

PROFESSIONAL STANDARDS BUREAU

NOTICE 13.5

May 2, 2019

TO: All Department Personnel

FROM: Commanding Officer, Professional Standards Bureau

SUBJECT: PERSONNEL COMPLAINT PROCESS - REMINDERS

The final report submitted to the Chief of Police by the Single Purpose Innovation Group (SPIG) for discipline identified many issues of importance. While some recommendations require additional work and evaluation, other recommendations are already in place or soon to be implemented. Though the recommendations may already be in place or may have been addressed in prior Notices, because of their importance, this Notice serves to reemphasize the Department's policies on those issues.

Conduct that May Constitute Minor Misconduct Identified in Review of Video

This issue was addressed previously in a Professional Standards Bureau Notice dated August 27, 2015, "Guidelines for Reviews of Body Worn Video and Digital In-Car Video Recordings." The Notice provided guidelines to assist commanding officers with determining appropriate and reasonable responses to possible misconduct and other deviations from established procedures discovered during the review of video recordings. For example, the Notice states that if minor misconduct is identified during audit/compliance reviews:

"[T]he officer's actions in the BWV/DICV alone should not result in the initiation of a personnel complaint. Rather, the officer should receive counseling, training, an Employee Comment Sheet or a Notice to Correct Deficiencies to alert him or her and correct the behavior. An example of minor misconduct may be the use of profanity in tactical situations inconsistent with the Department's tactical directives or training."

Additionally, under the current complaint process, when possible allegations of minor misconduct are discovered in the course of a complaint investigation, the investigating officer notifies the employee's commanding officer to determine the corrective action that will be taken by the commanding officer. That notification and the commanding officer's response is included in the Investigating Officer's Notes.

Use of the Penalty Guide and Deviations from Guidelines

The Department previously issued two Notices relating to the use of the Penalty Guide:

- An Office of the Chief of Police (OCOP) Notice dated September 8, 2016, "Personnel Complaint Letter of Transmittal - Revised," provided extensive guidance on the preparation

of the Letter of Transmittal (LOT), including the use of the Penalty Guide. As stated in the Notice, "Review the Penalty Guide for sworn employees and the Policies of the Personnel Department, City of Los Angeles, Section 33.2 for civilian employee penalty recommendation. Any deviations from the guidelines should be explained in detail and what factors, if any, caused the deviation."

- An OCOP Administrative Order No. 15, dated September 15, 2016, "Penalty Guide and Penalty Assessment Factors - Updated," provided guidance on the use of the penalty guidelines in determining the appropriate penalty recommendations for sustained allegations of misconduct. The Order lists the factors that must be considered, including "Consistency of the penalty with the Department's Penalty Guide." Additionally, the Order states, "...deviations should be the exception rather than the rule and compelling justification for such exceptions must be provided in the rationale. It is imperative that each penalty assessment includes a detailed rationale for the penalty recommended and how it was deemed to be the most appropriate alternative."

Under the current review process, IAG's Review and Evaluation Section will refer the complaint back to the commanding officer for review if the LOT does not meet the above requirements. If the complaint is too close to statute, a notice will be sent to the commanding officer explaining the requirements for training purposes.

Additional Resources on the Professional Standards Bureau (PSB) Webpage

The PSB webpage on the Department's Local Area Network contains reference materials and exemplars which provide Department personnel with information and guidance when working on personnel complaints. For example, the Notices and Order referenced above are available on the PSB webpage. Based on the issues identified by the SPIG, the PSB webpage has been updated to include the following resources.

Complaint Investigation Exemplars

Exemplars of three complaint investigations are available as part of the Department's *Complaint Investigations: A Guide for Supervisors* by clicking on links embedded in the document. The *Guide* is also available on the PSB webpage under the link for Manuals, References and Notices. However, to make the exemplars easier to access, separate links have been created for the three exemplars; the links now appear on the PSB Forms and Exemplars webpage.

Definition of Preponderance of the Evidence

Though IAG's Advocates Section and the Review and Evaluation Section both provide training on the definition of the preponderance of evidence standard, a new document has been created which provides basic information on the concept. The document can be found on the PSB webpage for Manuals, References and Notices.

Frequently Asked Questions Regarding Adjudication and Penalties

Review and Evaluation Section has compiled a list of Frequently Asked Questions (FAQ) relating to adjudication and penalties, along with answers to those questions. The FAQ

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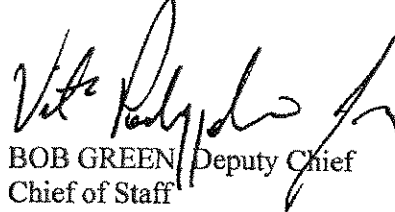
document has been posted on the PSB webpage for Manuals, References and Notices. The FAQ will be updated periodically to reflect updated information and additional questions.

Department personnel may refer to the PSB webpage for the individual Orders and Notices referenced above for additional information on those topics. Questions may also be directed to Internal Affairs Group, Review and Evaluation Section, (213) 996-2771.



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