



INTRODUCTION

On November 18, 2021, the Public Safety Reform and Oversight Commission (PSROC) Accountability Systems Standing Committee held a meeting to obtain information regarding Santa Monica Police Department's (SMPD) policies and processes for receiving and adjudicating internal and external complaints. Sergeant Artis Williams and Craig Haney, both employees of SMPD Internal Affairs (IAD), appeared before the commission, fielded questions from the commissioners transparently, and were forthcoming with requested information. As a result of our inquiries and investigations, the committee has identified process gaps that should be addressed to improve SMPD'S processing of complaints.

1. Complaints are not processed to allow for proper oversight due to too much discretion being placed on the supervisor on duty.
2. SMPD lacks a proper system for tracking and taking complaints made in person.
3. SMPD lacks a process for receiving complaints not arising out of an individual officer's conduct but concerning policy or the department's conduct as an entity.
4. SMPD lacks transparency regarding the status and resolution of complaints.

SMPD SUPERVISORS ADJUDICATING COMPLAINTS CREATES POTENTIAL FOR MISHANDLING

Under current SMPD policy, if a supervisor on duty determines a complaint does not contain a potential policy violation, that supervisor may dismiss the complaint without making a record or referring the complaint to IAD. In this instance, a history of the complaint or the interaction with a supervisor is not documented. Such a policy creates the potential for mishandling of complaints for many reasons. All complaints should be directed to IAD for resolution to negate these potentials.

SMPD's policy book is voluminous. There are over 150 different sections, with many sections containing close to 20 pages of dense material. This policy manual is independent of California's

Penal Code, Health and Safety Code, Business and Professions Code, Vehicle Code, Welfare and Institutions Code, Santa Monica's local ordinances, and the United States Constitution. A supervisor, and every officer, should have a working knowledge of these laws. As a result, the average supervisor will not be an expert on SMPD's policy manual.

A supervisor's job requires being a jack of all trades, but complaint processing requires a master of policy. IAD is the master of SMPD policy. IAD's primary duty is the analysis and enforcement of SMPD policy. Within IAD are the experts on SMPD policy. As such, they are the most appropriate to determine whether a complaint contains a possible policy violation. It is suitable for a supervisor to receive a complaint, but IAD should adjudicate.

Outside policy manual expertise, other areas of concern exist in immediate supervisors fielding complaints. Bias is a prominent area of concern. Policing is a challenging and taxing occupation. Officers will see horrors and face physical confrontations most residents do not commonly encounter. As a result, a bond will develop amongst those who wear a badge. That bond is one of the safety nets that keep officers working. They become friends and, in many ways, a family. They see each other outside of work, go to each other's homes, attend fellow officers' children's birthday parties and other activities that strengthen the necessary bond. This bond, however, can make it difficult for the supervisor to fairly adjudicate a complaint against the officer who attended the supervisor's child's birthday. Bias is inescapable. It would be abnormal for there not to be bias in such a circumstance. Therefore, the supervisor determining the existence of a possible policy violation should not be the officer so closely interacting with the subject of the complaint because the potential existence for bias creates the potential for an unfair analysis of the complaint.

Bias manifests itself in the complaint process outside the mere determination of whether a violation of policy is at issue. When a civilian seeks to file a complaint about a policy violation, often the supervisor will say to the complaining civilian, "is it okay if I just talk to the officer." This option for supervisors is seen acted upon in the most recent youtube video (link below) and was conveyed to the Accountability Systems committee by SMPD at the November 18, 2021 meeting. The committee was informed this is a method that can avoid discipline for the disorderly officer. The misconduct goes unreported and vanishes. The cure to this potential bias is for all complaints to be referred to IAD as they document their investigations for violation of policies.

Determination of the absence of a policy violation isn't the only way complaints fail to make it to IAD. Mr. Haney and Sgt. Williams informed the commission that IAD is the last resort for misconduct. Often, misconduct falls into a "living entry." If enough living entries are compiled to draw a picture of a pattern of misconduct, a complaint is referred to IAD for investigation. By then, however, numerous civilians may have been unfairly treated. If IAD is involved in the first stages, there might not be the need for multiple living entries.

Also, relieving supervisors of the role of deciding whether a potential violation has occurred can ease tension between supervisors and those they supervise. If adjudication is out of the supervisor's jurisdiction, there won't be a tension causing issue, thus allowing for a more harmonious working relationship.

SMPD MUST DEVELOP A FORM AND TRACKING SYSTEM FOR CIVILIANS TO SUBMIT COMPLAINTS

The procedures for filing a complaint in person appear to be unclear to many SMPD's officers. Citizens have been told they cannot:

- 1) File a complaint in person
- 2) File a complaint anonymously, and
- 3) Access a specific complaint form because it does not exist.

Mr. Haney and Sgt. Williams informed the commission that all three representations were false. Below are just two recordings of citizens being misinformed on these issues while trying to file a complaint. It should be noted that although the officer in the latest recording (4/25/21) was not educated as to all the methods of filing a complaint, the officer acted in a professional manner and in no way tried to subvert the filing of a complaint.

1. https://www.youtube.com/watch?v=UmehH_I10Po&t=29s
2. https://www.youtube.com/watch?v=T-wQH_Ych3o&t=14s

Mr. Haney and Sgt. Williams informed the commission complaints can be filed in person, online, or telephonically. While having these three avenues available is appropriate, specific procedures in obtaining and processing complaints need reform.

