



**Mission Statement**

It shall be the policy of the Internal Affairs Unit to receive allegations from members of the public in a courteous and professional manner. Investigations shall be appropriately documented, promptly investigated, and conducted in a timely, legal and ethical manner. Internal Affairs employees shall demonstrate sincere responsiveness to the concerns of the public, and will inform members of the public that their allegations or concerns will be thoroughly investigated.

**Complaint Process Information**

All police departments in the State of California are required by law to have a process by which a citizen may make a complaint against police personnel. Any person may file a complaint against any member of the Department. Each complaint must contain an allegation, an unproven accusation that a member of the Police Department violated Department or City policy, procedure, rules, regulations, or the law. The complaint may be filed with the San Jose Police Department's Internal Affairs Unit (IA) or with the Office of the Independent Police Auditor (IPA).

**Information Regarding the SJPD's Retaliation Policy**

The San Jose Police Department believes that all persons are free to report potential misconduct by its members without fear of retaliation. Retaliation against any party to a complaint made to the Department, IA, or the Independent Police Auditor (IPA) is prohibited and will not be tolerated.

**Who can make a complaint, and who conducts the investigation?**

A personnel complaint may be made by anyone. If the complainant is under the age of 18, we request that the complainant be accompanied by a parent or guardian when responding to the Internal Affairs Unit. The IA Unit and the IPA will accept allegations by phone, letter, e-mail, fax, anonymously, or in person. The complaint may be made at the Department's Internal Affairs Unit, the Office of the Independent Police Auditor or any other mutually agreed upon location. Regardless of where or how the allegation is filed, the San Jose Police Department's Internal Affairs Unit will conduct and/or coordinate the investigation.

**When can a complaint be made?**

A complaint may be made 24 hours a day.

During normal business hours the complaint may be submitted to the San Jose Police Department Internal Affairs Unit at 277-4094 or by fax at 277-3920. After normal business hours the complaint may be made by calling 277-4631, contacting a Watch Commander via Communications at 3-1-1. The Office of the Independent Police Auditor will receive complaints during business hours or receive phone messages 24 hours a day at 794-6226, fax 977-1053.

**What happens after a complaint is filed?**

The complainant and any witnesses will be interviewed in detail concerning the incident, and their statements will be documented. The Internal Affairs Unit staff Officers will discover and collect evidence and background material. The Internal Affairs Unit Supervisor will analyze all the information gathered and determine a finding for each allegation and submit their written investigation to the Unit Commander. The Unit Commander reviews the Supervisor's written investigation including the determined findings of the allegation. Additionally, every complaint of Force is reviewed by the Assistant Chief of Police. A closing letter is sent to the complainant once the case has been completed. After the investigation is completed the investigation is forwarded to the Independent Police Auditor for audit and review.

### **Will I have to testify if I make a complaint?**

If a Police Department Employee contests a finding, complainants may be asked to later testify in a Civil Service Hearing or before an Arbitrator. If the investigation leads to the filing of a criminal complaint and the matter goes to trial, you may be required to testify in court.

### **How is an allegation proven, what are the possible findings?**

An allegation is proven by the preponderance of the evidence. Preponderance means proof that “more than likely” the alleged conduct occurred. The available findings to an allegation include; **Unfounded:** The investigation conclusively proved that the act or acts complained of did not occur, or the member named in the allegation was not involved in the act or acts, which may have occurred. **Exonerated:** The act or acts, which provided the basis for the allegation or complaint occurred, however, the investigation revealed they were justified, lawful, and proper. **Not Sustained:** The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation made in the complaint. **No Finding:** The complainant failed to disclose promised information needed to further the investigation. **Complaint Withdrawn:** The complainant affirmatively indicates the desire to withdraw his/her complaint. **Sustained:** The investigation disclosed sufficient evidence to clearly prove the allegation made in the complaint. **Mediation:** the case was mediated and not recorded as a complaint by mutual agreement of all involved parties.

### **Information Regarding the SJPD’s Mediation Program**

The San Jose Police Department (SJPD) implemented a Voluntary Mediation Program as an alternative process for resolving citizen complaints where the alleged misconduct is minor in nature or where there is misunderstanding about an enforcement action, neglect of duty or police procedure. The program is completely voluntary and requires that both the citizen and the accused Department member agree to participate in the process and sign a confidentiality agreement. The process provides the citizen and the subject officer an opportunity to meet in the presence of an independent trained mediator and express concerns about an incident and share their opinions.

### **If an allegation is sustained will discipline information be provided in the closing letter?**

No, state law prohibits the release of this information.

### **How much time does it take to complete a case?**

According to the Peace Officer Bill of Rights Government Code Section 3304, allegations against police officers must be completed within one year of the received date. The San Jose Police Department has a policy of completing all cases within 300 days of the received date.

### **What happens if a complaint is found not to contain a violation of Department or City policy procedure, rules, regulations, or the law?**

The complaint will be considered a Non Misconduct Concern. In Non Misconduct Concern cases the immediate supervisor of the employee is notified of the complainant’s concerns and will address the issues of concern with the Department Member. The Internal Affairs Unit will subsequently send the complainant a closing letter.

#### ***Additional Information***

Additional detailed information regarding the internal affairs process may be obtained by visiting the San Jose Police Department’s website at [www.sjpd.org/cop/ia.html](http://www.sjpd.org/cop/ia.html). This publication will be made available upon request in alternate formats, such as, Braille, large print, audio recording or accessible electronic format. Requests may be made by calling 408-277-5200 or the general City TTY number at 408-294-9337