson Paula Kamena introduced the item.

The Chief of Police, David Spiller presented the Staff Report and introduced members of the Police Department Command Staff Captain Glen McElderry, Captain Roy Leon, Lieutenant Scott Eberle, Lieutenant Todd Berringer, Lieutenant Carl Huber, and Lieutenant Alex Holm

Staff responded to the Committee's questions.

Chairperson Kamena invited public comment.

**Speakers:** Steven Bingham, Heidi, Hanya  
The Committee provided comments.

## OTHER AGENDA ITEMS

### 3. Other Agenda Items:

#### a. San Rafael Police Department Recruitment and Selection *Recommendation:* Receive the report

Chairperson Kamena introduced the item.

Sergeant Rhonda Cordero presented the Staff Report.

Staff responded to questions from the Committee.

Chairperson Kamena invited public comment.

**Speakers:** Steven Bingham, Heidi, Name withheld

The Committee provided comments.

Member Locks moved, and Vice Chair Tokolahi seconded to accept the report on Recruitment and Selection.

AYES:	MEMBERS:	Alm, Kamena, Nguyen, Ruiz, Alvarez, Locks and Tokolahi
NOES:	MEMBERS:	None
ABSENT	MEMBERS:	Davidi

**STAFF LIAISON REPORT**

3. Staff Liaison Report: - None.

**COMMISSIONER REPORTS**

4. Commissioner Reports:

- Alternate Member Valdez attended the King Tides event in San Rafael
- Member Ruiz commented on how to file a complaint.
- Member Tokolahi reported on his recruitment efforts for San Rafael Police Department at his sporting events.
- Member Alm met with members of the Canal Neighborhood and heard concerns from the neighborhood.
- Member Locks commented on the process for bringing “New Business” to the Committee agenda.

Chair Kamena reported on her attendance at the Steering Committee for the Marin Coalition to End Human Trafficking.

**OPEN TIME FOR PUBLIC EXPRESSION**

Chairperson Kamena invited members of the public to give comments regarding items not listed on the agenda.

Heidi addressed the Committee regarding police accountability and trust with regard to the appointment of a previous chief law enforcement officer as chair and commented on the diversity of the Committee.

**ADJOURNMENT**

Chairperson Kamena adjourned the meeting at 8:34 PM.

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SCOTT EBERLE, Staff Liaison

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2024

# **Public Safety Officers Procedural Bill of Rights Act**

Government Code Sections 3300-3312

## **3300 – TITLE**

This chapter is known and may be cited as the Public Safety Officers Procedural Bill of Rights Act.

## **3301 – DEFINITION; LEGISLATIVE FINDINGS AND DECLARATION**

For purposes of this chapter, the term public safety officer means all peace officers specified in Sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision ©, 830.36, 830.37, 830.38, 830.4, and 830.5 of the Penal Code.

The Legislature hereby finds and declares that the rights and protections provided to peace officers under this chapter constitute a matter of statewide concern. The Legislature further finds and declares that effective law enforcement depends upon the maintenance of stable employer-employee relations, between public safety employees and their employers. In order to assure that stable relations are continued throughout the state and to further assure that effective services are provided to all people of the state, it is necessary that this chapter be applicable to all public safety officers, as defined in this section, wherever situated within the State of California.

## **3302 – POLITICAL ACTIVITY: MEMBERSHIP ON SCHOOL BOARD**

(a) Except as otherwise provided by law, or whenever on duty or in uniform, no public safety officer shall be prohibited from engaging, or be coerced or required to engage, in political activity.

(b) No public safety officer shall be prohibited from seeking election to, or serving as a member of, the governing board of a school district.

### 3303 – INVESTIGATIONS INTERROGATIONS; CONDUCT; CONDITIONS; REPRESENTATION; REASSIGNMENT

When any public safety officer is under investigation and subjected to interrogation by his or her commanding officer, or any other member of the employing public safety department, that could lead to punitive action, the interrogation shall be conducted under the following conditions. For the purpose of this chapter, punitive action means any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.

(a) The interrogation shall be conducted at a reasonable hour, preferably at a time when the public safety officer is on duty, or during the normal waking hours for the public safety officer, unless the seriousness of the investigation requires otherwise. If the interrogation does occur during off-duty time of the public safety officer being interrogated, the public safety officer shall be compensated for any off-duty time in accordance with regular department procedures, and the public safety officer shall not be released from employment for any work missed.

(b) The public safety officer under investigation shall be informed prior to the interrogation of the rank, name, and command of the officer in charge of the interrogation, the interrogating officers, and all other persons to be present during the interrogation. All questions directed to the public safety officer under interrogation shall be asked by and through no more than two interrogators at one time.

(c) The public safety officer under investigation shall be informed of the nature of the investigation prior to any interrogation.

(d) The interrogating session shall be for a reasonable period taking into consideration gravity and complexity of the issue being investigated. The person under interrogation shall be allowed to attend to his or her own personal physical necessities.

(e) The public safety officer under interrogation shall not be subjected to offensive language or threatened with punitive action, except that an officer refusing to

respond to questions or submit to interrogations shall be informed that failure to answer questions directly related to the investigation or interrogation may result in punitive action. No promise of reward shall be made as an inducement to answering any question. The employer shall not cause the public safety officer under interrogation to be subjected to visits by the press or news media without his or her express consent nor shall his or her home address or photograph be given to the press or news media without his or her express consent.

(f) No statement made during interrogation by a public safety officer under duress, coercion, or threat of punitive action shall be admissible in any subsequent civil proceeding. This subdivision is subject to the following qualifications:

(1) This subdivision shall not limit the use of statements made by a public safety officer when the employing public safety department is seeking civil sanctions against any public safety officer, including disciplinary action brought under Section 19572.

(2) This subdivision shall not prevent the admissibility of statements made by the public safety officer under interrogation in any civil action, including administrative actions, brought by that public safety officer, or that officer's exclusive representative, arising out of a disciplinary action.

(3) This subdivision shall not prevent statements made by a public safety officer under interrogation from being used to impeach the testimony of that officer after an in camera review to determine whether the statements serve to impeach the testimony of the officer.

(4) This subdivision shall not otherwise prevent the admissibility of statements made by a public safety officer under interrogation if that officer subsequently is deceased.

(g) The complete interrogation of a public safety officer may be recorded. If a tape recording is made of the interrogation, the public safety officer shall have access to the tape if any further proceedings are contemplated or prior to any further interrogation at a subsequent time. The public safety officer shall be entitled to a transcribed copy of any notes made by a stenographer or to any reports or



complaints made by investigators or other persons, except those which are deemed by the investigating agency to be confidential. No notes or reports that are deemed to be confidential may be entered in the officer's personnel file. The public safety officer being interrogated shall have the right to bring his or her own recording device and record any and all aspects of the interrogation.

(h) If prior to or during the interrogation of a public safety officer it is deemed that he or she may be charged with a criminal offense, he or she shall be immediately informed of his or her constitutional rights.

(i) 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.

This section shall not apply to any interrogation of a public safety officer in the normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other public safety officer, nor shall this section apply to an investigation concerned solely and directly with alleged criminal activities.

(j) No public safety officer shall be loaned or temporarily reassigned to a location or duty assignment if a sworn member of his or her department would not normally be sent to that location or would not normally be given that duty assignment under similar circumstances.

### **3304 – LAWFUL EXERCISE OF RIGHTS; INSUBORDINATION; ADMINISTRATIVE APPEAL**

(a) No public safety officer shall be subjected to punitive action, or denied promotion, or be threatened with any such treatment, because of the lawful exercise of the rights granted under this chapter, or the exercise of any rights under

any existing administrative grievance procedure. Nothing in this section shall preclude a head of an agency from ordering a public safety officer to cooperate with other agencies involved in criminal investigations. If an officer fails to comply with such an order, the agency may officially charge him or her with insubordination.

(b) No punitive action, nor denial of promotion on grounds other than merit, shall be undertaken by any public agency against any public safety officer who has successfully completed the probationary period that may be required by his or her employing agency without providing the public safety officer with an opportunity for administrative appeal.

(c) No chief of police may be removed by a public agency, or appointing authority, without providing the chief of police with written notice and the reason or reasons therefore and an opportunity for administrative appeal. For purposes of this subdivision, the removal of a chief of police by a public agency or appointing authority, for the purpose of implementing the goals or policies, or both, of the public agency or appointing authority, for reasons including, but not limited to, incompatibility of management styles or as a result of a change in administration, shall be sufficient to constitute "reason or reasons." Nothing in this subdivision shall be construed to create a property interest, where one does not exist by rule or law, in the job of Chief of Police.

(d) Except as provided in this subdivision and subdivision (g), no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency's discovery by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct. This one-year limitation period shall apply only if the act, omission, or other misconduct occurred on or after January 1, 1998. In the event that the public agency determines that discipline may be taken, it shall complete its investigation and notify the public safety officer of its proposed disciplinary action within that year, except in any of the following circumstances:

(1) If the act, omission, or other allegation of misconduct is also the subject of a criminal investigation or criminal prosecution, the time during which the criminal investigation or criminal prosecution is pending shall toll the one-year time period.

(2) If the public safety officer waives the one-year time period in writing, the time period shall be tolled for the period of time specified in the written waiver.

(3) If the investigation is a multijurisdictional investigation that requires a reasonable extension for coordination of the involved agencies.

(4) If the investigation involves more than one employee and requires a reasonable extension.

(5) If the investigation involves an employee who is incapacitated or otherwise unavailable.

(6) If the investigation involves a matter in civil litigation where the public safety officer is named as a party defendant, the one-year time period shall be tolled while that civil action is pending.

(7) If the investigation involves a matter in criminal litigation where the complainant is a criminal defendant, the one-year time period shall be tolled during the period of that defendant's criminal investigation and prosecution.

(8) If the investigation involves an allegation of workers' compensation fraud on the part of the public safety officer.

(e) Where a predisciplinary response or grievance procedure is required or utilized, the time for this response or procedure shall not be governed or limited by this chapter.

(f) If, after investigation and any predisciplinary response or procedure, the public agency decides to impose discipline, the public agency shall notify the public safety officer in writing of its decision to impose discipline, including the date that the discipline will be imposed, within 30 days of its decision, except if the public safety officer is unavailable for discipline.

(g) Notwithstanding the one-year time period specified in subdivision (c), an investigation may be reopened against a public safety officer if both of the following circumstances exist:

(1) Significant new evidence has been discovered that is likely to affect the outcome of the investigation.

(2) One of the following conditions exist:

(A) The evidence could not reasonably have been discovered in the normal course of investigation without resorting to extraordinary measures by the agency.

(B) The evidence resulted from the public safety officer's predisciplinary response or procedure.

(h) For those members listed in subdivision (a) of Section 830.2 of the Penal Code, the 30-day time period provided for in subdivision (e) shall not commence with the service of a preliminary notice of adverse action, should the public agency elect to provide the public safety officer with such a notice.

### **3304.5 – ADMINISTRATIVE APPEAL**

An administrative appeal instituted by a public safety officer under this chapter shall be conducted in conformance with rules and procedures adopted by the local public agency.

### **3305 – COMMENTS ADVERSE TO INTEREST; PERSONNEL FILES; OPPORTUNITY TO READ AND SIGN; REFUSAL TO SIGN**

No public safety officer shall have any comment adverse to his interest entered in his personnel file, or any other file used for any personnel purposes by his employer, without the public safety officer having first read and signed the instrument containing the adverse comment indicating he is aware of such comment, except that such entry may be made if after reading such instrument the public safety officer refuses to sign it. Should a public safety officer refuse to sign, that fact shall be noted on that document, and signed or initialed by such officer.

### **3306 – RESPONSE TO ADVERSE COMMENT IN PERSONNEL FILE; TIME**

A public safety officer shall have 30 days within which to file a written response to any adverse comment entered in his personnel file. Such written response shall be attached to, and shall accompany, the adverse comment.

### **3306.5 – INSPECTION OF PERSONNEL FILES; REQUEST FOR CORRECTION OF FILE; TIME**

(a) Every employer shall, at reasonable times and at reasonable intervals, upon the request of a public safety officer, during usual business hours, with no loss of compensation to the officer, permit that officer to inspect personnel files that are used or have been used to determine that officer's qualifications for employment, promotion, additional compensation, or termination or other disciplinary action.

(b) Each employer shall keep each public safety officer's personnel file or a true and correct copy thereof, and shall make the file or copy thereof available within a reasonable period of time after a request therefore by the officer.

(c) If, after examination of the officer's personnel file, the officer believes that any portion of the material is mistakenly or unlawfully placed in the file, the officer may request, in writing, that the mistaken or unlawful portion be corrected or deleted. Any request made pursuant to this subdivision shall include a statement by the officer describing the corrections or deletions from the personnel file requested and the reasons supporting those corrections or deletions. A statement submitted pursuant to this subdivision shall become part of the personnel file of the officer.

(d) Within 30 calendar days of receipt of a request made pursuant to subdivision (c), the employer shall either grant the officer's request or notify the officer of the decision to refuse to grant the request. If the employer refuses to grant the request, in whole or in part, the employer shall state in writing the reasons for refusing the request, and that written statement shall become part of the personnel file of the officer.

### **3307 – POLYGRAPH EXAMINATION; RIGHT TO REFUSE; EFFECT**

(a) No public safety officer shall be compelled to submit to a lie detector test against his or her will. No disciplinary action or other recrimination shall be taken

against a public safety officer refusing to submit to a lie detector test, nor shall any comment be

entered anywhere in the investigator's notes or anywhere else that the public safety officer refused to take, or did not take, a lie detector test, nor shall any testimony or evidence be admissible at a subsequent hearing, trial, or proceeding, judicial or administrative, to the effect that the public safety officer refused to take, or was subjected to, a lie detector test.

