

## Internal Affairs Investigations

### 323.1 PURPOSE AND SCOPE

To establish an Internal Affairs Investigation process. This policy applies to all employees.

#### 323.1.1 DEFINITION

**Internal Affairs Investigation** - An administrative process which requires that the investigator remain objective, arrive at the truth and make a recommendation in regard to findings.

(a) Category I Complaints

1. Department initiated confidential or sensitive investigations;
2. Allegations of serious misconduct, i.e., excessive force, corruption, alleged or suspected breach of integrity in a case of moral turpitude;
3. Allegations that may result in a criminal investigation;
4. Allegations of discrimination, sexual harassment, and/or hostile work environment;
5. Major policy violations;
6. Other investigations as assigned by the Chief Probation Officer.

(b) Category II Complaints

1. Complaints of a minor nature involving discourtesy, disrespect, attitude, or perceived rudeness;
2. Complaints of abusive or foul language;
3. Complaints that on review of the allegations will not require extensive interviews or lengthy complex investigations;
4. Minor policy violations.

### 323.2 AUTHORITY AND REFERENCES

- Executive Committee;
- Riv. Co. Ord 440;
- 832.5 PC;
- 832.7 PC;
- 1158.5 Labor Code;
- Pub. Safety Off. Proc. Bill of Rights, GC 3300 Et. Seq.

### 323.3 POLICY

An Internal Affairs Investigation shall be promptly initiated upon notification of a policy or procedure violation, citizen complaint or inappropriate employee action as determined by departmental standards, and such violation could lead to disciplinary action.

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### **323.4 PROCEDURE**

#### (a) Reporting Incidents

1. Employee's Responsibility: Any employee who becomes aware of a citizen complaint, an employee complaint, an act of misconduct or violation of policy or procedure by another employee shall immediately notify his/her supervisor.
2. Supervisor's Responsibility: A supervisor who becomes aware of a citizen complaint (see Citizen Complaint policy), employee complaint, an act of misconduct, violation of discipline standard or significant policy or procedure violation shall:
  - (a) If necessary, take prompt corrective action to prevent aggravation of the incident.
  - (b) Complete the attached Incident Report Form (Attachment "A").
  - (c) Immediately notify the affected Division Director or designee. In the absence of the Division Director or designee an incident of a serious nature shall be reported to the Chief Deputy of the respective division with a copy to the Chief Probation Officer.
3. Director's Responsibility: The concerned Division Director or designee shall immediately advise the Chief Probation Officer, Assistant County Probation Officer, or Chief Deputy Probation Officer of all investigations. A preliminary investigation of the incident will be conducted. If determined to be a Category I, the matter will be referred by the Chief Probation Officer for possible I.A. investigation and assignment. Personnel conducting such investigations shall comply with the provisions of Sections 3300 et. seq. of the California Government Code as applicable to specific investigations being conducted (Attachment "B").

#### (b) Investigative Procedures

1. Peace Officer Status Employee:
  - (a) The investigation conducted shall be reported on the Probation Department Incident Report Form.
  - (b) All information pertaining to internal affairs investigations is confidential.
  - (c) When it appears that an employee has committed a law violation, the assigned investigator shall advise the concerned employee of their Constitutional Rights (Attachment "C": Miranda Warning) as a private person and allow them to exercise the same rights afforded a private person under similar circumstances in a criminal investigation.
  - (d) The employee's right to representation shall be explained before questioning is initiated and if he/she requests representation, shall be given reasonable time to arrange for this step.
  - (e) For purposes of a personnel investigation, an employee may be given a direct order to answer appropriate questions even after invocation of

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his/her constitutional rights and warned that refusal to answer completely and truthfully all such questions may result in a charge of insubordination (Attachment "C" - Lybarger Warning).

- (f) Upon completion of the investigation, the I.A. Investigator shall present the finding of the investigation to Probation Administration for disposition.

