

Peace Officer Complaints

1029.1 BACKGROUND

California Penal Code Section 832.5 requires the French Camp McKinley Fire District (District) establish a procedure to investigate complaints from the public against District employees employed as District Peace Officers.

1029.2 PURPOSE

To set forth standards and procedures applicable to the investigation of complaints against District Peace Officers. This Policy is not intended to create new substantive rights or to impose new obligations beyond those otherwise required by applicable law. Any action otherwise valid and in accord with applicable law shall not be invalidated or in any other manner limited in its effect because of a claim that the procedure followed was not in accord with any provision of this Policy.

1029.3 SCOPE

This policy applies to all District Peace Officers.

1029.4 POLICY

Complaints:

- (a) When the District receives complaints against District Peace Officers, an investigation will be conducted when the complaint possesses a reasonable degree of factual credibility.
 - (a) At the discretion of the Fire Chief or designee, complaints may be referred to the San Joaquin County Sheriff's Office or, depending on the severity of the allegations made, to the California Department of Justice for investigation because of actual or apparent conflict of interest.
 - (b) Citizens desiring to initiate a complaint should be encouraged, but not required to complete and personally sign the Citizen Complaint Form. The employee receiving the complaint, however, may find it necessary to prepare the complaint form for the complainant to sign.
 - (c) In instances where it appears on the surface that a complaint is generated for questionable motives, a preliminary inquiry may be made to determine the veracity of the allegation(s) or whether such complaint is frivolous within the meaning of Penal Code Section 832.5(c). An investigation will be conducted when the complaint possesses a reasonable degree of factual credibility.
 - (d) All public counter areas shall have on hand, available to the public, a supply of the following two forms:
 - (a) Citizen Complaint Form
 - (b) Citizen Complaint Information Letter

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- (b) All complaints against District Peace Officers received during regular business hours should be directed to Fire Administration.
- (c) Complaints received after normal business hours will be received and reviewed by the on-duty Captain. If the Captain decides to immediately begin an investigation, the Captain will report the complaint to the Fire Chief, with the results of the investigation since the initial report was taken.
- (d) In the event that a citizen makes a complaint by letter, telephone, or some other means and wishes to remain anonymous, then it will be the responsibility of the Fire Chief to make a discretionary determination regarding the investigation.
 - (a) If the information received can reasonably be investigated without the identity of the complainant, and the information appears to possess some degree of credibility, then an investigation shall be conducted.
 - (b) This same standard will apply to civil claims and lawsuits filed against the district upon review by the District's General Counsel, at the direction of the Fire Chief.
- (e) When the allegation is determined to be a complaint regarding District standards, policies, procedures, or services provided, the complaint will be referred to Fire Chief.
- (f) Divisional investigations are those investigations of complaints that are conducted within the subject employee's own division or service area. These investigations will be conducted as specified by Government Code Section 3300 et seq. (Peace Officer's Bill of Rights) and Government Code Section 3250 et seq. (Firefighter's Procedural Bill of Rights Act).
- (g) Every person who files any allegation of misconduct against any District Peace Officer, knowing the allegation to be false, is guilty of a misdemeanor.
 - (a) The General Counsel for the District will undertake and review allegations found to be false or frivolous per Penal Code Section 832.5(c) and make such referral to the San Joaquin County District Attorney, as deemed appropriate.
- (h) The Fire Chief or designee and Fire Administration will retain records of complaints, investigations, and dispositions for a period of at least five years.
 - (a) No one who has access to a complaint investigation record or portion thereof will retain or copy any such record without the express consent of the Fire Chief, Human Resources Manager, or the District's General Counsel.
- (i) The complaint investigator will provide case disposition to each citizen who has filed a complaint, after conferring with District General Counsel.
- (j) Any compelled statement that is taken from an employee by the District will not be released to any law enforcement/prosecutorial agencies, unless so required pursuant to Penal Code Section 832.7.
 - (a) The employee will be immediately notified of any such disclosure by the District; however, the District is not required to notify the employee when such notification would impair an ongoing investigation in which the employee is a witness or the subject of the ongoing criminal investigation.

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- (k) In the event that there is potential for filing of criminal charges against the employee as a result of allegations against that employee, the District will suspend taking any compelled statement for administrative purposes, while there is an ongoing criminal investigation. This suspension of taking a compelled statement of the employee will toll the statute of limitations governing administrative investigations based on the pendency of an ongoing criminal investigation.

1029.5 PROCEDURES

1029.5.1 INVESTIGATIVE/REVIEW PROCEDURES

- (a) Complaints will be forwarded to Fire Administration when received. The complaint will be investigated by Fire Administration or an outside Investigator or agency for investigation.
- (b) All complaints against District Peace Officers will be investigated, evaluated, and brought to conclusion in a timely manner. These investigations will be conducted as specified by Government Code Section 3300 et seq. (Peace Officer's Bill of Rights) and Government Code Section 3250 et seq. (Firefighter's Procedural Bill of Rights Act).
- (c) The Fire Chief or designee will review all completed Internal Affairs investigations with his/her recommendations.
- (d) All complaints will have a final disposition. The Fire Chief or designee will report these results annually to the Board of Directors and Department of Justice.

1029.5.2 COMPLAINT DESIGNATIONS

The following designations will be used to indicate the disposition of complaints:

- (a) Sustained: The investigation discloses that the act complained of did occur and constitutes misconduct.
- (b) Not sustained: The investigation discloses insufficient evidence to clearly prove or disprove, the allegations made.
- (c) Exonerated: The investigation indicates the act occurred, but that the act was justified, lawful and proper.
- (d) Unfounded: The investigation indicates the act complained of did not occur.
- (e) Unfounded as frivolous per Penal Code Section 832.5(c).
- (f) False complaint.

1029.5.3 CRIMINAL INVESTIGATIONS

- (a) Any District Peace Officer observing suspected criminal conduct by another District Peace Officer shall immediately report the incident to the Fire Chief by phone or in person.
- (b) Any District Peace Officer receiving or developing information that another District Peace Officer is a suspect in any criminal activity, shall immediately notify the Fire Chief by phone or in person.

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- (c) Any District Peace Officer who is arrested for any offense or otherwise becomes aware he or she is the focus of a criminal investigation, shall immediately notify the Fire Chief by phone or in person.
- (d) The District may choose to conduct an administrative investigation concurrently with a criminal investigation or toll the administrative investigation pending the outcome of the criminal investigation/prosecution. Fire Administration shall monitor the course of the criminal investigation.
- (e) A criminal investigation may be referred to the appropriate department investigative unit, outside law enforcement agency, or prosecutorial agency.

1029.5.4 NOTICE TO CITIZENS

Investigators shall provide case disposition to each citizen who has filed a complaint. An investigator may be either of the following:

- (a) Internal Affairs Investigators.
- (b) Managers or supervisors who conducted the investigation.