(b) For the purpose of this section, "lie detector" means a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device, whether mechanical or electrical, that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

### **3307.5 – USE OF PHOTOGRAPH; PENALTIES**

(a) No public safety officer shall be required as a condition of employment by his or her employing public safety department or other public agency to consent to the use of his or her photograph or identity as a public safety officer on the Internet for any purpose if that officer reasonably believes that the disclosure may result in a threat, harassment, intimidation, or harm to that officer or his or her family.

(b) Based upon his or her reasonable belief that the disclosure of his or her photograph or identity as a public safety officer on the Internet as described in subdivision (a) may result in a threat, harassment, intimidation, or harm, the officer may notify the department or other public agency to cease and desist from that disclosure. After the notification to cease and desist, the officer, a district attorney, or a United States Attorney may seek an injunction prohibiting any official or unofficial use by the department or other public agency on the Internet of his or her photograph or identity as a public safety officer. The court may impose a civil penalty in an amount not to exceed five hundred dollars (\$500) per day commencing two working days after the date of receipt of the notification to cease and desist.

### **3308 – FINANCIAL DISCLOSURE; RIGHT TO REFUSE; EXCEPTIONS**

No public safety officer shall be required or requested for purposes of job assignment or other personnel action to disclose any item of his property, income, assets, source of income, debts or personal or domestic expenditures (including those of any member of his family or household) unless such information is obtained or required under state law or proper legal procedure, tends to indicate a conflict of interest with respect to the performance of his official duties, or is necessary for the employing agency to ascertain the desirability of assigning the public safety officer to a specialized unit in which there is a strong possibility that bribes or other improper inducements may be offered.

### **3309 – SEARCH OF LOCKER OR STORAGE SPACE; CONSENT; SEARCH WARRANT**

No public safety officer shall have his locker, or other space for storage that may be assigned to him searched except in his presence, or with his consent, or unless a valid search warrant has been obtained or where he has been notified that a search will be conducted. This section shall apply only to lockers or other space for storage that are owned or leased by the employing agency.

### **3309.5 – LOCAL PUBLIC SAFETY OFFICERS; APPLICABILITY OF CHAPTER; JURISDICTION; REMEDIES**

(a) It shall be unlawful for any public safety department to deny or refuse to any public safety officer the rights and protections guaranteed to him or her by this chapter.

(b) Nothing in subdivision (h) of Section 11181 shall be construed to affect the rights and protections afforded to state public safety officers under this chapter or under Section 832.5 of the Penal Code.

(c) The superior court shall have initial jurisdiction over any proceeding brought by any public safety officer against any public safety department for alleged violations of this chapter.

(d) (1) In any case where the superior court finds that a public safety department has violated any of the provisions of this chapter, the court shall render

appropriate injunctive or other extraordinary relief to remedy the violation and to prevent future violations of alike or similar nature, including, but not limited to, the granting of a temporary restraining order, preliminary, or permanent injunction prohibiting the public safety department from taking any punitive action against the public safety officer.

(2) If the court finds that a bad faith or frivolous action or a filing for an improper purpose has been brought pursuant to this chapter, the court may order sanctions against the party filing the action, the parties attorney, or both, pursuant to Sections 128.6 and 128.7 of the Code of Civil Procedure. Those sanctions may include, but not be limited to, reasonable expenses, including attorney's fees, incurred by a public safety department, as the court deems appropriate. Nothing in this paragraph is intended to subject actions or filings under this section to rules or standards that are different from those applicable to other civil actions or filings subject to Section 128.6 or 128.7 of the Code of Civil Procedure.

(e) In addition to the extraordinary relief afforded by this chapter, upon a finding by a superior court that a public safety department, its employees, agents, or assigns, with respect to acts taken within the scope of employment, maliciously violated any provision of this chapter with the intent to injure the public safety officer, the public safety department shall, for each and every violation, be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) to be awarded to the public safety officer whose right or protection was denied and for reasonable attorney's fees as may be determined by the court. If the court so finds, and there is sufficient evidence to establish actual damages suffered by the officer whose right or protection was denied, the public safety department shall also be liable for the amount of the actual damages. Notwithstanding these provisions, a public safety department may not be required to indemnify a contractor for the contractor's liability pursuant to this subdivision if there is, within the contract between the public safety department and the contractor, a "hold harmless" or similar provision that protects the public safety department from liability for the actions of the contractor. An individual shall not be liable for any act for which a public safety department is liable under this section.

### **3310-PROCEDURES OF PUBLIC AGENCY PROVIDING SAME RIGHTS OR PROTECTIONS; APPLICATION OF CHAPTER**



Any public agency which has adopted, through action of its governing body or its official designee, any procedure which at a minimum provides to peace officers the same rights or protections as provided pursuant to this chapter shall not be subject to this chapter with regard to such a procedure.

### **3311 – MUTUAL AID AGREEMENTS; EFFECT OF CHAPTER UPON**

Nothing in this chapter shall in any way be construed to limit the use of any public safety agency or any public safety officer in the fulfilling of mutual aid agreements with other jurisdictions or agencies, nor shall this chapter be construed in any way to limit any jurisdictional or interagency cooperation under any circumstances where such activity is deemed necessary or desirable by the jurisdictions or the agencies involved.

### **3312 – AMERICAN FLAG; PINS**

Notwithstanding any other provision of law, the employer of a public safety officer may not take any punitive action against an officer for wearing a pin or displaying any other item containing the American flag, unless the employer gives the officer written notice that includes all of the following:

(a) A statement that the officer's pin or other item violates an existing rule, regulation, policy, or local agency agreement or contract regarding the wearing of a pin, or the displaying of any other item, containing the American flag.

(b) A citation to the specific rule, regulation, policy, or local agency agreement or contract that the pin or other item violates.

(c) A statement that the officer may file an appeal against the employer challenging the alleged violation pursuant to applicable grievance or appeal procedures adopted by the department or public agency that otherwise comply with existing law.

San Rafael Police Department  
PROFESSIONAL STANDARDS BUREAU



**INTERNAL AFFAIRS INVESTIGATION  
MANUAL**

## **Law Enforcement Code of Ethics**

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality, and justice.

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession... law enforcement.



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## Introduction and Purpose

This manual was prepared to assist first-line supervisors and others who may be charged with the investigation of internal and external complaints and administrative internal investigations involving sworn and non-sworn police department personnel. It is intended as a guide, but should not replace input from management and the agency's counsel.

### Statement of Purpose

The goal of an internal affairs investigation is to ensure that the integrity of the department is maintained through a system of internal discipline where objectivity, fairness, and justice are assured by intensive, impartial investigations and reviews.

It is hoped that this manual, together with impartial investigations, will help determine real or potential causes of problems relating to human relations and remedy identified deficiencies; ensure proper corrective action is taken when appropriate; and, protect personnel from unwarranted criticism when they perform their duties in an approved and appropriate manner. Such procedures are intended to do the following:

- Clear those innocent of misconduct.
- Establish the fault of wrongdoers.
- Facilitate prompt and just disciplinary action.
- Reveal faulty practices or procedures.

Working familiarity with the Public Safety Officers' Procedural Bill of Rights Act and applicable decisional law is essential and is part of this manual.

### COMPLAINT CLASSIFICATIONS

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

**Informal** - A matter in which the Shift Supervisor is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

**Formal** - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Professional Standards Unit, depending on the seriousness and complexity of the investigation.

**Incomplete** - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Professional Standards Unit, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

## **Agency Obligation to Investigate Employee Misconduct**

The obligation of a law enforcement agency to investigate alleged or suspected employee misconduct stems from several sources. For example, Penal Code 832.5 provides:

*(a) (1) Each department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies and shall make a written description of the procedure available to the public.*

The oath of office taken by officials of law enforcement agencies obliges them to enforce all laws and agency rules and regulations governing employee misconduct. In addition, the failure to investigate and correct subordinate employee misconduct can provide the basis for the removal of an official from office or constitute grounds for civil liability.

In carrying out an agency's duty to investigate complaints of employee misconduct, agency officials conducting an administrative investigation have the legal right to ask employees, under pain of discipline, any questions that are **narrowly, specifically, and directly** related to the employee's performance of his or her official duties as a peace officer. An employee who fails or refuses to answer such narrow, specific, and direct questions concerning the performance of his or her duties may be disciplined for insubordination.

As a rule, no constitutional protections against self-incrimination exist in administrative investigations. However, any incriminating statements, that are the product of such compulsion, are inadmissible in criminal proceedings against the same employee. Statements obtained in violation of rights secured by Government Code 3300-3311 might similarly be inadmissible in an administrative disciplinary proceeding.

### **Administrative Investigations**

The Department's administrative investigations may be conducted by an investigator assigned to the Professional Standards Bureau, a supervisor within the employee's division, or who the Division Commander designates. In any case where a department's investigation could lead to "discipline," i.e., any action which may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment." (Government Code 3303), the investigation is administrative in nature and must be conducted in a manner consistent with provisions of the Public Safety Officers Procedural Bill of Rights Act, (Government Code 3300) and other applicable statutory and decisional law. The guarantees of the Bill of Rights apply to "All peace officers as defined in 830.1 and subdivisions (a) and (b) of 830.2 of the Penal Code." And "All persons employed by the state of California and designated by law as peace officers." Government Code 3301.

[CLICK HERE FOR SAN RAFAEL POLICE DEPARTMENT POLICY MANUAL](#)

## **Internal Affairs Formal Investigations Procedures**

A complaint, both internal and external-initiated, will be classified as a formal investigation based on the allegation, if sustained, would seemingly result in discipline of a Letter of Written Reprimand or higher. These complaints will be investigated by a supervisor designated by the Division Commander.

### **Complaint Received**

The following will give you the detailed sequence of events that the investigating officer should follow when investigating an internal affairs complaint (Lexipol 1011.4):

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. The receiving member shall obtain contact information sufficient for the supervisor to contact the complainant and enter the complaint into the *Internal Complaint Tracking Form*, which is the log that tracks all incoming complaints. After completing the *Internal Complaint Tracking Form* the receiving member shall direct the complaint to the supervisor. If the supervisor is not immediately available the receiving member shall notify the supervisor of the complaint as soon as reasonably possible. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be 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 the complaining party's statement at the time it is filed with the Department (Penal Code § 832.7).

### ***Read the complaint!***

Determine the specifics of the complaint. Make sure you truly know what the complainant is saying and what the allegation(s) are. The complaint information from the Division Captain or Lieutenant will indicate whether the complaint is a Formal or an Informal investigation. This distinction is important because the two types of investigations are handled differently. The following instructions will guide you for all Formal investigations. Refer to the section titled Divisional Investigations for guidance



## Starting the Investigation:

Once assigned an investigation, the investigator should take standard steps to prepare their investigation, such as:

1. Read all materials included in the packet received by the Lieutenant or Captain.
2. Begin chronologically documenting steps taken, such as the date/time assigned, and how the investigator was notified. This information is later transferred to the "Formal Internal Affairs Investigation Report." This should be documented in an Investigators Log Form **IA-09**
3. Identify all parties included in the allegation, and who may need to be contacted or interviewed.
4. Complete any background research to familiarize yourself with the facts of the case. This may include researching RIMS/CLETS history, and reviewing incident reports, video footage, or other evidence.

## Subject Officer/Employee

5. Serve the member with the Notice of Investigation. Form **IA-01**. This form officially notifies the member that they are under investigation and allows them to contact the appropriate representative if desired prior to their interview.
  - a. Use form **IA-07** to notify the officer if the complaint has alleged serious misconduct per PC 13510.8 (SB2) and a report is being forwarded to the Police Officer Standards and Training (POST). (PSU Lieutenant or Sergeant will handle)
  - b. If applicable use form **IA-08** if the employee is being placed on Administrative Leave

## Witnesses

- a. If there are witnesses that need serving, serve them with Notice of Witness Interview Form **IA-02**.
- b. Witnesses are NOT entitled to representation. You may interview them immediately if desired, or provide a short courtesy period prior to the interview.

When Interviewing Witnesses:

- i. Witnesses do not have a right to a representative so make the interview soon after your contact.



- ii. Order the employee witness not to discuss the case or any aspect of it with anyone; make sure they understand your order. (Refer to written instructions.)
  - iii. The only reports employee witnesses are allowed to see are those they have prepared, such as arrest or incident reports.
  - iv. If, during the course of an interview, a witness makes a statement or otherwise gives you information that leads you to believe they are or could be guilty of a violation of the San Rafael Police Department Policy Manual or other policy/statute violation that could lead to discipline, you must stop the interview and read them the administrative investigations admonishment. This means if they want a representative, you will have to reschedule the interview.
6. Schedule interviews as necessary.
  7. Research Lexipol policies, Department Directives, or Notices that apply to the allegation (Example: If the investigation includes an allegation that a member used harsh or profane language, the applicable Policy is 320 – STANDARDS OF CONDUCT.)
  8. If necessary, complete a list of questions to ask the respective parties during interviews. Reference Policies, Department Directives, or Notices to understand the “elements” of the alleged rule violation, to help determine what questions to ask each party.
  9. Serve the Subject Officer/Employee with the Notice of Subject Officer Interview. Form IA-03.
    - a. You may need to send an amended form **IA-03** if the date/time and location are not known at the time of initial service.

## **INTERVIEWS**

Interviews:

Note: Recording interviews is highly encouraged.

1. When possible, conduct interviews in this order:
  - a. Complainant
  - b. Witness
  - c. “Named” Officer (Accused member)

2. Interviews of non-SRPD members can typically be handled via telephonic interview. The member conducting the investigation shall memorialize efforts to contact complainants and witnesses.

3. Interviews of SRPD members are usually conducted in person, and shall be conducted in a private area of the Station or neutral office space.

4. At the beginning of the interview, and once the audio recorder is recording, serve and read the member with the Interrogation Admonition for Peace Officers Form **IA-04**

5. Serve and read the member with the Miranda and Lybarger Admonitions Form **IA-05**

## 6. Conduct Interview

1. Note on the recording what the allegations are for the record. (stay within the scope of investigation)

2. Once the above steps have been taken, you may proceed with the content of your interview. Begin with a few contextual questions, such as having the member state and spell their name, their badge number, their assignment, etc. If a non-member establishes their relation to the case (i.e. Citizen who made the complaint after a traffic stop, etc.)

