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4 **PROFESSIONAL STANDARDS BUREAU**

June 23, 2015

5 **BUREAU ORDER No. 01-15**
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8 **TO:** Internal Affairs Group and Special Operations Division Personnel

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11 **FROM:** Commanding Officer, Professional Standards Bureau

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14 **SUBJECT: GUIDELINES FOR CONDUCTING PERSONNEL COMPLAINT**
15 **INTERVIEWS**

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18 This notice is designed to provide Internal Affairs Group (IAG) and Special Operations Division
19 (SOD) investigators with guidelines to be considered when preparing for interviews of
20 Department personnel. Investigators often encounter many challenges when striving to complete
21 an investigation within the five month compliance date. Nevertheless, it is important to consider
22 the stresses and hurdles that employees who are subject to an interview must overcome, and
23 should make every reasonable effort to make them feel at ease. Below are guidelines that may
24 facilitate the successful completion of the investigation, as well as improve relations with our
25 fellow employees.

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27 Scheduling of Interviews

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29 It is the goal to accomplish interviews within 10 business days of the employee receiving notice
30 to contact the investigator. Once an employee has identified his/her preferred representative or
31 attorney, the investigator should work directly with the designated representative to schedule the
32 interview.

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34 When scheduling interviews, the normal waking hours of employees that need to be interviewed
35 must be considered, and investigators should make every effort to conduct the interview when
36 the employee is on duty.

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38 Although the investigator will ultimately determine the location of the interview, investigators
39 should consider reasonable requests to conduct the interview at a location of the employee's
40 choice. These may include the employee's work location, the office of the employee's
41 representative, attorney, or union, or any Internal Affairs office.

42
43 Investigators should attempt to schedule interviews that are mutually convenient for the
44 employee, his/her representative and the investigator prior to ordering the employee to be present
45 to be interviewed. In the rare circumstances where time is of the essence, and it is determined it
46 is appropriate to order the employee to be interviewed, the investigator must ascertain if there is
47 a valid reason the employee has not responded to prior e-mails or other forms of communication
48 requesting contact to schedule an interview (i.e., vacation, days off, etc.). Ordering an employee
49 to be interviewed should be considered a "last resort," not the norm.

1 It is the goal for interviews to commence at the time they are scheduled. However, if the
2 investigator has documents and/or videos he/she would like the employee to review prior to the
3 interview, and the material was not previously identified and/or available for the employee and
4 his/her representative to review, time must be provided either prior to the scheduled interview
5 time or during the interview for the employee and his/her representative to review the materials.
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7 Right to Representation

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9 A reasonable amount of time should be allotted to an employee to obtain a representative of
10 his/her choice. (Sworn employees are entitled to an employee representative, an attorney, or
11 both. See the employee's MOU if further clarification is needed.) When the chosen
12 representative is not available for an unreasonable period of time, the employee should be
13 advised to obtain another representative. Although the right to representation is technically only
14 afforded to investigations where the interrogation focuses on matters that are likely to result in
15 punitive action, if a "witness" employee requests a representative, investigators should allow
16 him/her to have a representative present. Under no circumstances should an accused employee
17 be discouraged from seeking representation or from having the representative present at all
18 times, or be told that he/she doesn't need a representative, or that he/she doesn't have a right to a
19 representative.
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21 Investigative Strategy

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23 Investigative strategy is up to the individual investigator. The employee being investigated will
24 be informed of the nature of the investigation prior to the interview. Consideration should be
25 given to informing the employee, at the time of the scheduling of the interview, of the existence
26 of any associated reports he/she may have completed (e.g., Crime, Arrest, DFAR, etc.).
27 Investigators should encourage the employee to obtain and review these documents and any
28 other documents he/she may have completed regarding the incident prior to the interview. This
29 should aid in the recollection of the incident by the interviewee, if necessary.
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31 Note: The investigator is not required to provide copies of these documents to assist the
32 employee in preparation for the interview, but providing DR and booking numbers, or
33 other information to assist the employee in obtaining the documents could save time
34 during the interview.
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36 Investigators should review and be guided by the Department's Digital In-Car Video (DICV) and
37 Body Worn Video (BWV) policies/procedures if there is either DICV or BWV of the incident
38 that led to the complaint.

39 Interview Sessions

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41 At the beginning of the interview, if the employee is a sworn officer he/she should be allowed to
42 ask the following question to clarify the Lybarger admonition, "If I refuse to answer your
43 questions, will I be subject to discipline that could be as much as discharge or removal from

1 office?" The employee should then be allowed to make a statement explaining why they will
2 give a statement.

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4 Interview sessions shall be for a reasonable period taking into consideration gravity and
5 complexity of the issue being investigated. The employee being interviewed shall be allowed to
6 attend to his or her own personal physical needs. This does not mean the subject of the interview
7 can unreasonably request breaks during the interview. Also, the employee being interviewed is
8 required to personally respond to the questions asked, not the attorney or representative.
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10 Lastly, the interview is not only a fact-finding process for the investigator, but also an
11 opportunity for the employee to tell his/her side of the story. To accomplish this, at the end of
12 the formal questioning by the investigator, the employee should be asked if he/she has any
13 information to add to his/her statement, and he/she should then be allowed to do so. The
14 employee representative or attorney may assist the employee in this process by asking the
15 employee follow up questions.
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17 Any questions regarding this Order can be directed to the Commanding Officer, Internal Affairs
18 Group.
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23 DEBRA J. McCARTHY, Deputy Chief
24 Commanding Officer
25 Professional Standards Bureau