

## 3-04/010.25 - Personnel Complaints

The concerned unit commander is responsible for evaluating each personnel complaint to determine the appropriate supervisory response. The nature and seriousness of the allegation(s), the potential for employee discipline, and the concerned employee's performance history are potential factors to consider in the evaluation. Generally, the following courses of action are options:

- request that ICIB conduct a criminal investigation if there is reason to believe a crime has been committed. The request may be sent via e-mail from the concerned division chief or division director directly to the Captain of ICIB. (Use Exchange Group, "ICIB Investigation Request.");
- request that IAB conduct an administrative investigation. The request may be sent via e-mail from the concerned division chief or division director directly to the Captain of IAB. (Use Exchange Group, "IAB Investigation Request.");
- conduct a unit level administrative investigation; and
- initiate a service review.

The selection of a given course of action does not preclude initiation of another course of action if the subsequent uncovering of facts justifies or mandates it.

If the unit commander requests a criminal investigation of a personnel complaint reported on a Service Comment Report form, he shall check the box labeled "Department Investigation" in the "Result of Service Review/Exoneration Request" section of the Service Comment Report form and sign it. The unit commander shall use discretion in deciding whether or not to notify the involved employee. All copies of the Service Comment Report should be attached to the memo requesting an internal criminal investigation. Preliminary data entry shall not be made in this case.

When the unit commander's evaluation of a personnel complaint results in the opening of a unit-level or an IAB administrative investigation, he shall check the appropriate box in the "Result of Service Review/Exoneration Request" of the Service Comment Report form (either "Unit Level Investigation" or "Department Investigation") and shall ensure that the administrative investigation file number is included. He shall then sign the report and provide the involved employee(s) with a copy.

When discipline is not an issue, and the complaint can be handled by a service review, the unit commander shall direct a watch commander or supervising lieutenant to gather the additional information necessary for a review and take appropriate steps to handle the complaint. The watch commander is encouraged to consider utilizing Department approved conflict resolution techniques. Conflict resolution techniques may be appropriate in certain situations wherein the complainant and the employee dispute the facts of the complaint and no other objective independent means for resolving the dispute exists. After the complaint is handled, the watch commander shall document his activities in handling the complaint in a memorandum to the unit commander. The documentation need only be sufficient to summarize the actions taken by the watch commander and the results of the review.

The watch commander shall also check the fact page of the Service Comment form and ensure that it is filled out completely and correctly. He shall confirm that the proper categories are marked reflecting the nature of the complaint and shall ensure that the "involved employee" information section is filled out and the additional involved employees are listed on the continuation sheet.

When a service review of a personnel complaint is completed to the satisfaction of the concerned unit commander, and a formal administrative investigation is deemed unnecessary, the unit commander shall complete the "Result of Service Review/Exoneration Request" section of the Service Comment Report. The box labeled "Exonerated" shall only be used in the following situations when it is established by clear and convincing evidence that:

- the employee was not personally involved or in any other way connected with the incident or incidents or allegation in question;
- the allegation giving rise to the investigation was demonstrably false and brought in demonstrable bad faith or by virtue of an obvious and demonstrable mental disease or defect; and
- the allegation in question, broadly construed and even if true, would not in any circumstance constitute a violation of law or Department policies, rules, or procedures and is not otherwise censurable.

The unit commander shall designate the specific category of exoneration by marking the appropriate box.

Any disposition of exonerated must be fully documented in writing and the complete reasoning and rationale set forth. In addition, the unit commander shall complete and sign a "Result of Service Review/Exoneration Request" form, briefly summarizing the justification for exoneration. In all other circumstances, the unit commander shall check the appropriate disposition.

The unit commander shall sign the form and shall then:

- file the yellow copy of the Service Comment Report form in a unit file;
- provide the employee with a copy of the completed Service Comment Report form;
- distribute the remaining copies as indicated on the form, accompanied by any lists of additional names that did not fit on the fact page; and

**NOTE:** For all service reviews which result in a finding of "Exonerated," intact SCR shall be routed to the concerned division headquarters accompanied by the "Result of Service Review/Exoneration Request" for review, and signature at the bottom, by the concerned division chief or division director.

- send a letter to the complainant summarizing the results of the service review and informing the complainant that if he is dissatisfied with the results, the complainant may contact the unit commander or county ombudsman (see Manual of Policy and Procedures Section 3-04/030.00, Procedures for Responding to Complainant Dissatisfaction with Department Service Reviews and Administrative Investigations).

**NOTE:** The Chief of the Professional Standards Division is responsible for reviewing all Service Comment Reports with an "Exonerated" result. This ensures Department-wide consistency in the interpretation of policy governing use of the "exonerated" result.