3. Ask questions specific to the elements of the rule violation to help definitively prove or disprove the allegation.

4. Ask Questions to:

- a. Establish the accused member was on duty or present during the incident.
- b. Ask open-ended questions.
- c. Ask direct questions.
- d. Don't answer for the accused member. Be patient and let the member talk.
- e. The member is required to answer all questions asked of them.

5. At the conclusion of the interview, conduct a "Closing" that will allow the member the opportunity to provide any evidence that is relevant to the case, or make a statement if they desire.

6. Notify the member that the case is under investigation, and will be forwarded to the appropriate Lieutenant or Captain for review when completed.

## 7. Conduct a Thorough Investigation

- a. Follow these steps to ensure your case file is complete:
  - During the course of the investigation, various documents may be generated or used as evidence.
  - Retain these documents for the case file.
  - Attach all documents used (photos, RIMS print-outs, etc.)
  - Download all recorded interviews to a digital storage device for later attachment.
8. Once your investigation is complete, utilize the Formal Internal Affairs Investigations Report template to document the investigation. The Formal Report is written in memo form, with individual sections to address each portion of the investigation.
  - a. On the template, replace all the red-highlighted with your investigative notes
9. Conclusion Section of the Formal Report:
  - a. Once all investigative steps have been completed, the investigator should determine a finding for each of the allegations. The finding is based on a preponderance of evidence. This is usually described as 50.1% of the evidence indicating that the misconduct occurred or when it is more likely than not that a violation of policy or procedure has occurred.
10. Apply the facts of the case to the definitions below to determine the finding for each allegation. The criteria for each finding are:

### **Definitions:**

Each personnel complaint shall be classified with one of the following dispositions:

- **Unfounded** - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.8).
- **Exonerated** - When the investigation discloses that the alleged act occurred but that the act was justified, lawful, and/or proper.
- **Not sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.
- **Sustained** - A final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to Government Code § 3304

and Government Code § 3304.5 that the actions of an officer were found to violate law or department policy (Penal Code § 832.8).

11. The Preliminary Investigation is now Complete and should be forwarded to the appropriate Lieutenant or Captain for review.
12. The Division Captain will review the report and either send it back for further investigation or approve the report. Once the report has been approved the Division Captain will submit to the Chief of Police a Division Commander Comments Report Form IA-06.

If an employee or their representative requests a copy of their recorded interview, one must be given to them as soon as is reasonable. During normal business hours, a copy may be made by a representative of the Professional Standards Bureau. In most cases where a labor representative is present, they will also record the interview.

**DO NOT GIVE YOUR OPINION AS TO THE OUTCOME OF THE INVESTIGATION!**

## **Submitting the Investigation**

Follow this procedure to have your investigation approved and returned to the appropriate Lieutenant or Captain:

1. Assemble all of your case documents in this order:
  - a. Formal Report
  - b. Supporting Documents (Photos, Evidence, etc.)
  - c. Original Documents that arrived with the packet
  - d. Digital files with audio, video, etc.
  
2. Present the completed investigation for review to the Division Captain.
  
3. The Initial Investigative Level portion of the investigation is now complete. The supervising Lieutenant or Captain will contact the lead investigator if any additional information is needed.

### **Best Practices for interviews:**

1. Regarding Accused Civilian employees: Provide a copy of their Weingarten rights (attached) for their review prior to the interview. Once on the record during the interview, state that you provided them a copy of their Weingarten Rights, and have the member confirm this.
2. Union Representatives or Attorneys for members:
  - a. Witnesses are NOT entitled to representation. You may interview them immediately if desired, or provide a short courtesy period prior to the interview. This includes Officers and Non-Sworn Staff.
  - b. Accused members ARE entitled to representation prior to, and during the interview. Provide POBOR rights to sworn members (Government Code Section 3300, et seq.) Weingarten Rights apply to non-sworn members. Accused members may proceed with their representative, or they may proceed without representation if they choose. Members are to be afforded a reasonable amount of time to obtain representation.
  - c. If a member chooses to go forward without a representative, restate this information on the recorded interview and have the member confirm they don't wish to have a representative present.
  - d. If a representative objects to a question, allow them to state their objection, review the question to see if it can be stated a different way, and if so restate the question. If the question is pertinent to the interview, acknowledge the objection and order the named employee to answer the question. There are remedies should your question be deemed inappropriate.
  - e. Always give a representative a chance to ask questions or clarify points at the end of an interview.
  - f. If a representative requests a break to consult with their client, allow it, unless it will put you at a disadvantage. A representative should never tell their client not to answer a question. The only time this will happen is if the criminal consequences outweigh the administrative consequences. Once again, be reasonable with employees and their representatives.



# San Rafael Police Department

1400 Fifth Ave.

San Rafael, CA 94901

DAVID C. SPILLER, POLICE CHIEF

OFFICE (415) 485-3000    www.srpd.org    FAX(415) 485-3043

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**To:**

**From:**

**Date:**

**Re:** CONFIDENTIAL - Notice of Subject Officer - Administrative Investigation

We have received a complaint alleging that you have violated policies and/or procedures with the San Rafael Police Department. *\*Insert summary details.* You are the subject of this investigation.

This investigation is being performed by \*\*\*. \*\*\* will work with you to schedule an interview at an appropriate date and time.

To ensure a full, fair and effective investigation in this matter, and in order to preserve public confidence in the City's ability to operate effectively, during the pendency of this investigation, you are directed not to discuss this investigation, including the specific allegations made against you, with anyone other than the investigator, your union representative and/or legal counsel. This order shall automatically be lifted at the conclusion of the investigation, when the need for accurate collection of information from individuals involved in or who witnessed events will abate. This order is not intended to prevent you from engaging in protected concerted activity under the Meyers-Millias-Brown Act. You may continue to engage in protected concerted activity under the Act, including but not limited to discussing any other aspects of your employment and working conditions with others including co-workers.

The City prohibits retaliation against employees for making the types of allegations that have made against you. I am directing you not to retaliate against anyone whom you believe was or is not involved in the complaint or investigation process.

Failure to comply fully with the provisions of this notice will be insubordination, and may result in discipline up to, and including, termination from employment.

If you have any questions regarding this notice, please contact me (415) 485-XXXX.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

SRPD IA Form # IA-01



# San Rafael Police Department

1400 Fifth Ave.  
San Rafael, CA 94901

DAVID C. SPILLER, POLICE CHIEF

OFFICE (415) 485-3000    www.srpd.org    FAX(415) 485-3043

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**To:**

**From:**

**Date:**

**Re:**    CONFIDENTIAL - Notice of Witness Interview - Administrative Investigation

You are scheduled to be interviewed as a witness in connection with an administrative investigation into allegations of misconduct against an employee of the San Rafael Police Department. You are not the subject of this investigation and you are being interviewed solely in your capacity as a witness. No one has alleged any misconduct or wrongdoing on your part, and the San Rafael Police Department has no reason at this time to believe that this will be the case.

This investigation is being performed by \*\*\*. \*\*\* will work with you to schedule an interview at an appropriate date and time. The interview will be recorded. You are ordered to cooperate fully with \*\*\*, to answer questions in a complete and truthful manner, and to obey any lawful order(s) given by him as though such order was coming from a superior in your chain of command with the San Rafael Police Department.

This investigation concerns allegations an employee of the San Rafael Police Department violated department and city policies. You are expected to maintain the confidentiality of this investigation and not discuss the investigation or its subject matter with other employees of the department.

If you have any questions regarding this notice, please contact me (415) 485-3020.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

SRPD IA Form IA-02





## SAN RAFAEL POLICE DEPARTMENT

1375 FIFTH AVENUE . SAN RAFAEL . CA . 94901

DAVID C. SPILLER, POLICE CHIEF

OFFICE (415) 485-3000 www.srpd.org FAX(415) 485-3043

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DATE:

TO:

FROM:

**SUBJECT: Pre-Interrogation Notice**  
Internal/Administrative Investigation No.

---

Please be advised that the San Rafael Police Department is conducting an internal/administrative investigation to determine whether your alleged actions violated certain sections of its policies, general orders, rules, regulations, or directives. During the past \*\* months, you are alleged to have \*\* \_\_\_\_\_.

If true, these allegations would be in violation of the following Department and City policies, general orders, rules and/or regulations, and could result in disciplinary action up to and including termination:

- SRPD Policy Manual Section 339.5.1(c) Violation of federal, state, local or administrative laws, rules or regulations.
  - California Penal Code Section 484(a) Theft
  - California Penal Code Section 118.1 Falsification of a Police Report
  - California Penal Code Section 135 Destroying or Concealing Evidence
- SRPD Policy Manual Section 339.5.7(b) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors without a reasonable and bona fide excuse.

This investigation will be conducted by \*\*\*. There will be no more than one other officer present. All questions during the interrogation will be asked by and/or through no more than two interrogators at one time. You will be notified in the immediate future of the date, time and place of your scheduled interrogation/interview.

The complete interrogation will be recorded. You will have access to the recording and transcription if any further proceedings are contemplated or prior to any subsequent interrogation. No notes, reports or other memoranda, deemed confidential by the Department, will be entered

SRPD IA Form# IA-03



## SAN RAFAEL POLICE DEPARTMENT

1375 FIFTH AVENUE . SAN RAFAEL . CA . 94901

DAVID C. SPILLER, POLICE CHIEF

OFFICE (415) 485-3000    www.srpd.org    FAX(415) 485-3043

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into your personnel file.

You have the right to be represented by a person of your choice who may be present during the interrogation. This person shall be not a subject in the same investigation.

Your representative shall not be required to disclose, nor be subjected to, any punitive action for refusing to disclose in any administrative process conducted by the Department, any information received from you while acting as your representative in non-criminal matters.

The Department offers no assurance that a non-attorney representative may not be compelled to disclose such information in any criminal or civil proceedings.

You will not be subjected to visits by press or news media persons without your express consent. Nor will your home address or photograph be provided to any media persons without your express consent.

If this interrogation occurs during your off-duty hours, you will be compensated in the manner prescribed by the current Memorandum of Understanding between your bargaining unit and the Department.

If before or during the interrogation, it is deemed that you may be suspected of the commission of a criminal offense, you shall be immediately informed of your constitutional rights.

You are advised that your rights are outlined in the Public Safety Officers Procedural Bill of Rights, Government Code Sections 3300-3311.

If you have any questions prior to the interrogation, please do not hesitate to contact me.

Thank you for your anticipated cooperation.

Receipt Acknowledged

Date:

\_\_\_\_\_  
Name of Officer

SRPD IA Form# IA-03



SAN RAFAEL POLICE DEPARTMENT

1375 FIFTH AVENUE . SAN RAFAEL . CA . 94901

DAVID C. SPILLER, POLICE CHIEF

OFFICE (415) 485-3000 www.srpd.org FAX(415) 485-3043

**INTERVIEW ADMONITION FOR PEACE OFFICERS**

My name is \_\_\_\_\_ and my rank is \_\_\_\_\_. I am employed in such capacity by the City of San Rafael Police Department and am in charge of this investigation and the Personnel Complaint number listed above.

Also present is Rank(s) \_\_\_\_\_ / \_\_\_\_\_ Name(s), and his/her representative Name(s) \_\_\_\_\_ / Firm(s) \_\_\_\_\_.

Today is Month / Day / Year and the time is Time.

- 1) Pursuant to Government Code § 3303(g), I am tape recording this interrogation. Officer \_\_\_\_\_ shall also have the right to record this interrogation and he/she **IS** or **IS NOT** (circle one) going to do so.
- 2) No more than 2 (two) interrogators may ask questions at any one time. I will be one of the interrogators
- 3) This interrogation session shall not extend beyond a reasonable time considering the gravity of the issue(s).

You will be able to attend to your own personal physical necessities. Please ask if you need a recess to use the bathroom, have a beverage or otherwise refresh yourself.

- 4) The nature of this investigation is: \_\_\_\_\_
- 5) Prior to proceeding with the interrogation, do you have any questions regarding the admonitions that I have read to you?

This interrogation admonition was read to me on:

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 202\_\_\_\_, a \_\_\_\_\_ hours.

By my signature herein, I acknowledge my understanding of my rights and duties.

\_\_\_\_\_  
*Subject Employee*



**SAN RAFAEL POLICE DEPARTMENT**

1375 FIFTH AVENUE . SAN RAFAEL . CA . 94901

DAVID C. SPILLER, POLICE CHIEF

OFFICE (415) 485-3000 www.srpd.org FAX(415) 485-3043

**San Rafael Police Department  
MIRANDA AND LYBARGER ADMONITIONS**

You have been asked to provide information as part of an administrative investigation. Failure to comply may subject you to disciplinary action. Please be advised that to protect your Fifth Amendment right against self-incrimination in a criminal proceeding, any information that you provide as part of this investigation cannot be used against you in any subsequent criminal proceeding.

Therefore, you are advised of the following rights:

- You have the right to remain silent and not incriminate yourself.
- You have the right to an attorney before and during questioning.
- If you cannot afford an attorney, one will be appointed for you before questioning, if you wish.

**Check the below box if you wish to invoke your right against self-incrimination:**

- I do not waive my Miranda Rights against self-incrimination.
- I do waive my Miranda Rights against self-incrimination.

This is an administrative investigation. If you invoke your rights against self-incrimination you are advised of the following:

- While you have the right to remain silent with regard to any criminal investigation, you do not have the right to refuse to answer questions as part of an administrative investigation.
- If you refuse to participate, your refusal can be deemed insubordination and can result in administrative discipline, up to, and including, termination.
- Any statement you make as part of this administrative investigation cannot be used against you in a later criminal proceeding.