Consistent with an issue discussed earlier in this report, SMPD does not maintain a tracking system for those complaints a supervisor determines not to contain an alleged policy violation. Such complaints may be common, but tracking and proper record keeping is the only way to determine whether such authority is exercised appropriately. If a supervisor is the only person who hears a complaint without a record of who brought the complaint, what the complaint was, and its resolution, there is no method for audit. Each complaint should be assigned a tracking number. The officer receiving the complaint should give the complainant a copy of the complaint. If the complaint is obtained through telephone or email, a summary should be mailed or emailed back to the complainant (assuming the complaint was not made anonymously) with a request to verify that the complaint summary is accurate. A tracking number should also be contained in the response. Also, the complainant should have a limited time to add or detract from the issued complaint.

Furthermore, complainants cannot currently track their complaints. The commission recommends that SMPD set up an online portal where complainants can check the status of their complaints. Categories, at a minimum, should be “received,” “processing,” and “adjudicated,” with the most information the law allows disclosed.

SMPD did inform the commission that sustained complaint findings and discipline are publicly available on the website. PSROC commends SMPD for such transparency. Guests told the commission that all discipline and sustained findings (from internally and externally initiated investigations) resulting from conduct in 2020 were published on the website. Unfortunately, this led to an unsettling discovery. At a prior commission meeting, former SMPD Chief Jacqueline Seabrooks told the commission she estimated 15 officers were disciplined for body camera violations that occurred on May 31, 2020.

SMPD’s website appears not to list a single officer disciplined for body camera violations since May 31, 2020. PSROC believes this to be, at best, inaccurate. At worst, it was a deliberate attempt to mislead the commission.

SMPD currently has a form for filing complaints in person despite citizens being told such a document does not exist. The form is a near-empty document that allows for a narrative. Guests informed PSROC SMPD had used a more detailed form in the past but felt the personal interview allowed for a more detailed and thorough investigation.

PSROC believes the public is best served by a combination of both methods of receiving complaints. A form is valuable alongside the personnel interview. The form can provide a record (a copy handed to the complainant) of the complaint and a tracking number. If one cannot fill out a form, the person who would then conduct the investigatory interview should assist. If a complainant wishes to only fill out the form without talking to an officer, that should be an option. At no point should a complainant be given a paper with directions on how to file a complaint and subsequently dismissed. To allow for further streamlining, the form should contain the following questions:

1. Is your complaint about a specific SMPD officer?
2. Is your complaint about SMPD as a police force?
3. Do you feel your complaint concerns a violation of SMPD policy?
4. Do you think your complaint concerns a violation of the law?
5. Does your complaint involve an officer's use of excessive force?
6. Does your complaint involve an officer being dishonest?
7. Does your complaint involve a violation based on race or gender?
8. Does your complaint involve an officer's interaction with a member of the public?
9. Does your complaint involve an officer's interaction with another officer?

This is not an exhaustive list, and obviously, other questions would be required. After the initial questions, an additional page for a narrative should be provided to ensure no information was missed. The officer taking the complaint should review the information with the complainant to check for accuracy, ask additional questions to see if any information should be supplemented, and provide the complainant a copy containing the tracking number. The officer receiving the complaint should inform each complainant on how to check the status of each complaint.

COMPLAINTS SHOULD NOT BE LIMITED TO THE CONDUCT OF INDIVIDUAL OFFICERS

PSROC was told that only complaints about specific officers' conduct will be evaluated and adjudicated for merit. Such a policy disallows SMPD an avenue by which to receive input from its public as to unwise policies or wise amendments of those policies. Allowing for such complaints regarding the entire department or its policies would be another tool by which SMPD

could keep in closer contact with the impressions of the Santa Monica populace. At a minimum, this is a lost opportunity.

IN CERTAIN AREAS OF THE COMPLAINT PROCESS, SMPD IS SUCCEEDING

PSROC commends SMPD for implementing certain practices in the complaint process. Mr. Haney is a civilian; not a sworn California peace officer. This allows for a process that includes the perspective of a civilian, not just a police officer. As stated above, SMPD publishes the results of their complaint investigation online for the public. This is a level of transparency not found in most police departments.

Also, for the most part, SMPD has been cooperative and forthcoming with guests and materials requested of the commission, allowing PSROC to properly investigate and recommend reforms to the complaint process.

SMPD ACKNOWLEDGES THE NEED FOR IMPROVEMENT IN THEIR PROCESSING AND TRACKING OF COMPLAINTS, AND HAS BEGUN REFORMS

As of this writing, the commission has been informed of SMPD's intent and efforts to address concerns highlighted in this report. First and foremost, SMPD is developing a tracking system for all complaints, not just those sent to IAD. Although not completed, one concept would have IAD notified of all complaints filed through the tracking system, even if they are not referred directly to their department. They would have the ability to take action on any complaint they see fit. The new system will allow an audit of the proper handling of all SMPD complaints regardless of resolution. SMPD has expressed

Second, SMPD now has a form available for complaints. It is not a permanent form as it is still being composed and hopefully will have all the content recommended in this report.

CONCLUSION

PSROC makes the following recommendations for reforms to SMPD's complaints process:

1. Disallow immediate supervisor adjudication.
2. All complaints should be submitted to IAD.
3. Disallow a supervisor from using counseling in place of referring a complaint to IAD.
4. Require all deviations from policy and misconduct be submitted to IAD for investigation.
5. SMPD should track all complaints irrespective of an allegation as to an alleged policy violation.
6. Require all officer's to be trained and informed about the proper complaint process.
7. SMPD should create a form allowing for the effortless submission of in person complaints.
8. SMPD should train officers on how to receive a complaint in conjunction with the newly created form.
9. SMPD should provide all complainants with a copy of the complaint and a tracking number whereby complainants can check the complaint status online.

PSROC thanks SMPD for their cooperation with the commission.