

**SAN FRANCISCO ADMINISTRATIVE CODE  
CHAPTER 96: COORDINATION BETWEEN THE POLICE DEPARTMENT AND  
THE OFFICE OF CITIZEN COMPLAINTS**

**SEC. 96.1. DEFINITIONS.**

(a) "Chief of Police" shall mean the Chief of the Police Department or his or her designee.

(b) "OCC" shall mean the Office of Citizen Complaints.

(c) "Sustained complaint" shall mean a determination by the Office of Citizen Complaints that a preponderance of the evidence proves that the misconduct or failure to perform a duty complained of did occur.

(Added by Ord. 244-03, File No. 031401, App. 10/17/2003)

**SEC. 96.2. REPORTING ON STATUS OF SUSTAINED COMPLAINTS.**

(a) The Chief of Police shall report in writing to the OCC and the Police Commission not less than once per month on the status of all sustained complaints the OCC has transmitted to the Police Department for review and determination of appropriate action.

(b) (1) For each sustained complaint for which the Chief of Police has not issued a decision on the discipline to be imposed, if any, the report shall set forth the number of the complaint, the date the complaint was filed with the OCC, the date on which the OCC transmitted the complaint to the Police Department, the type of complaint, a summary of the OCC's findings, the current status of the complaint within the Police Department, the date by which the Chief of Police expects to issue a decision, and any other information the Commission may direct. The report shall be a public record, and shall be posted on the website of the Police Commission.

(2) In any instance where the OCC sustains a complaint and transmits it to the Police Department with a recommendation that discipline be imposed, and the Chief of Police has failed to act within 45 days from the date of transmittal, the secretary to the Police Commission shall place the sustained complaint on the agenda for the next regularly scheduled meeting of the Police Commission, consistent with applicable laws governing notice of public meetings. At this meeting, the Police Commission shall inquire into the status of the complaint and any reasons for the delay on the part of the Chief of Police. The Commission shall require that the Chief of Police provide an explanation for the delay in acting upon the complaint, and shall impose a deadline not to exceed 14 calendar days from the date of the meeting by which the Chief of Police shall act on the complaint, unless the Police Commission finds good cause for a reasonable extension in excess of 14 calendar days, and the Chief of Police establishes that such additional delay will not preclude the imposition of discipline pursuant to California Government Code Section 3304.

(3) At the first Commission meeting following passage of the deadline, the Chief of Police shall report to the Commission on the status of the complaint. If the Chief of Police has failed to take final action on the complaint, the secretary to the Police Commission shall send written notice to the Mayor and the Board of Supervisors of the Chief's failure to act. For each complaint on which the Chief of Police has failed to act, the notice of inaction shall state the number of the complaint, the date the complaint was filed with the OCC, the date on which the OCC transmitted the complaint to the Police Department, the type of complaint, and a summary of the OCC's findings.

(c) For each sustained complaint for which the Chief of Police has issued a decision on the discipline to be imposed, if any, the report shall set forth the number of the complaint, the date the complaint was filed with the OCC, the date on which the OCC transmitted the complaint to the Police Department, the type of complaint, a summary of the OCC's findings, the date on which the Chief of Police issued a decision, the discipline imposed, if any, and the date of any discipline imposed.

(d) The Police Commission shall hold a public hearing at least once every quarter to consider the status of all sustained complaints awaiting action by the Police Department. The Commission shall submit a report to the Mayor and the Board of Supervisors within 30 days from the date of the hearing setting forth the number of each complaint, the date each complaint was filed with the OCC, the date on which the OCC transmitted the complaint to the Police Department, the type of complaint, a summary of the OCC's findings, and the current status of the complaint within the Police Department.

(Added by Ord. 244-03, File No. 031401, App. 10/17/2003)

### **SEC. 96.3. DISCLOSURE OF DOCUMENTS TO OCC.**

(a) In accordance with the obligation of the Police Department and members of the uniformed ranks under Charter Section 4.127 to provide prompt and full cooperation and assistance in connection with complaints being investigated by the OCC, the Police Department shall promptly disclose all documents and records requested by the OCC except where disclosure to the OCC is prohibited by law. Unless (i) the Police Department and the OCC mutually agree in writing to an alternative deadline(s), or (ii) the Police Commission, by a two-thirds vote, establishes an alternative deadline(s) not to exceed ten business days, the Police Department shall disclose all such documents within five business days from the date of OCC's request.

(b) Unless the Police Department and the OCC have mutually agreed in writing to alternative procedures, where the Police Department intends to withhold a document or record from being disclosed to the OCC, the following procedures shall apply:

(1) Within five business days of the receipt of OCC's request, the Police Department shall notify the OCC in writing of the proposed objection. Both the Police Department and the OCC shall submit written requests to the City

Attorney for a determination of whether disclosure of the document or record to OCC is prohibited by law. The City Attorney shall respond to the requests within five City business days of receiving the requests, unless the City Attorney notifies the Police Department and OCC that due to the complexity of the legal issues presented, more time is required to respond.

(2) Within two business days of receiving the City Attorney's response, the Police Department shall either transmit the requested documents or records to the OCC or notify the OCC that it does not intend to comply with the OCC's request. Where the Police Department declines to disclose the documents or records, the Department and the OCC shall meet and confer within three business days of the Department's notice to the OCC to discuss resolving the objection. The time for the meeting may be extended by mutual agreement of the Police Department and the OCC.