**Check the below box if you agree with the following statement:**

- I agree to participate in this administrative investigation and will provide truthful answers to interview questions.
- I do not agree to participate in this administrative investigation and understand that my decision not to participate is subject to disciplinary action.

I acknowledge receipt of this form and understanding of its contents:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

SRPD IA Form# IA-05



## SAN RAFAEL POLICE DEPARTMENT

1375 FIFTH AVENUE . SAN RAFAEL . CA . 94901

DAVID C. SPILLER, POLICE CHIEF

OFFICE (415) 485-3000 www.srpd.org FAX(415) 485-3043

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### Division Commander Comments

DATE:

TO: Chief

FROM: Captain

I have reviewed the administrative investigation prepared by Sergeant XX and find that the above investigation is comprehensive and complete. The allegations in this matter are that Officer XX ~~XX~~ failed to properly investigate a domestic violence incident, failed to complete a police report, neglected his duty, engaged in unsatisfactory work performance, failed to record statements, and failed to accommodate a Limited English Proficient individual.

#### INVESTIGATIVE SYNOPSIS:

This investigation was initiated following a domestic violence related call for services on XXXXXX. Officer XX ~~XX~~ and Ofc. XX XXX responded to a residence in San Rafael on the report of an unwanted subject. Ofc. XX was the primary officer, thus he was responsible for the investigation and disposition of the case. Ofc. XXX was the cover officer. During the investigation, the victim told Ofc. XX ~~xxxxxx~~.

On August 12, 2017, the victim came to the San Rafael police station regarding the incident on 08/08/17 to complain that a police report was not initiated during the original incident. She met with Ofc. Puccetti, who subsequently conducted a domestic violence investigation. Based on the interviews of the victim, witness, and suspect, Ofc. X found probable cause to arrest the suspect for ~~xxxx~~.

On 10/19/17, the suspect pled guilty to xxx and was sentenced to three years supervised probation.

#### CONCLUSIONS:

The investigation establishes the following conclusions and violations of policy:

**City of San Rafael Police Department Policy §319.4(b)** *When practicable, officers should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.*

Ofc. XX failed to complete ~~xxxxxx~~.- **SUSTAINED**

**City of San Rafael Police Department Policy §319.4(j)** *Domestic Violence Investigation: officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred.*

SRPD IA Form #IA-06



## SAN RAFAEL POLICE DEPARTMENT

1375 FIFTH AVENUE . SAN RAFAEL . CA . 94901

DAVID C. SPILLER, POLICE CHIEF

OFFICE (415) 485-3000 www.srpd.org FAX(415) 485-3043

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Based on the victim and witness statements, Ofcr. XX .....- **SUSTAINED**

Ofcr. XX failed to complete a police report related to this incident and he did not make an arrest when probable cause existed to make an arrest for domestic violence.- **SUSTAINED**

**City of San Rafael Police Department Policy xxxxx** CONDUCT- *Any other on-duty or off-duty conduct which any member knows or reasonably should know is unbecoming a member of the department, is contrary to the good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.*

Because Ofcr. XX did not initiate a police report or make an arrest during his initial contact, his failure to document .....- **SUSTAINED**

### **RECOMMENDATIONS:**

On \*\*\*\*, Ofc. XX was issued a 30-hour suspension in the form of a pay reduction. Given that this pay reduction was for unsafe driving, it was not taken into consideration by me for progressive discipline purposes when making my discipline recommendation in this case. I am recommending a 60-hour suspension which should come in the form of a reduction of pay. Additionally, I am recommending that Ofc. XX be removed from the Crisis Negotiations Team and as an Explorer Advisor.





# SAN RAFAEL POLICE DEPARTMENT

1375 FIFTH AVENUE . SAN RAFAEL . CA . 94901

DAVID C. SPILLER, POLICE CHIEF

OFFICE (415) 485-3000    www.srpd.org    FAX(415) 485-3043

**To:** [Blank]  
**From:** [Blank]  
**Subject:** SB2 Reporting Requirements  
**Date:** [Blank]

As of January 1, 2023, law enforcement must notify the Commission on Police Officer Standards and Training (POST) of any allegations of Serious Misconduct within ten (10) days of the allegation being made, even when the investigation has not been completed. Once the investigation has been completed, law enforcement must update POST with the investigative outcome. PC 13510.8 describes "Serious Misconduct" in more detail. In essence, there are nine categories where law enforcement agencies must notify POST:

1. Dishonesty – including misleading crime reports, statements, evidence handling
  2. Abuse of Power – including intimidation, knowingly make false arrest
  3. Physical abuse – excessive or unreasonable use of force
  4. Sexual Assault – as described in 832.7(b)PC
  5. Demonstrating bias – failure to carry out duties in a fair and unbiased manner
  6. Acts that violate the law – crimes egregious in nature
  7. Participation in a law enforcement gang – multiple officers' on-duty behavior violates rights of other employees or community members
  8. Failure to cooperate with an investigation into potential police misconduct
  9. Failure to intercede – being present and observing unnecessary force
- On 05/25/23, in accordance with the law, the San Rafael Police Department notified POST about an event you were involved in that met one of the above criteria.
- On 05/25/23, in accordance with the law, the San Rafael Police Department notified POST that the investigation had been completed and the finding was: (If left blank, the investigation is on-going)
- |   |                                     |
|---|-------------------------------------|
| <input type="checkbox"/> Sustained            | <input type="checkbox"/> Unfounded  |
| <input type="checkbox"/> <u>Not-Sustained</u> | <input type="checkbox"/> Exonerated |

If you have any questions, you may contact Personnel Services Lieutenant Scott Eberle.

If you'd like more information on Senate Bill 2, please go to the POST website, Senate Bill No. 2 webpage (<https://post.ca.gov/sb-2>).

SRPD Form IA-07



# SAN RAFAEL POLICE DEPARTMENT

1375 FIFTH AVENUE . SAN RAFAEL . CA . 94901

DAVID C. SPILLER, POLICE CHIEF

OFFICE (415) 485-3000 www.srpd.org FAX(415) 485-3043



**To:** Officer \*\*\*\*\*  
**From:** Chief  
**Subject:** Notice of Administrative Leave

**Date:** August 18, 2022

This letter is to advise you, Officer \*\*\*\*\* that I am placing you on paid Administrative Leave and suspending your peace officer powers as of **DATE**, pending the final disposition of an internal investigation which will be conducted by the San Rafael Police Department.

You shall immediately surrender your Department issued identification card, badge, electronic access keycard, building keys, and firearm.

You are not allowed in the Public Safety Building, located at 1375 5th Avenue, San Rafael or other San Rafael police facilities unless escorted by a department manager or supervisor.

Under the conditions of this emergency suspension, you are to obey all local, State, and Federal laws, City Rules and Regulations, and the San Rafael Police Department Code of Conduct.

Additionally, you are required to be available for daily contact through your Department issued cell phone at \*\*\*\*\* , Monday through Friday, 9 am to 5 pm, with Lieutenantxxx. Lieutenant xxx will be responsible for coordinating any exchange of information with you while you are on paid administrative leave. Lieutenant \*\*\*\*\* will serve as a secondary contact for you here at the police department in case Lieutenant xxx is not available and immediate contact is needed. His contact phone numbers are 415-\*\*\*\* or \*\*\*\*\*.

David Spiller  
Chief of Police

Date

xxx Date  
Human Resources Director

\*\*\*\*\*  
Police Officer

Date

SRPD Form IA-08





# **Formal Internal Investigation Report Sample Memorandum**

(Template)

To:xxxx  
Chief of Police

From: Captain  
XXXXXXXXXX  
Officer in Charge Assignment

**Date: DATE TURNED IN**

Subject: INVESTIGATION OF A COMPLAINT AGAINST PERSONNEL

**EXECUTIVE SUMMARY**

- 3-4 Paragraphs summarizing the incident.

**MEMBER:**

Named Member

**TYPE OF COMPLAINT: (List the appropriate title)**

- Alleged Violations

Conduct Unbecoming an Officer Neglect of Duty  
Unwarranted Actions

**CASE NUMBER:**

IA 2020-XXXX

**DATE, TIME PLACE OF OCCURRENCE:**

When and where it happened

**INVESTIGATOR:**

Supervisor XXXXX or Sergeant XXXXX #1111 (Put your name here)

**Recommendation as to Disposition Classification (Findings):**

**THIS SHOULD BE ON IT'S OWN PAGE, one page per subject employee**

Based on the information obtained in the course of this administrative investigation, I recommend the disposition and classification of the complaints (*Employee*) to be as follows:

***San Rafael Police Department Policy:***

- **xxxx(e) "UNFOUNDED"** Unauthorized possession of, loss of or damage to  
Department property or the property of others  
or  
endangering it through unreasonable carelessness or maliciousness.
  
- **xxxxx(j) "SUSTAINED "** Wrongfully loaning, selling, giving away or Appropriating any Department property for the personal use of the employee or any unauthorized person(s).
  
- **xxx.(n) "NOT SUSTAINED"** Work related dishonesty, including attempted or  
actual theft of Department property, services or the property of others.

***Memorandum of Understanding with the City of San Rafael and the San Rafael POA:***

- **23.2(14) "UNFOUNDED"** Dishonesty
  
- **23.2(16) "UNFOUNDED"** Use of City equipment, supplies or identification (e.g.,  
badges) for any reason other than for official City business.

**Sec. 2**

**IDENTIFIED/INVOLVED PARTIES:**

**Member:**

Officer John Doe #1234

**Complainant:**

(If the complaint is internally generated, simply list "SRPD." If external, list the name of the complainant and their contact info.) Example:

Sarah Smith 1423 34th St.  
San Rafael, CA 94122  
(415) 555-5556

**Witness:**

Officer David Brown #2222

Officer Jane Johnson #3333

Mr. Paul Wilson  
Citizen / San Rafael Resident 1234 California St.  
San Rafael, CA, 94131  
(415) 555-5555

**Sec. 3**

**INVESTIGATION CHRONOLOGY:**

List the time/dates of the investigative steps you took, i.e.:

4/15/20 at 1400 hrs: I was assigned this case for investigation by Captain XXXXX. The file I received included the following documentation: XXXXXXXX

4/15/20 at 1500 hrs: I reviewed the case file and included documents.

4/15/20 at 1600 hrs: I conducted research through HRMS to determine **if Officer** Doe was working on 3/15/20. HRMS showed Officer Doe working from

1200-2200 hrs. I printed the HRMS report and included it in the case file.

4/16/20 at 1000 hrs: I called Complainant Sarah Smith and conducted a recorded interview.

4/16/20 at 1100 hrs: I called Witness Paul Wilson and conducted a recorded interview.

4/17/20 at 1300 hrs: I called Witness Officer Jane Johnson and conducted a recorded interview. Etc.

(This section is meant to simply keep a chronological record of the steps you took, and when you took them. Do not document the actual content of conversations, as that comes later in the investigative findings section.)

#### **Sec. 4**

#### **INVESTIGATIVE FINDINGS:**

*(Your investigation, in a narrative format. This section is meant to summarize the steps you took, and what information was provided to you. It should be a big picture summary of what the allegations were, what each of the Witnesses and Members said, and a description of any evidence you discovered. Include any other relevant information here. Write this section like you are writing a police report or a memo. Include any information to prove or disprove the allegation.)*

#### **Example:**

On 4/15/20 at 1400 hrs., I was assigned this case for investigation by Captain XXXXX. Captain XXXXX advised me that I was to complete a station level investigation regarding a complaint received at, and subsequently forwarded to me.

Captain XXXXX provided me with a case file containing the following documents:

1. Case Assignment Memo
2. Report Summary
3. Notification of Investigation Form
4. Handwritten letter signed by Sarah Smith
5. SRPD Parking Citation #123456789

I reviewed the documents and determined that Complainant Sarah Smith had made a Complaint against Officer John Doe related to rudeness and a parking

citation. The Complaint consisted of a handwritten letter mailed to Records, and was related to a parking citation issued by Officer Doe.

I took the following actions during the investigation of this incident:

**Review of CAD/RIMS Record of Officer John Doe**

I reviewed the xxx record for Officer Doe. The record showed ..... xxxxxx

**Review of Complaint Letter**

I reviewed the letter and observed the following: XXXXX

**Review of Citation #123456789**

- I reviewed the citation provided by the Complainant. It appeared to show that the citation was issued by Officer Doe on XXXXX....

**Additional Follow-Up Conducted**

I learned that Officer Doe had recorded the initial incident with his BWC. I reviewed the BWC which showed the following: XXXXXX

**Summary of Interview with Complainant Sarah Smith**

On 4/16/20 at 1000 hrs., I conducted a recorded telephonic interview with Complainant Sarah Smith. Smith related to me the following: XXXXX

**Summary of Interview with Witness Paul Wilson**

On 4/16/20 at 1100 hrs., I conducted a recorded telephonic interview with Witness Paul Wilson. Wilson related to me the following: XXXXX

**Summary of Interview with Witness Officer Jane Johnson**

XXXXXXXX

**Summary of Interview with Named Officer John Doe**

XXXXXXXX

(Continue in this manner itemizing and summarizing the various steps conducted until you have addressed all of the relevant information.)

## **Sec. 5**

### **STATEMENTS:**

All Statements summarized in "Investigative Findings" See audio recordings and Memorandums for further

List the people here that you interviewed. Include contact information.

## **Sec. 6**

### **CONCLUSION:**

#### **Allegation #1:**

In regards to the allegation that Officer Doe violated Department General Order 2.01, Rule 14 when he was alleged to have been discourteous to complainant when issuing a parking citation:

**\*SUSTAINED\***

Department Lexipol Policy 320 Standards of Conduct - When acting in the performance of their duties, while on or off duty, members shall treat the public with courtesy and respect and not use harsh, profane or uncivil language. Members shall also address the public using pronouns and titles of respect appropriate to the individual's gender identity as expressed by the individual. When requested, members shall promptly and politely provide their name, star number and assignment.