2. Non-Peace Officer Status Employee:

- (a) All of the procedures as outlined above apply with the exception of Section 3303 of the Public Safety Officers Procedural Bill of Rights Act (Attachment "B").

(c) Investigative Steps:

1. Focal Points:

(a) What

- 1. Statement of the victim's allegation (be specific).
- 2. A summary of the incident.

(b) Who

- 1. Identify victim, give DOB and status with the Probation Department, if any.
- 2. Identify alleged suspect(s).

(c) When

- 1. Time and date.

(d) Where

- 1. Location of incident.

(e) Witnesses

- 1. Prepare a witness list.

(f) Physical Evidence

- 1. Type of evidence, how obtained, location of storage, weapons, vehicles, etc.
- 2. Statements:
  - (a) Isolate staff/witnesses and take steps to protect confidentiality.
  - (b) Discriminate between hearsay and factual information.
  - (c) Ask for specific details.
  - (d) Have victim/witnesses demonstrate what occurred.
  - (e) Review statements with reporting party.
  - (f) Obtain written statements from all parties concerned, to include date and signature.

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- (g) Interrogation may be recorded by both sides (refer to Attachment "B"). Tape statements of all concerned parties (Attachment "D"). (Provide copy of tape to employees, if requested, pursuant to Section 3303(f) of the California Government Codes.)
- 3. Witnesses:
  - (a) What drew their attention to incident?
  - (b) Verify witness's exact position.
  - (c) Determine if there is any relationship of reporting party to employee.
- 4. Victim:
  - (a) If injured, describe in detail.
  - (b) If treated for injuries, note location of treatment.
  - (c) If possible, attach copy of medical report.
- (d) Presentation of Investigative Documentation:
  - 1. All documentation/physical evidence shall be forwarded to Probation Administration upon completion of the investigation.
  - 2. Probation Administration shall review all documents/physical evidence presented and determine if the allegations are substantiated or unfounded.
  - 3. The employee shall be notified as to the factual outcome of the investigation.

Revised: 06/05/1995

Date: 12/04/1991

Attachments:

- 1. [Special Incident Report Form](#)
- 2. [Government Code Section 3300 et. seq.-Attachment B.pdf](#)
- 3. [Miranda/Lybarger Warning](#)
- 4. [Administrative Interview Advisory](#)

## Attachments

**Government Code Section  
3300 et. seq.-Attachment B.pdf**

## **SECTION 3300 ET. SEQ. OF THE CALIFORNIA GOVERNMENT CODE**

- 3301 - Applies only to regular peace officers (also states legislative intent of Act) (Baggett).
- 3302 - Off duty officer is free to engage in or refuse to engage in political activity.
- 3303 - Protections of Act apply to investigations which could lead to punitive action (i.e., action which may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment). (McManigal)
- (a) Interrogation must be during reasonable hour and officer shall be compensated if off duty.
  - (b) Must identify officer in charge prior to interrogation and questions may only be asked by two investigators at a time.
  - (c) Must disclose nature of investigation prior to interrogation.
  - (d) Duration of interrogation limited to reasonable period and physical needs must be accommodated.
  - (e) No offensive or threatening language, promises or other inducement to answer questions. However, failure to answer administratively may result in charge of insubordination. No exposure to media without consent. (Lybarger; Garrity).
  - (f) Interrogation may be recorded by either or both sides. Officer entitled to copy of tape if further proceedings contemplated and prior to subsequent interrogation. Must provide all notes, reports, transcripts, etc., except those deemed confidential (limited use). (Skelly, ALADS)
  - (g) Constitutional rights must be given if potential for criminal charges. (Lybarger)
  - (h) If focus on likely punitive action, right to uninformed representative of choice. Non-criminal communication with representative is privileged (no right to representative for informal counseling or strictly criminal investigation). (NLRB, Robinson, Titus).
  - (i) No abnormal transfer or duty assignment.
- 3304 - (a) No punitive action or promotion denial for lawful exercise of rights or grievance (may order compliance with outside criminal investigation).
- (b) No punitive action or non-merit promotion denial without opportunity for administrative appeal. (White, Baggett, McManigal)
- 3305 - Must provide opportunity to read and sign adverse comments prior to entry into personnel files. (Hopson, Turturici)
- 3306 - Officer has 30 days to file written response to be included with adverse comment.
- 3307 - No compelled polygraph and no comment about refusal. (Estes)
- 3308 - No compelled financial disclosure except where pursuant to lawful process, conflict of interest is indicated or special assignment subject to bribes (Government Code 1126).
- 3309 - No locker (storage space) search without officer's presence, consent, valid search warrant or prior notice to officer. (O'Connor)