(3) If the Police Department and the OCC have been unable to reach agreement concerning disclosure of the documents or records within five calendar days from the date of the meet and confer, the OCC shall notify the secretary to the Police Commission, who shall calendar the question of disclosure for hearing before the Police Commission at the next regularly scheduled meeting of the Commission, consistent with applicable laws governing public notice of meetings. The Police Commission shall inquire into the dispute. Unless the Police Commission determines based on the advice of counsel that the law prohibits the Police Department from releasing the requested document or record to the OCC, the Commission shall order the Chief of Police to disclose the requested document or record to the OCC within two business days unless at the meeting the Commission: (i) determines that unusual circumstances warrant a longer deadline; (ii) explains the basis for that determination; and (iii) sets a different deadline.

(Added by Ord. 244-03, File No. 031401, App. 10/17/2003)

#### **SEC. 96.4. NOTICE TO OCC OF PROPOSED ACTION.**

Whenever the Chief of Police proposes to act on a complaint sustained by the OCC and the proposed action is not consistent with the OCC's recommendation to refer the matter to the Police Commission for discipline because the Chief of Police is proposing either a suspension of ten days or less, or no discipline, the Chief of Police shall, prior to taking action, notify the OCC in writing of the proposed action, and shall meet and confer with the OCC Director within five business days of the written notice to resolve the disagreement over the appropriate discipline. Where the OCC and the Chief of Police are unable to reach agreement on the appropriate discipline, the OCC and the Chief of Police shall send written notice to the Police Commission identifying the sustained complaint and describing the disagreement. This notice shall be a part of the Director's Report at the next Commission meeting, consistent with applicable laws governing public notice of meetings.

(Added by Ord. 244-03, File No. 031401, App. 10/17/2003)

#### **SEC. 96.5. GUIDELINES FOR FAILURE TO COMPLY.**

Not later than 90 days from the effective date of this Chapter, the Police Commission shall promulgate guidelines for penalties to be imposed against an officer in instances where a police officer, including an officer functioning in an administrative or supervisory role, fails to produce documents or records in accordance with this Chapter, or fails to comply with the duty imposed by Charter Section 4.127 to cooperate with and assist the OCC. The Police Commission shall transmit a copy of the guidelines to the Board of Supervisors.

(Added by Ord. 244-03, File No. 031401, App. 10/17/2003)

#### **SEC. 96.6. SUBPOENA POWER.**

The Director of the OCC shall have the authority to subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of books, papers, records or other items relevant to investigations under the jurisdiction of the OCC. This subpoena power shall not extend to departments, officers or employees of the City who are obligated to provide prompt and full cooperation to the OCC pursuant to Charter Section 4.127.

(Added by Ord. 244-03, File No. 031401, App. 10/17/2003)

#### **SEC. 96.7. NOTIFICATION TO CLAIMANTS IN POLICE MATTERS.**

When the City receives a claim alleging improper conduct by a police officer, other than a claim seeking only damages for damage to property resulting from the operation of a Police Department vehicle, the City Attorney shall send the claimant a notice that describes the OCC's role in investigating complaints of police officer misconduct, and includes information on how to contact the OCC.

(Added by Ord. 244-03, File No. 031401, App. 10/17/2003)

#### **SEC. 96.8. TRAINING REQUIREMENTS FOR POLICE COMMISSIONERS AND POLICE OFFICERS.**

(a) The Police Commission shall provide, and each commissioner shall attend within six months of appointment, training provided by experts in the state and local laws and Police Department policies governing public safety officer discipline. This training shall include instruction in OCC's process and procedures for investigating citizen complaints, and shall be not less than three hours in length.

(b) Following the effective date of this Chapter, the Police Department shall include a written summary in the training materials provided to police officer trainees of the requirements of Chapter 1 of the San Francisco Campaign and Governmental Conduct Code, entitled "Reporting Improper Government Activity; Protection of Whistleblowers," as amended from time to time. The summary required by this paragraph shall be approved by the City Attorney.

(Added by Ord. 244-03, File No. 031401, App. 10/17/2003)

**SEC. 96.9. PROTECTION OF PEACE OFFICER PRIVACY.**

Nothing in this Chapter shall be construed to require the disclosure of any information the disclosure of which would constitute a violation of a peace officer's privacy interests under the California Constitution, California Penal Code Sections 830 et seq., or California Government Code Sections 3300 et seq. (the Public Safety Officers Procedural Bill of Rights).

(Added by Ord. 244-03, File No. 031401, App. 10/17/2003)

**SEC. 96.10. NONCOMPLIANCE AS NOT INVALIDATING DISCIPLINE.**

The failure of the Chief of Police or the OCC to follow the requirements of this Chapter shall not constitute a basis for invalidating a decision by the Chief of Police or the Police Commission to impose discipline.

(Added by Ord. 244-03, File No. 031401, App. 10/17/2003)

**SEC. 96.11. SEVERABILITY.**

If any provision, subdivision, section, paragraph, phrase or clause of this Chapter or the application thereof is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Chapter. The remainder of this Chapter shall remain effective and enforceable to the fullest extent allowed by law. All clauses and provisions of this Chapter are hereby declared to be severable.

(Added by Ord. 244-03, File No. 031401, App. 10/17/2003)