#### **Summary:**

On XXXXX date at XXXXX time, SRPD received a complaint from Sarah Smith stating Officer Doe yelled at her, accused her of parking in a red zone, and refused to let her move her vehicle. Smith alleged Officer Doe wrote her a ticket which he then threw at her. Through the course of the investigation I interviewed two witnesses and observed Body Worn Camera footage, which produced evidence that:



Both parties appeared animated during the dispute;  
Officer Doe used harsh language, including calling Sarah Smith an "idiot"  
Officer Doe did in fact throw her ticket at Sarah Smith  
This action brought discredit to the Department.

Therefore, this allegation should be deemed Sustained.

**Allegation #2:**

In regards to the allegation Officer Doe violated Department Bulletin 19-049 by hanging up on the complainant who called on the phone:

**\*\*Not Sustained\*\***

Department Bulletin 19-049: San Rafael Police Department sworn and non-sworn members are reminded that they shall be courteous at all times. Often the public's first contact with the Department is by telephone. When answering the phone, members shall identify their unit, station or bureau, and give their rank and name. Members shall then inquire how they may be of service.

**Summary:**

On XXXXX date at XXXXX time, SFPD received a complaint from Sarah Smith stating she called XXXXX Station after receiving a citation from Ofc. Doe. Ofc. Doe came to the phone, and when the complainant stated she was the person who received a ticket from Officer Doe, Officer Doe hung up the telephone. There were no independent witnesses to this complaint and Officer Doe denied the action. There was insufficient evidence to prove or disprove the allegation.

Therefore, this allegation should be deemed Not Sustained.

**Investigated By:**

**Approved By:**

\_\_\_\_\_  
**Sgt XXXXX #1234     Date:**

\_\_\_\_\_  
**Captain XXXXX #6789     Date:**

**RECOMMENDATION:**

**It is recommended that discipline, if deemed necessary, be imposed according to Department policy and guidelines.**

**Sec. 8**

**ATTACHMENTS:**

**A. Chronological**

**B. Documentation (IA Report Summary)**

**C. List all attachments here...**

## **Informal Internal Affairs Investigations Procedures**

A complaint is determined to be an INFORMAL when the allegation, if sustained, would seemingly result only in a memo that goes into their supervisory file but is purged within one year (Also referred to as a 3 X 5). The Lieutenant will normally assign these complaints to the supervisory level where a sergeant will be assigned the case.

### **Informal Complaint Received**

Every Informal complaint will be accepted in accordance with Lexipol Policy 1011 (The same as a Formal complaint)

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. The receiving member shall obtain contact information sufficient for the supervisor to contact the complainant and enter the complaint into the *Internal Complaint Tracking Form*, which is the log that tracks all incoming complaints. After completing the *Internal Complaint Tracking Form* the receiving member shall direct the complaint to the supervisor. If the supervisor is not immediately available the receiving member shall notify the supervisor of the complaint as soon as reasonably possible. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be 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 the complaining party's statement at the time it is filed with the Department (Penal Code § 832.7).

Once you are assigned an informal complaint, read the complaint thoroughly and then retrieve any reports or supporting documents associated with the case. Contact your Lieutenant for a discussion of the issues, and to develop an investigative plan.

Since an Informal complaint, if sustained, would not result in anything more than a 3 X 5, the named employee is not entitled to representation during the interview. Additionally, employees **will not** be advised of either the Miranda advisement or the Lybarger and witness admonishments. Employee interviews will not be recorded either. Note-taking is permissible and recommended.

The investigation of an informal complaint differs from a formal complaint only in respect to how employee interviews are conducted, and the reporting format of the final investigative product. Regardless of whether a complaint is classified as formal or informal, your diligence in pursuing the facts of the complaint remains the same.

### **Informal complaint checklist**

1. Read the complaint and retrieve connecting documents.
2. Confer with your Lieutenant
3. Begin and maintain an investigative log.
4. Gather all evidence in the case – photos, records, etc.
5. Interview the complainant and clarify the issues alleged.
6. Schedule interview(s) with witnesses.
7. Schedule interview(s) with the named officer(s).
8. Summarize interviews and begin analysis of complaint(s) based upon facts known to you.
9. Call your assigned Lieutenant anytime for questions or assistance.
10. Forward your completed report to the Lieutenant for review.

## **Informal Investigations Reporting Template San Rafael Police Department**

- **Nature of Complaint:**
  
- **Complainant Summary:**
  
- **Named Personnel:**
  
- **Witnesses:**
  
- **Complaint Background:**
  
- **Investigator's log:**
  
- **Interviews:**
  
- **Conclusions:**

# Public Safety Officers Procedural Bill of Rights Act

## Government Code Sections 3300-3312

### **3300- Title**

This chapter is known and may be cited as the Public Safety Officers Procedural Bill of Rights Act.

#### ***3301- Definition; Legislative findings and declaration***

*For purposes of this chapter, the term public safety officer means all peace officers specified in Sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision ©, 830.36, 830.37, 830.38, 830.4, and 830.5 of the Penal Code.*

*The Legislature hereby finds and declares that the rights and protections provided to peace officers under this chapter constitute a matter of statewide concern. The Legislature further finds and declares that effective law enforcement depends upon the maintenance of stable employer-employee relations, between public safety employees and their employers. In order to assure that stable relations are continued throughout the state and to further assure that effective services are provided to all people of the state, it is necessary that this chapter be applicable to all public safety officers, as defined in this section, wherever situated within the State of California.*

#### **3302- Political activity: Membership on school board**

(a) Except as otherwise provided by law, or whenever on duty or in uniform, no public safety officer shall be prohibited from engaging, or be coerced or required to engage, in political activity.

(b) No public safety officer shall be prohibited from seeking election to, or serving as a member of, the governing board of a school district.

#### **3303-Investigations interrogations; conduct; conditions; representation; reassignment**

When any public safety officer is under investigation and subjected to interrogation by his or her commanding officer, or any other member of the employing public safety department, that could lead to punitive action, the interrogation shall be conducted under the following conditions. For the purpose of this chapter, punitive action means any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.

(a) The interrogation shall be conducted at a reasonable hour, preferably at a time when the public safety officer is on duty, or during the normal waking hours for the public safety officer, unless the seriousness of the investigation requires otherwise. If the interrogation does occur during off-duty time of the public safety officer being interrogated, the public safety officer shall be compensated for any off-duty time in accordance with regular department procedures, and the public safety officer shall not be released from employment for any work missed.

(b) The public safety officer under investigation shall be informed prior to the interrogation of the rank, name, and command of the officer in charge of the interrogation, the interrogating officers, and all other persons to be present during the

interrogation. All questions directed to the public safety officer under interrogation shall be asked by and through no more than two interrogators at one time.

(c) The public safety officer under investigation shall be informed of the nature of the investigation prior to any interrogation.

(d) The interrogating session shall be for a reasonable period taking into consideration gravity and complexity of the issue being investigated. The person under interrogation shall be allowed to attend to his or her own personal physical necessities.

(e) The public safety officer under interrogation shall not be subjected to offensive language or threatened with punitive action, except that an officer refusing to respond to questions or submit to interrogations shall be informed that failure to answer questions directly related to the investigation or interrogation may result in punitive action. No promise of reward shall be made as an inducement to answering any question. The employer shall not cause the public safety officer under interrogation to be subjected to visits by the press or news media without his or her express consent nor shall his or her home address or photograph be given to the press or news media without his or her express consent.

(f) No statement made during interrogation by a public safety officer under duress, coercion, or threat of punitive action shall be admissible in any subsequent civil proceeding. This subdivision is subject to the following qualifications:

(1) This subdivision shall not limit the use of statements made by a public safety officer when the employing public safety department is seeking civil sanctions against any public safety officer, including disciplinary action brought under Section 19572.

(2) This subdivision shall not prevent the admissibility of statements made by the public safety officer under interrogation in any civil action, including administrative actions, brought by that public safety officer, or that officer's exclusive representative, arising out of a disciplinary action.

(3) This subdivision shall not prevent statements made by a public safety officer under interrogation from being used to impeach the testimony of that officer after an in camera review to determine whether the statements serve to impeach the testimony of the officer.

(4) This subdivision shall not otherwise prevent the admissibility of statements made by a public safety officer under interrogation if that officer subsequently is deceased.

(g) The complete interrogation of a public safety officer may be recorded. If a tape recording is made of the interrogation, the public safety officer shall have access to the tape if any further proceedings are contemplated or prior to any further interrogation at a subsequent time. The public safety officer shall be entitled to a transcribed copy of any notes made by a stenographer or to any reports or complaints made by investigators or other persons, except those which are deemed by the investigating agency to be confidential. No notes or reports that are deemed to be confidential may be entered in the officer's personnel file. The public safety officer being interrogated shall have the right to bring his or her own recording device and record any and all aspects of the interrogation.

(h) If prior to or during the interrogation of a public safety officer it is deemed that he or she may be charged with a criminal offense, he or she shall be immediately informed of his or her constitutional rights.

(i) 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.

This section shall not apply to any interrogation of a public safety officer in the normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other public safety officer, nor shall this section apply to an investigation concerned solely and directly with alleged criminal activities.

(j) No public safety officer shall be loaned or temporarily reassigned to a location or duty assignment if a sworn member of his or her department would not normally be sent to that location or would not normally be given that duty assignment under similar circumstances.

### **3304-Lawful exercise of rights; insubordination; administrative appeal**

(a) No public safety officer shall be subjected to punitive action, or denied promotion, or be threatened with any such treatment, because of the lawful exercise of the rights granted under this chapter, or the exercise of any rights under any existing administrative grievance procedure. Nothing in this section shall preclude a head of an agency from ordering a public safety officer to cooperate with other agencies involved in criminal investigations. If an officer fails to comply with such an order, the agency may officially charge him or her with insubordination.

(b) No punitive action, nor denial of promotion on grounds other than merit, shall be undertaken by any public agency against any public safety officer who has successfully completed the probationary period that may be required by his or her employing agency without providing the public safety officer with an opportunity for administrative appeal.

(c) No chief of police may be removed by a public agency, or appointing authority, without providing the chief of police with written notice and the reason or reasons therefore and an opportunity for administrative appeal. For purposes of this subdivision, the removal of a chief of police by a public agency or appointing authority, for the purpose of implementing the goals or policies, or both, of the public agency or appointing authority, for reasons including, but not limited to, incompatibility of management styles or as a result of a change in administration, shall be sufficient to constitute "reason or reasons." Nothing in this subdivision shall be construed to create a property interest, where one does not exist by rule or law, in the job of Chief of Police.

(d) Except as provided in this subdivision and subdivision (g), no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency's discovery by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct. This



one-year limitation period shall apply only if the act, omission, or other misconduct occurred on or after January 1, 1998. In the event that the public agency determines that discipline may be taken, it shall complete its investigation and notify the public safety officer of its proposed disciplinary action within that year, except in any of the following circumstances:

- (1) If the act, omission, or other allegation of misconduct is also the subject of a criminal investigation or criminal prosecution, the time during which the criminal investigation or criminal prosecution is pending shall toll the one-year time period.
- (2) If the public safety officer waives the one-year time period in writing, the time period shall be tolled for the period of time specified in the written waiver.
- (3) If the investigation is a multijurisdictional investigation that requires a reasonable extension for coordination of the involved agencies.
- (4) If the investigation involves more than one employee and requires a reasonable extension.
- (5) If the investigation involves an employee who is incapacitated or otherwise unavailable.
- (6) If the investigation involves a matter in civil litigation where the public safety officer is named as a party defendant, the one-year time period shall be tolled while that civil action is pending.
- (7) If the investigation involves a matter in criminal litigation where the complainant is a criminal defendant, the one-year time period shall be tolled during the period of that defendant's criminal investigation and prosecution.
- (8) If the investigation involves an allegation of workers' compensation fraud on the part of the public safety officer.
  - (e) Where a predisciplinary response or grievance procedure is required or utilized, the time for this response or procedure shall not be governed or limited by this chapter.
  - (f) If, after investigation and any predisciplinary response or procedure, the public agency decides to impose discipline, the public agency shall notify the public safety officer in writing of its decision to impose discipline, including the date that the discipline will be imposed, within 30 days of its decision, except if the public safety officer is unavailable for discipline.
  - (g) Notwithstanding the one-year time period specified in subdivision (c), an investigation may be reopened against a public safety officer if both of the following circumstances exist:
    - (1) Significant new evidence has been discovered that is likely to affect the outcome of the investigation.
    - (2) One of the following conditions exist:

(A) The evidence could not reasonably have been discovered in the normal course of investigation without resorting to extraordinary measures by the agency.

(B) The evidence resulted from the public safety officer's predisciplinary response or procedure.

(h) For those members listed in subdivision (a) of Section 830.2 of the Penal Code, the 30-day time period provided for in subdivision (e) shall not commence with the service of a preliminary notice of adverse action, should the public agency elect to provide the public safety officer with such a notice.

### **3304.5- Administrative appeal**

An administrative appeal instituted by a public safety officer under this chapter shall be conducted in conformance with rules and procedures adopted by the local public agency.

### **3305- Comments adverse to interest; personnel files; opportunity to read and sign; refusal to sign**

No public safety officer shall have any comment adverse to his interest entered in his personnel file, or any other file used for any personnel purposes by his employer, without the public safety officer having first read and signed the instrument containing the adverse comment indicating he is aware of such comment, except that such entry may be made if after reading such instrument the public safety officer refuses to sign it. Should a public safety officer refuse to sign, that fact shall be noted on that document, and signed or initialed by such officer.

### **3306- Response to adverse comment in personnel file; time**

A public safety officer shall have 30 days within which to file a written response to any adverse comment entered in his personnel file. Such written response shall be attached to, and shall accompany, the adverse comment.