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SPECIAL INCIDENT REPORT

EMPLOYEE: \_\_\_\_\_ TITLE/ASSIGNMENT: \_\_\_\_\_

REPORTING PARTY: \_\_\_\_\_ ADDRESS: \_\_\_\_\_

\_\_\_\_\_

WITNESS: \_\_\_\_\_ ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

DATE OF INCIDENT: \_\_\_\_\_ TIME OF INCIDENT: \_\_\_\_\_

DETAILS OF INCIDENT: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SOURCES OF INFORMATION: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

ATTACHMENTS: (INVENTORY RECEIPT, CITIZEN'S COMPLAINT FORM, MEDICAL REPORT)

\_\_\_\_\_

\_\_\_\_\_

DIVISION DIRECTOR NOTIFIED: NAME: \_\_\_\_\_ DATE/TIME: \_\_\_\_\_

REPORT PREPARED BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_



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MARK A. HAKE  
CHIEF PROBATION OFFICER



ATTACHMENT "C"

## MIRANDA WARNING

I am now going to advise you of your rights:

1. You have the absolute right to remain silent.
2. Anything you say can and will be used against you in a court of law.
3. You have the right to consult with an attorney, to be represented by an attorney, and to have an attorney present both before and during any questioning.
4. If you cannot afford to hire an attorney, one will be appointed by the court, free of charge, to represent you before any questioning, if you wish.

## WAIVER

1. Do you understand each of these rights I have explained to you?
2. Having these rights in mind, do you wish to talk to us now?

Waives Rights \_\_\_\_\_

Invokes Rights \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date



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CHIEF PROBATION OFFICER

## LYBARGER WARNING

1. While you have the right to remain silent with regard to any criminal investigation, you do not have the right to refuse to answer my administrative questions.
2. This is strictly an administrative investigation. I am, therefore, now ordering you to discuss this matter with me.
3. If you refuse to discuss this matter, your silence can be deemed insubordination and result in administrative discipline, up to and including termination.
4. Any statement you make under compulsion of the threat of such discipline cannot be used against you in a later criminal proceeding.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date



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CHIEF PROBATION OFFICER



ATTACHMENT "D"

## ADMINISTRATIVE INTERVIEW ADVISORY

The date is \_\_\_\_\_. The time is approximately \_\_\_\_\_.

This is an administrative interview concerning the Riverside County Probation Department involving

\_\_\_\_\_. The interview is being tape recorded at \_\_\_\_\_.

\_\_\_\_\_ is in charge of the interview. Also present is \_\_\_\_\_ and

Employee Representative \_\_\_\_\_.

Mr./Mrs. \_\_\_\_\_, you are being questioned as part of an official

internal investigation. You will be asked questions related to the performance of your official duties.

Your refusal to answer or any type of evasion or deception on your part may be grounds for punitive

action. None of the your statements, however, nor any information or evidence which is gained by

reason of such statements, can be used against you in any criminal proceedings. (Lybarger

Warning) Your representative also does not have the authority to direct you not to answer, nor the

authority to interject himself/herself into the interview process. Do you understand?

For the record, would you state your name, date of birth and current address, please.