### **3306.5- Inspection of personnel files; request for correction of file; time**

(a) Every employer shall, at reasonable times and at reasonable intervals, upon the request of a public safety officer, during usual business hours, with no loss of compensation to the officer, permit that officer to inspect personnel files that are used or have been used to determine that officer's qualifications for employment, promotion, additional compensation, or termination or other disciplinary action.

(b) Each employer shall keep each public safety officer's personnel file or a true and correct copy thereof, and shall make the file or copy thereof available within a reasonable period of time after a request therefore by the officer.

(c) If, after examination of the officer's personnel file, the officer believes that any portion of the material is mistakenly or unlawfully placed in the file, the officer may request, in writing, that the mistaken or unlawful portion be corrected or deleted. Any request made pursuant to this subdivision shall include a statement by the officer describing the corrections or deletions from the personnel file requested and the reasons

supporting those corrections or deletions. A statement submitted pursuant to this subdivision shall become part of the personnel file of the officer.

(d) Within 30 calendar days of receipt of a request made pursuant to subdivision (c), the employer shall either grant the officer's request or notify the officer of the decision to refuse to grant the request. If the employer refuses to grant the request, in whole or in part, the employer shall state in writing the reasons for refusing the request, and that written statement shall become part of the personnel file of the officer.

### **3307-Polygraph examination; right to refuse; effect**

(a) No public safety officer shall be compelled to submit to a lie detector test against his or her will. No disciplinary action or other recrimination shall be taken against a public safety officer refusing to submit to a lie detector test, nor shall any comment be

entered anywhere in the investigator's notes or anywhere else that the public safety officer refused to take, or did not take, a lie detector test, nor shall any testimony or evidence be admissible at a subsequent hearing, trial, or proceeding, judicial or administrative, to the effect that the public safety officer refused to take, or was subjected to, a lie detector test.

(b) For the purpose of this section, "lie detector" means a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device, whether mechanical or electrical, that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

### **3307.5-Use of photograph; penalties**

(a) No public safety officer shall be required as a condition of employment by his or her employing public safety department or other public agency to consent to the use of his or her photograph or identity as a public safety officer on the Internet for any purpose if that officer reasonably believes that the disclosure may result in a threat, harassment, intimidation, or harm to that officer or his or her family.

(b) Based upon his or her reasonable belief that the disclosure of his or her photograph or identity as a public safety officer on the Internet as described in subdivision (a) may result in a threat, harassment, intimidation, or harm, the officer may notify the department or other public agency to cease and desist from that disclosure. After the notification to cease and desist, the officer, a district attorney, or a United States Attorney may seek an injunction prohibiting any official or unofficial use by the department or other public agency on the Internet of his or her photograph or identity as a public safety officer. The court may impose a civil penalty in an amount not to exceed five hundred dollars (\$500) per day commencing two working days after the date of receipt of the notification to cease and desist.

### **3308-Financial disclosure; right to refuse; exceptions**

No public safety officer shall be required or requested for purposes of job assignment or other personnel action to disclose any item of his property, income, assets, source of income, debts or personal or domestic expenditures (including those of any member of his family or household) unless such information is obtained or required under state law

or proper legal procedure, tends to indicate a conflict of interest with respect to the performance of his official duties, or is necessary for the employing agency to ascertain the desirability of assigning the public safety officer to a specialized unit in which there is a strong possibility that bribes or other improper inducements may be offered.

### **3309-Search of locker or storage space; consent; search warrant**

No public safety officer shall have his locker, or other space for storage that may be assigned to him searched except in his presence, or with his consent, or unless a valid search warrant has been obtained or where he has been notified that a search will be conducted. This section shall apply only to lockers or other space for storage that are owned or leased by the employing agency.

### **3309.5-Local public safety officers; applicability of chapter; jurisdiction; remedies**

(a) It shall be unlawful for any public safety department to deny or refuse to any public safety officer the rights and protections guaranteed to him or her by this chapter.

(b) Nothing in subdivision (h) of Section 11181 shall be construed to affect the rights and protections afforded to state public safety officers under this chapter or under Section 832.5 of the Penal Code.

(c) The superior court shall have initial jurisdiction over any proceeding brought by any public safety officer against any public safety department for alleged violations of this chapter.

(d) (1) In any case where the superior court finds that a public safety department has violated any of the provisions of this chapter, the court shall render appropriate injunctive or other extraordinary relief to remedy the violation and to prevent future violations of alike or similar nature, including, but not limited to, the granting of a temporary restraining order, preliminary, or permanent injunction prohibiting the public safety department from taking any punitive action against the public safety officer.

(2) If the court finds that a bad faith or frivolous action or a filing for an improper purpose has been brought pursuant to this chapter, the court may order sanctions against the party filing the action, the parties' attorney, or both, pursuant to Sections 128.6 and 128.7 of the Code of Civil Procedure. Those sanctions may include, but not be limited to, reasonable expenses, including attorney's fees, incurred by a public safety department, as the court deems appropriate. Nothing in this paragraph is intended to subject actions or filings under this section to rules or standards that are different from those applicable to other civil actions or filings subject to Section 128.6 or 128.7 of the Code of Civil Procedure.

(e) In addition to the extraordinary relief afforded by this chapter, upon a finding by a superior court that a public safety department, its employees, agents, or assigns, with respect to acts taken within the scope of employment, maliciously violated any provision of this chapter with the intent to injure the public safety officer, the public safety department shall, for each and every violation, be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) to be awarded to the public safety officer whose right or protection was denied and for reasonable attorney's fees as may be determined by the court. If the court so finds, and there is sufficient evidence to establish actual damages suffered by the officer whose right or protection was denied, the public safety department shall also be liable for the amount of the actual damages. Notwithstanding

these provisions, a public safety department may not be required to indemnify a contractor for the contractor's liability pursuant to this subdivision if there is, within the contract between the public safety department and the contractor, a "hold harmless" or similar provision that protects the public safety department from liability for the actions of the contractor. An individual shall not be liable for any act for which a public safety department is liable under this section.

**3310-Procedures of public agency providing same rights or protections; application of chapter**

Any public agency which has adopted, through action of its governing body or its official designee, any procedure which at a minimum provides to peace officers the same rights or protections as provided pursuant to this chapter shall not be subject to this chapter with regard to such a procedure.

**3311-Mutual aid agreements; effect of chapter upon**

Nothing in this chapter shall in any way be construed to limit the use of any public safety agency or any public safety officer in the fulfilling of mutual aid agreements with other jurisdictions or agencies, nor shall this chapter be construed in any way to limit any jurisdictional or interagency cooperation under any circumstances where such activity is deemed necessary or desirable by the jurisdictions or the agencies involved.

**3312-American Flag; pins**

Notwithstanding any other provision of law, the employer of a public safety officer may not take any punitive action against an officer for wearing a pin or displaying any other item containing the American flag, unless the employer gives the officer written notice that includes all of the following:

- (a) A statement that the officer's pin or other item violates an existing rule, regulation, policy, or local agency agreement or contract regarding the wearing of a pin, or the displaying of any other item, containing the American flag.
- (b) A citation to the specific rule, regulation, policy, or local agency agreement or contract that the pin or other item violates.
- (c) A statement that the officer may file an appeal against the employer challenging the alleged violation pursuant to applicable grievance or appeal procedures adopted by the department or public agency that otherwise comply with existing law.

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## Personnel Complaints

### 1011.1 PURPOSE AND SCOPE

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

### 1011.2 POLICY

The San Rafael Police Department 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 for reprisal or retaliation.

### 1011.3 PERSONNEL COMPLAINTS

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

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

#### 1011.3.1 COMPLAINT CLASSIFICATIONS

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

**Informal** - A matter in which the Shift Supervisor is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

**Formal** - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Professional Standards Unit, depending on the seriousness and complexity of the investigation.

**Incomplete** - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Professional Standards Unit, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

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### 1011.3.2 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.
- (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 should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

### 1011.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

#### 1011.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the department website. Forms may also be available at other City facilities.

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

#### 1011.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. The receiving member shall obtain contact information sufficient for the supervisor to contact the complainant and enter the complaint into the *Internal Complaint Tracking Form*, which is the log that tracks all incoming complaints. After completing the *Internal Complaint Tracking Form* the receiving member shall direct the complaint to the supervisor. If the supervisor is not immediately available the receiving member shall notify the supervisor of the complaint as soon as reasonably possible. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be 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 the complaining party's statement at the time it is filed with the Department (Penal Code § 832.7).

#### 1011.4.3 AVAILABILITY OF WRITTEN PROCEDURES

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

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### 1011.4.4 HATE COMPLAINTS AGAINST PEACE OFFICERS

Internal complaints or complaints from the public shall be accepted and investigated in accordance with this policy where it is alleged that an officer has in the previous seven years, and since 18 years of age, engaged in membership in a hate group, participated in a hate group activity, or advocated any public expression of hate (Penal Code § 13682).

### 1011.5 DOCUMENTATION

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

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

The Professional Standards Lieutenant shall be responsible for maintaining the complaint log and issuing appropriate complaint numbers for tracking purposes.

### 1011.6 ADMINISTRATIVE INVESTIGATIONS

In certain circumstances, investigations may be referred to an independent outside investigator as authorized by the Chief of Police.

Allegations of misconduct will be administratively investigated as follows.

#### 1011.6.1 SUPERVISOR RESPONSIBILITIES

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

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

The responsibilities of supervisors include but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
  - (a) The original complaint form will be directed to the Shift Supervisor of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
  - (b) In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Bureau Commander or the Chief of Police, who will initiate appropriate action.



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- (b) Ensuring that the Internal Complaint Tracking Form has been completed either by the Supervisor or the receiving member.
- (c) Responding to all complainants in a courteous and professional manner.
- (d) Resolving those personnel complaints that can be resolved immediately.
  - (a) Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint unless the complaint involves allegations of a potentially serious nature
  - (b) Record the initial interview with the complainant.
  - (c) If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Shift Supervisor.
- (e) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Shift Supervisor, PSU Lieutenant, and the Chief of Police are notified via the chain of command as soon as practicable.
- (f) Promptly contacting the Personnel Department and the Shift Supervisor for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (g) Forwarding unresolved personnel complaints to the Shift Supervisor, who will determine whether to contact the complainant or assign the complaint for investigation.
- (h) Informing the complainant of the investigator's name and the complaint number (IA number) after assignment when there is a formal investigation.
- (i) Investigating a complaint as follows:
  - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
  - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (j) Ensuring that the procedural rights of the accused member are followed (Government Code § 3303 et seq.).
- (k) Ensuring interviews of the complainant are generally conducted during reasonable hours.

### 1011.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

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

- (a) Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty. If the member is off-duty, he/she shall be compensated.
- (b) Unless waived by the member, interviews of an accused member shall be at the San Rafael Police Department or other reasonable and appropriate place.

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- (c) No more than two interviewers should ask questions of an accused member.
- (d) Prior to any interview, a member shall be informed of the nature of the investigation, the name, rank and command of the officer in charge of the investigation, the interviewing officers and all other persons to be present during the interview.
- (e) All interviews shall be for a reasonable period and the member's personal needs should be accommodated.
- (f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
  - 1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Lybarger* advisement. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
  - 2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer should record all interviews of members and witnesses. The member may also record the interview. If the member has been previously interviewed, a copy of that recorded interview shall be provided to the member prior to any subsequent interview.
- (i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (j) All members shall provide complete and truthful responses to questions posed during interviews.
- (k) No member may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

No investigation shall be undertaken against any 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*. 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* (Government Code § 3305.5).

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### 1011.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

**Introduction** - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

**Synopsis** - Provide a brief summary of the facts giving rise to the investigation.

**Summary** - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

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

**Conclusion** - A recommendation regarding further action or disposition should be provided.

**Exhibits** - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

### 1011.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

**Unfounded** - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.8).

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

**Not sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

**Sustained** - A final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to Government Code § 3304 and Government Code § 3304.5 that the actions of an officer were found to violate law or department policy (Penal Code § 832.8).

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

### 1011.6.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation (Government Code § 3304).

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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 Government Code § 3304(d) or Government Code § 3508.1.

### **1011.6.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS**

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

### **1011.7 ADMINISTRATIVE SEARCHES**

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

Lockers and storage spaces may only be administratively searched in the member's presence, or with the member's consent, or with a valid search warrant or where the member has been given reasonable notice that the search will take place (Government Code § 3309).

### **1011.7.1 DISCLOSURE OF FINANCIAL INFORMATION**

An employee may be compelled to disclose personal financial information under the following circumstances (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
- (c) If the employee is assigned to or being considered for a special assignment with a potential for bribes or other improper inducements

### **1011.8 ADMINISTRATIVE LEAVE**

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

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

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#### **1011.9 CRIMINAL INVESTIGATION**

Where a member 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.

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

A member accused of criminal conduct shall be advised of his/her constitutional rights (Government Code § 3303(h)). The member should not be administratively ordered to provide any information in the criminal investigation.

The San Rafael Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

#### **1011.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES**

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review the report and include his/her comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

##### **1011.10.1 DIVISION COMMANDER RESPONSIBILITIES**

Upon receipt of any completed personnel investigation, the Bureau Commander of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Bureau Commander may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief of Police, the Bureau Commander may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

Once the Division Commander is satisfied that no further investigation or action is required by staff, the Division Commander may determine the amount of discipline, if any, that should be imposed.

When forwarding any written recommendation to the Chief of Police, the Bureau Commander shall include all relevant materials supporting the recommendation. Those materials should include case facts, administrative insight, notice of intent to discipline, and complainant disposition letter or involved officer disposition memorandum. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

##### **1011.10.2 CHIEF OF POLICE RESPONSIBILITIES**

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any

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recommendation and/or may return the file to the Bureau Commander for further investigation or action.

In the event disciplinary action is proposed, the Chief of Police shall provide the member 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 (Government Code § 3304(d)). The Chief of Police shall also provide the member with:

- (a) Access to all of the 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 within five days of receiving the notice.
  1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.
  2. If the member elects to respond orally, the presentation may be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member 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.

#### 1011.10.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

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 (Penal Code § 832.7(f)).

#### 1011.10.4 NOTICE REQUIREMENTS

The disposition of any civilian's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall not include what discipline, if any, was imposed (Penal Code § 832.7(f)).

#### 1011.11 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 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.

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- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (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.

#### **1011.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE**

In the event that a member 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 (Penal Code § 13510.8).

#### **1011.13 POST-DISCIPLINE APPEAL RIGHTS**

Non-probationary employees have the right to appeal a 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 Government Code § 3304 and 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 (Government Code § 3305.5).

#### **1011.14 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 (Government Code § 3303; 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.

### **1011.15 RETENTION OF PERSONNEL INVESTIGATION FILES**

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

### **1011.16 REQUIRED REPORTING TO 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 (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 Penal Code § 13510.9 and 11 CCR 1003.
- (b) Events that could affect an officer's POST certification, such as:
  - 1. Complaints, charges, or allegations of serious misconduct (as defined by Penal Code § 13510.8).
  - 2. Findings of civilian review boards.
  - 3. Final dispositions of any investigations.
  - 4. Civil judgments or court findings based on conduct, or settlement of a civil claim against an officer or the San Rafael Police Department based on allegations of conduct by an officer.

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) within the applicable timeframe provided in Penal Code § 13510.9.

#### **1011.16.1 NOTIFICATIONS TO POST FOR SERIOUS MISCONDUCT**

The Chief of Police or the authorized designee shall report allegations of serious misconduct by an officer to POST and the report shall include the following (11 CCR 1207):

- (a) Name of the Department
- (b) Administrative case number
- (c) Name, current address, and phone number of the complainant, if available
- (d) Name, POST ID, current address, and phone number of the involved officer
- (e) A summary of the alleged misconduct including:



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1. A narrative of the allegations
  2. Date and time of incidents
  3. Location of occurrence
  4. Any witness information, if available
  5. Summary of arrest or indictment of involved officer
- (f) A change in employment status of the involved officer (e.g., administrative leave, suspension, termination)
- (g) Name and contact information of the assigned investigator

The Chief of Police or the authorized designee shall provide updates of the investigation to POST every 90 days until the final disposition in the method designated by POST (11 CCR 1207).

Upon completion of the investigation, the Chief of Police or the authorized designee shall submit to POST the final disposition of the investigation as well as investigation materials and the officer's service record as provided by 11 CCR 1207.

### 1011.16.2 ADDITIONAL NOTIFICATIONS TO POST FOR SERIOUS MISCONDUCT

Additional notification shall be made to POST (11 CCR 1207):

- (a) If the imposed disciplinary action is pending appeal or other review through an administrative or judicial proceeding:
1. The Department shall provide the name of the body conducting the proceeding.
  2. The status of the proceeding, if known.
- (b) If criminal charges are pending:
1. The name of the court having jurisdiction over the criminal charges against the officer.
  2. The status of the criminal case, if known.



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**March 20,  
2024 Item 3A**

**TITLE: SAN RAFAEL POLICE DEPARTMENT RECRUITMENT AND SELECTION PLAN**

**RECOMMENDATION:** Provide feedback.

**BACKGROUND:**

At the February 21, 2024, meeting of the Police Advisory and Accountability Committee, the Committee heard a presentation that provided background on the recruitment challenges facing the San Rafael Police Department (SRPD or Department), a summary of the Department's current staffing levels and demographics, and an overview of the Department's current recruitment efforts and selection process. During the meeting, Committee member Alm expressed interest in seeing the City's Recruitment Plan described in the SRPD Policy 1000, Recruitment and Selection. City staff noted that the Plan was in draft form and committed to bringing the Recruitment and Selection Plan to the Committee after the Police Chief and City Manager had reviewed it. We are seeking your feedback on the Recruitment and Selection Plan at today's meeting. In addition, staff can respond to any questions related to the February 21, 2024, PAAC meeting.

**DISCUSSION:**

The Recruitment and Selection Plan is a two-year plan intended to guide the SRPD's efforts to recruit and attract members to the Department. The Recruitment and Selection Committee Plan is structured around the following goals:

- Goal 1: Recruit and Hire a Diverse Workforce
- Goal 2: Optimize Technology in Recruitment Efforts
- Goal 3: Personalize the Recruitment Process
- Goal 4: Develop a Recruitment Brand
- Goal 5: Recruit from Within
- Goal 6: Provide Recruitment Incentives

Please note that much of the background and context in the Recruitment and Selection Plan was presented by City staff at the February 21, 2024, meeting. Therefore, staff recommends that the Committee direct its feedback on the recruitment goals contained in the Plan.

*This section was intentionally left blank.*

**FISCAL IMPACT:**

There is no fiscal impact associated with this report.

Submitted by:

A handwritten signature in blue ink, appearing to read "Scott Eberle".

Scott Eberle  
Lieutenant, San Rafael Police Department

**ATTACHMENTS:**

1. SRPD Recruitment and Selection Plan
2. [Item 3A, Police Advisory and Accountability Committee, February 21, 2024](#)



**SAN RAFAEL**  
THE CITY WITH A MISSION

# Sworn-Recruitment Plan 2024-2026



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## Introduction

Across the United States, law enforcement agencies are facing unprecedented staffing shortages and challenges in recruiting and retaining qualified employees. Many factors have contributed to these challenges, including:

- Increases in retirements, resignations, and attrition
- Fewer applicants
- Negative attitudes, perceptions, and portrayals toward police
- Lengthy hiring processes
- Low entry-level salaries
- Increased competition between police agencies

This plan is designed to guide recruitment efforts for sworn positions within the San Rafael Police Department over the next two years. It will provide an overview of current staffing levels, identify factors affecting recruitment and retention of sworn employees, and serve to establish goals, objectives, initiatives, and strategies for the future. Recruitment efforts guided by this plan will focus on maintaining a staffing level at or above 90% with a goal of being fully staffed (100%) by the end of 2026.

## Department Staffing Overview

As of February 1, 2024, the San Rafael Police Department has **57** of the **68** budgeted sworn

**Figure 1:** Sworn staffing breakdown by position, as of February 1, 2024

<b>Position</b>	<b>Vacant</b>	<b>Filled</b>	<b>Budgeted</b>
<i>Police Chief</i>	0	1	1
<i>Police Captain</i>	0	2	2
<i>Police Lieutenant</i>	0	4	4
<i>Police Sergeant</i>	0	9	9
<i>Police Corporal</i>	5	4	9
<i>Police Officer</i>	6	37	43
<b>Total</b>	<b>10</b>	<b>58</b>	<b>68</b>



**Figure 2:** Sworn staffing five-year historical data

Year	Hired	Separated	Net
2018	4	9	- 5
2019	7	10	- 3
2020	10	4	+ 6
2021	3	5	-2
2022	8	6	+2
2023	9	17	-8
<b>6 Year Total</b>	<b>41</b>	<b>51</b>	<b>- 10</b>

**Figure 3: Marin County Staffing as of February 1<sup>st</sup>, 2024**

Agency	Number of sworn officers budgeted	Number of openings	Number off work or on light duty due to injury	Number at Academy	Number on FTO	Total number not currently working at solo officer status
MCSO	197	5 (2.5% of FTE)	13	8	11	37 (18.8% of FTE)
San Rafael	68	10 (14.7% of FTE)	5	5	5	25 (36.7% of FTE)
Novato	60	2 (3.3% of FTE)	3	2	1	8 (13.3% of FTE)
Central Marin	42	8 (19.0% of FTE)	0	1	0	9 (21.4% of FTE)
Mill Valley	22	2 (9.1% of FTE)	2	1	1	6 (27.3% of FTE)
Sausalito	18 (+2 frozen)	3 (16.6% of FTE)	0	1	1	8 (27.7% of FTE)
Tiburon	14	0 (0.0% of FTE)	0	1	0	1 (7.1% of FTE)
Fairfax	11 (+1 frozen)	2 (18.2% of FTE)	0	0	0	2 (18.2% of FTE)
Ross	8	1 (12.5% of FTE)	1	0	0	2 (25.0% of FTE)
Belvedere	7	1 (14.3% of FTE)	1	0	0	2 (28.6% of FTE)

\*As of February 1, 2024

**Figure 4:** Sworn staffing breakdown by gender, as of February 1, 2024

Gender	% of Sworn 2014	# of Sworn 2/1/24	% of Sworn 2/1/24	Difference (2024 vs 2014)
Male	85%	46	80%	-5%
Female	15%	12	20%	+5%

**Figure 5:** Sworn staffing breakdown by race, as of February 1, 2024

Race	% of Sworn 2014	# of Sworn 2/1/24	% of Sworn 2/1/24	Difference (2024 vs 2014)	City Population <sup>1</sup>
African American	1.7%	1	1.7%	0%	1.6%
Asian	6.3%	2	3.4%	-2.9%	6.3%
Caucasian	85.7%	40	68.9%	-16.8%	55.8%
Hispanic	7.9%	15	25.4%	17.5%	32.5%

<sup>1</sup> Data provided by the United States Census Bureau, <https://www.census.gov/quickfacts/fact/table/sanrafaelcitycalifornia#>

## Internal Factors Affecting Recruitment & Retention

### Anticipated Retirements

**Figure 6** shows that of the remaining classic PERS employees (3% at 55 retirement formula), 3 are currently eligible for retirement this year with an additional 9 employees eligible for retirement in the next three to five years. This equates to roughly **20%** of the current workforce that could potentially retire from the organization by the year 2029.

**Figure 5:** Sworn staffing breakdown by age, as of February 1, 2024

Age	# of Sworn	% of Sworn
<b>55 in 1-2 Years</b>	<b>3</b>	<b>5.2%</b>
55 in 3-5 years	<b>9</b>	<b>12%</b>
Total (over 50)	<b>12</b>	<b>20.7%</b>

### Internal Recruitment Efforts

Studies have shown that many current law enforcement officers were drawn to the profession by friends or family within law enforcement. Although a dedicated outreach and recruitment team has been established, every member of the Department is a potential recruiter and should be supportive of recruitment efforts.

### Recruitment Budget

Every effort is made to capitalize on no-cost recruitment advertising options. However, budget constraints can limit expenditures when it comes to recruitment. The Department remains selective in appropriating funds to recruitment efforts that will yield the best results.

### Testing and Hiring Process

Research has shown that lengthy testing and hiring processes have deterred potential candidates from applying or caused them to accept positions with other agencies whose hiring processes are more expeditious. The Department conducts numerous testing on a monthly basis. Candidates must pass the written exam through the Post Entry Level Law Enforcement Test Battery (PELLET-B), the physical agility course, and a panel interview before

moving into the background phase. The regular testing has allowed the Department to maintain a semi constant flow of applicants in the hiring process.

## External Factors Affecting Recruitment & Retention

### Salary and Compensation

During contract negotiations, the San Rafael Police Association (SRPA) meets with the City of San Rafael and agrees upon a 10-city salary comparison survey to show how San Rafael Police salaries compare to those of surrounding agencies. Historically, the Department has fallen somewhere in the middle of this survey.

Low salaries are one of the most off-cited reasons for not entering careers in law enforcement. Competition between law enforcement agencies in hiring qualified candidates becomes even more challenging when there is a significant and less-than favorable discrepancy in salary.

As competition between police agencies intensifies, many organizations are now offering hiring incentives and bonuses to not only attract new applicants, but also to entice current police officers to leave their respective agency for higher pay and better benefits. Common incentives include signing bonuses, relocation reimbursements, salary increases for further education, shift differential pay, housing assistance, tuition reimbursement, and multilingual pay.

**Figure 6:** 10-city survey showing compensation and hiring incentives based on Officer Salary, as of February 1, 2024

Agency	Officer Monthly Salary	Budgeted Sworn	Hiring Incentive
Alameda PD	\$11,515	88	Yes - \$75k for Lateral Officer
Fairfield PD	\$9,974	126	No
Hayward PD	\$11,438	197	Yes- \$10,000 for trainees
Napa PD	\$11,514	76	Yes - \$15k for Lateral Officer
Novato PD	\$8,923	60	Yes- \$20,000 for Lateral Officer
<b>San Rafael PD</b>	<b>\$10,301</b>	<b>68</b>	<b>Yes- \$25,000 for Lateral</b>
Santa Rosa PD	\$10,131	190	Yes- \$25,000 for Lateral Officer
South San Francisco PD	\$11,818	83	Yes - \$5,000 for Lateral Officer
Vallejo PD	\$9,813	132	No
Marin Sheriff	\$10,826	202	Yes- \$10,000 for Lateral Officer

## Attitudes, Perceptions, and Portrayals Toward Police

Controversial incidents involving law enforcement across the United States have led to scrutiny, distrust, demand for accountability, and movements to reform modern-day policing. Negative attitudes, perceptions, and portrayals toward law enforcement has made it difficult for police agencies to attract new applicants and retain current police officers.

The San Rafael Police Department is not unlike other agencies and has had to reexamine and change established policies and procedures to align with new laws and changes to the policing profession. Additionally, new legislation has been enacted that is focused on strengthening policing responsibility and accountability guidelines, raising eligibility standards, and banning harmful techniques. Increased scrutiny has led to lower morale, an increase in early retirements and resignations, and a steep decline in the number of applicants pursuing a career in law enforcement.

## Pension Reform

The California Public Employees' Pension Reform Act (PEPRA) has led to a decline in police applicants, as those hired on or after January 1, 2013 must work longer for less compensation at retirement age. In addition, many agencies, San Rafael included, has classic PERS members paying into their own pension, which has led to earlier retirements.

# Recruitment Goals

## Goal 1: Recruit and Hire a Diverse Workforce

Objective 1: Recruit Applicants who Represent the City’s Demographic Population
<p><b>Initiative:</b> The San Rafael Police Department is committed to hiring a culturally diverse workforce which represents the demographics of the community our police officers serve.</p>
<p><b>Strategies:</b></p> <ul style="list-style-type: none"> <li>1.2.1 Focus recruitment efforts and campaigns on diverse communities inside and outside of San Rafael.</li> <li>1.2.2 Attend job and career fairs in diverse communities inside and outside of San Rafael.</li> <li>1.2.3 Liaison with high schools and colleges known for diversity to identify potential candidates who are interested in a career in law enforcement.</li> <li>1.2.4 Partner with local and county community groups, athletic programs, and recruitment services to identify potential candidates who are interested in a career in law enforcement.</li> <li>1.2.5 Liaison with private security firms to identify potential candidates who are interested in a career in law enforcement.</li> <li>1.2.6 Establish and maintain a diverse recruitment team.</li> </ul>
<p><b>Evaluation Criteria:</b> Review quarterly reports from human resources and testing showing the demographic breakdown of applicants by race. Continue to compare current sworn demographics to the City of San Rafael demographic population.</p>

Objective 2: Recruit Female Police Officers
<p><b>Initiative:</b> The San Rafael Police Department seeks to hire more female police officers. Historically, statistics show that female applicants have failed out of the process because they were unable to successfully complete the physical agility exam.</p>
<p><b>Strategies:</b></p> <ul style="list-style-type: none"> <li>1.1.1 Attract female applicants by spotlighting current female San Rafael Police Officers in advertising and social media campaigns.</li> <li>1.1.2 Attend events focused specifically on female recruitment and career development.</li> <li>1.1.3 Consider joining the “30x30” initiative – a pledge to increase the participation of women in law enforcement to 30% by the year 2030.</li> <li>1.1.4 Provide practice sessions for the physical agility course to help female candidates develop the techniques necessary to be successful.</li> </ul>

1.1.5 Establish and maintain a recruitment team that includes female police officers.

**Evaluation Criteria:** Review quarterly reports showing the number of female applicants, pass/fail rate, and when applicable, where in the hiring process female candidates failed.

### Objective 3: Recruit Current and Former Military Personnel

**Initiative:** The San Rafael Police Department should seek to recruit candidates who have fulfilled their military obligations and are interested in a law enforcement career.

**Strategies:**

- 1.3.1 Utilize current police officers who are former military to contact military colleagues and identify potential applicants.
- 1.3.2 Establish relationships with military recruiters in the area.
- 1.3.3 Attend job fairs specifically geared towards the military.
- 1.3.4 Visit military bases and provide recruitment material and personalized recruitment services.
- 1.3.5 Consider offering incentives specific to military applicants.

**Evaluation Criteria:** Keep statistics on military applicants and maintain data on new hires and current sworn personnel who are former military.



## Goal 2: Optimize Technology in Recruitment Efforts

### Objective 1: Create and Launch a Recruitment Website

**Initiative:** The San Rafael Police Department's current recruitment website is outdated. A more contemporary website focused solely on recruitment would align with other agency's current recruitment efforts.

**Strategies:**

- 2.1.1 Develop a contemporary and **mobile friendly** "one-stop shop" website for potential candidates that outlines the hiring process, provides detailed information on salary, benefits, and career opportunities, provides direct links to apply, and allows candidates to communicate directly with recruiters and Department staff.
- 2.1.2 Use the recruitment website address on all social media, marketing, and recruitment materials.
- 2.1.3 Add the recruitment website to current staff business cards.

**Evaluation Criteria:** Review the number of visits to the website, the number of direct inquiries received from potential candidates, and query applicants on how helpful the website was in the process.

### Objective 2: Contemporize and Expedite the Hiring Process

**Initiative:** Expedite the hiring process using cloud-based personal history questionnaires.

**Strategies:**

- 2.2.1 Evaluate and research additional vendors that provide online police exams.
- 2.2.2 Maintain monthly, year-round testing with support from City of San Rafael Human Resources.
- 2.2.3 Assure the validity of, and periodically audit all testing instruments.
- 2.2.4 Look into a partnership with online companies that allows applicants to complete personal history questionnaires (PHQs) and submit all necessary documentation electronically to the Department. A platform that also tracks progress and allows investigators to move through background checks in an efficiently
- 2.2.5 Continue to keep the majority of background investigations contracted with outside investigators.

**Evaluation Criteria:** Compare the length of San Rafael's hiring process to other agencies especially for applicants who are in the process with more than one police department.

### Objective 3: Create a Recruitment Video

**Initiative:** Develop a contemporary recruitment video that will attract new police applicants.

**Strategies:**

- 2.3.1 Create a recruitment video that personalizes the law enforcement profession and represents the strong sense of community in San Rafael.
- 2.3.2 Avoid a militarized and/or tactical theme.
- 2.3.3 Liaison with the City PIO office to produce, film, and edit the project.
- 2.3.4 Consider making multiple short vignettes spotlighting different employees of the Department.
- 2.3.5 Create a video that represents the diversity of the Department.
- 2.3.6 Launch video on all social media platforms, including YouTube and City accounts.

**Evaluation Criteria:** Analyze the number of views the video receives and query applicants on how much of an effect the video had on their decision to apply with San Rafael.

### Objective 4: Create Engaging Social Media Recruitment Campaigns

**Initiative:** Exploit Department social media pages for recruitment campaigns.

**Strategies:**

- 2.4.1 Post regular recruitment ads on Facebook, Instagram, Twitter, and any other accessible platform.
- 2.4.2 Create unique social media content that personalizes the profession and spotlights current San Rafael police officers.
- 2.4.3 Create social media content that demonstrates the diversity of the San Rafael Police Department.
- 2.4.4 Create social media content that promotes community policing efforts.
- 2.4.5 Post content on sites that offer free job postings such as California P.O.S.T. and LinkedIn.
- 2.4.6 Continue posting recruit and lateral job postings on GovernmentJobs.com and CalOpps through City of San Rafael HR accounts.
- 2.4.7 Appropriate funds from the recruitment budget on a quarterly basis to “boost” and promote social media recruitment campaigns through paid advertising.

**Evaluation Criteria:** Track the engagement of social media posts and increases in followers. Query applicants on how much social media played in their decision to apply with San Rafael.

## Goal 3: Personalize the Recruitment Process

### Objective 1: Provide Concierge Service to Prospective and Current Applicants

**Initiative:** The recruitment staff should personally engage with each potential applicant interested in a career with San Rafael prior to and throughout the hiring process.

**Strategies:**

- 3.1.1 Establish a professional relationship with those interested in pursuing a career with the San Rafael Police Department and provide them with the necessary tools for success.
- 3.1.2 Respond immediately to prospective applicants to answer any questions and address any concerns they may have.
- 3.1.3 Provide guidance in the hiring process and ensure applicants understand requirements and application deadlines.
- 3.1.4 Offer station tours and opportunities to ride with current police officers (schedule permitting) to prospective applicants prior to them starting the hiring process.
- 3.1.5 Be accommodating to lateral police officer applicants who have scheduling conflicts with their current agency.
- 3.1.6 Host hiring workshops/PELLETB exams to provide prospective candidates with opportunities to ask questions, engage in conversation with current police officers, and participate in practical exercises such as mock oral interviews.
- 3.1.7 Expand recruitment and broaden the applicant pool by establishing relationships with local colleges and universities, especially those with criminal justice programs, and offer to provide instruction and guidance in the pursuit of a law enforcement career.

**Evaluation Criteria:** Determine the success rate of applicants who established a professional connection with a recruiter prior to testing compared to those who did not.

## Goal 4: Develop a Recruitment Brand

Objective 1: Utilize Traditional Print Advertising
<p><b>Initiative:</b> Develop traditional print advertising material with contemporary branding and imagery.</p>
<p><b>Strategies:</b></p> <ul style="list-style-type: none"> <li>4.1.1 Create traditional flyers with easy-to-read information outlining salary and benefits and providing QR codes with links to apply.</li> <li>4.1.2 Outfit the patrol vehicle fleet with “Now Hiring” bumper stickers with the recruitment website address.</li> <li>4.1.3 Develop recruitment business cards with the concept of consolidating information traditionally found on a full-page flyer into a compact format that can be easily carried and distributed by police officers.</li> </ul>
<p><b>Evaluation Criteria:</b> Query applicants on the impact print advertising had on their decision to apply with San Rafael.</p>

## Goal 5: Recruit from Within

Objective 1: Leverage Police Cadet Programs
<p><b>Initiative:</b> The Department's Police Cadet programs should be used as a recruitment pipeline for current and future vacancies.</p>
<p><b>Strategies:</b></p> <ul style="list-style-type: none"> <li>5.1.1 Maintain a robust Police Cadet program comprised of individuals interested in a law enforcement career with San Rafael.</li> <li>5.1.2 Market opportunities to become a police Cadet in the Colleges and high schools throughout the school year and during career days, job fairs, work experience courses, etc.</li> <li>5.1.3 Focus on succession planning and developing police cadets into Officers.</li> <li>5.1.4 Structure the cadet programs to provide academic, physical fitness, and technical training, as well as instruction on developing team building, leadership skills, and self-discipline.</li> </ul>
<p><b>Evaluation Criteria:</b> Track progress in the recruitment and achievements of police cadets, and the success rate of each becoming a police officer.</p>

<b>Objective 2: Conduct Focus Group Studies with Current Police Officers</b>
<b>Initiative:</b> Interview current police officers on the topic of recruitment.
<p><b>Strategies:</b></p> <ul style="list-style-type: none"> <li>5.2.1 Speak with current San Rafael police officers on what led them to apply with San Rafael.</li> <li>5.2.2 Identify what challenges current San Rafael police officers see with recruitment.</li> <li>5.2.3 Solicit input from current police officers on recruitment ideas.</li> <li>5.2.4 Identify internal issues and concerns with morale and work culture that could have a negative impact on employee retention. Solicit input and develop strategies to remedy these issues.</li> <li>5.2.5 Include current San Rafael police officers in recruitment campaigns and efforts.</li> <li>5.2.6 Evaluate the current Reserve Program to identify candidates who are interested in, and qualified for a full-time peace officer certification.</li> </ul>
<b>Evaluation Criteria:</b> Document information and implement strategies derived from focus groups.

## Goal 6: Provide Recruitment Incentives

<b>Objective 1: Implement Financial Incentives to Entice Applicants</b>
<b>Initiative:</b> Consider implementing financial incentives for recruit and lateral police officers as well as a bonus for current personnel who recruit new police officers.
<p><b>Strategies:</b></p> <ul style="list-style-type: none"> <li>6.1.1 Offer a hiring bonus of an agreed upon amount to new recruits, to be paid in increments.</li> <li>6.1.2 Offer a hiring bonus of an agreed upon amount to lateral police officers, to be paid in increments.</li> <li>6.1.3 Offer a hiring bonus of an agreed upon amount to military personnel, to be paid in increments.</li> <li>6.1.4 Offer benefit incentives such as increased vacation and/or sick time for lateral police officers.</li> <li>6.1.5 Offer a bonus for current Department employees who recruit new police officers.</li> </ul>
<b>Evaluation Criteria:</b> Compare the number of applicants and candidates hired following the implementation of hiring incentives compared to statistics prior to offering incentives.

## Conclusion

The recruitment goals contained in this plan are critical to the success and future of the San Rafael Police Department. Each goal, objective, initiative, and strategy will be reviewed to ensure its effectiveness in the Department's mission to hire a diverse workforce of police officers to better serve the San Rafael community. The Sworn Recruitment Plan is a living document and will be updated as necessary, based on the needs of the organization.

The Community Outreach and Professional Services Unit (PSU) Lieutenant will oversee the implementation of this Sworn Recruitment Plan and track its progress. The Lieutenant will also be responsible for providing regular updates to the Chief of Police and command staff.

# Open Time for Public Expression

Correspondence attached

**From:** [Mary Nahorniak](#)  
**To:** [PAAC](#); [Mayor Kate](#)  
**Cc:** [Angela Robinson Piñon](#); [Lindsay Lara](#)  
**Subject:** The police PAAC must be given true authority and oversight  
**Date:** Monday, March 4, 2024 1:07:17 PM

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Dear Mayor Colin and the Police Advisory and Accountability Committee,

I write to voice some concerns with the PAAC that has been created for the SRPD. I would like to echo the concerns of alternate committee member Salamah Locks as [noted in this Marin IJ article](#): that "community" be part of the name of the panel, that it include someone with a "less-than-positive" experience with law enforcement, and that the committee have the ability to take action and not be simply an advisory panel. Her call-outs are clear and correct, and they are what the community asked for after the summer 2022 brutal beating of Julio Jimenez Lopez in the Canal area. I understand that the bylaws were approved, and I also know that they can be amended to create a board with real authority, as the community requested.

Additionally, electing the former chief law enforcement official, former District Attorney Paula Kamena, erodes community trust and makes the committee centered around law enforcement rather than community-centered. I ask that you reverse this decision and do not allow more than one member with a law enforcement background to be on the panel at a time.

Many community members demanded transparency, accountability and a pathway to building trust -- how does this committee and SRPD plan to do this?

Respectfully,  
Mary Nahorniak  
Member of SURJ (Showing Up for Racial Justice) Marin



**From:** [Jonathan Knight](#)  
**To:** [Jonathan Knight](#)  
**Subject:** Police Oversight Committee in San Rafael  
**Date:** Monday, March 4, 2024 1:19:18 PM

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I am hopeful that the process is moving forward to create oversight for the San Rafael Police. It has been a long process and hopefully it will be concluded soon with an effective body in place. I am concerned that the current draft is not quite there yet. There seems to be too much involvement from law enforcement in the process and in the draft body. This risks the work of the advisory committee not being trusted by the community. If it feels like the committee is not transparent or adequately representing the people most impacted by policing, then the work will be for not. A weak committee, or a committee that has no real power, erodes the trust in all of city government. I have heard from community members that have felt left out of the process and already don't feel represented in this effort at accountability. There is a chance still to correct course and create the trust that is crucial for the success of the Advisory Ccommittee.

--

Jonathan Knight