



Police Accountability Board Complaint Procedures

Responsible Official:	Associate Chancellor and Chief of Staff to the Chancellor
Responsible Office:	Ethics and Compliance Office
Issuance Date:	7/1/2023
Effective Date:	7/1/2023
Last Revision Date:	11/27/2023
Summary:	Police Accountability Board Complaint Procedures for reviews and recommendations related to complaints of UC Merced Police Department misconduct.
Scope:	Police Accountability Board Complaint Procedures apply to UC Merced students, faculty, staff, and members of the general public if they believe misconduct on the part of the UC Merced Police Department or its peace officers has occurred. Misconduct may include violation of rules, policy, or law (e.g., excessive force, false arrest, false imprisonment, abusive language, harassment/discrimination).

Contact:	Viola Kinsman, Chief Ethics and Compliance Officer
Email:	vkinsman@ucmerced.edu
Phone:	(209) 291-5150

I. REFERENCES AND RESOURCES

State Laws and Regulations

- [Public Safety Officers Procedural Bill of Rights Act \(POBR\) Government Code §§ 3300-3313](#)
- [Peace Officers Civilian Complaints, Assembly Bill No. 1953](#)
- [Peace Officers, California Penal Code §§ 832.5, 832.7](#)

- [Incidental Powers and Duties of Courts, Code of Civil Procedure § 128.5](#)

UC Merced Policies and Bylaws

- [Police Department Policy Manual § 1019](#)
- [Police Accountability Board Bylaws](#)

UC Merced Resources

- [Police Accountability Board Website](#)

II. INTRODUCTION

The University of California, Merced (UC Merced) intends to develop and promote accountability, trust, and communication between the campus community and the UC Merced Police Department (UCMPD). To that end, UC Merced has established a Police Accountability Board (PAB) to impartially review investigative reports related to allegations of police misconduct and make recommendations in a timely manner regarding complaints filed by the campus community and members of the general public against the UCMPD.

UC Merced encourages its community and the public to bring forward such complaints. The PAB also solicits information and input from the public through various public forums. The PAB may also make policy, procedure, and training recommendations.

Consistent with Penal Code § 832.5 *et seq*, UC Merced has established a procedure to investigate complaints made by the public against the UCMPD and its peace officers. While the complaint process is detailed in [UCMPD's Policy 1019](#), much of that process is also described in the PAB's Procedures to ensure that PAB members and alternates understand the process generally, as well as their specific roles.

The complaint procedure involves:

- the Ethics and Compliance office serves as a liaison to independent third-party investigators,
- the PAB reviews investigatory reports and makes findings and recommendations to the Chief of Police,
- and the Chief of the UCMPD (Chief of Police), who makes the final determination with respect to each complaint and ensures the cooperation of the UCMPD with all investigations.

The PAB will produce an annual report auditing and identifying summary information and statistical data regarding the number and types of complaints received, analysis of trends or patterns, the disposition of those complaints, and the percentage of complaints in which the recommendations of the PAB were either accepted, rejected, or modified by the Chief of Police. In addition, the PAB may report on other matters, such as policy, procedure, or training recommendations.

III. POLICE ACCOUNTABILITY BOARD BYLAWS

The [PAB Bylaws](#) govern the following subjects:

- Purpose of the PAB
- PAB member qualifications
- Composition of the PAB
- Nomination, selection, and alternate process
- Terms
- Officers
- Ethics
- Removal of board members
- Quorum and majority vote
- Recusal
- Training and confidentiality commitments
- Powers and duties
- Reporting
- Bylaw amendment

IV. DEFINITIONS

Civilian Complaints: Complaints filed by the campus community and members of the public against the UCMPD.

Peace Officers: For the purposes of this procedure, peace officer refers to a police officer employed by the UC Merced Police Department.

V. CIVILIAN COMPLAINT INTAKE PROCEDURES

A. NATURE OF COMPLAINT

UC Merced students, faculty, and staff, as well as members of the general public, have the right to lodge complaints against the UCMPD or its peace officers if they believe misconduct, including violation of rules, policy, or law (e.g., excessive force, false arrest, false imprisonment, abusive language, harassment/discrimination, etc.) has occurred. These complaints are referred to as “Personnel Complaints” and are divided into two categories:

1. Member of the Public or Civilian Complaints (Civilian Complaints)
2. Internal Complaints

Ethics and Compliance serves as the liaison to an independent third party that investigates Civilian Complaints. The PAB will review investigation reports and findings and make recommendations to the Chief of Police. If a Civilian Complaint is submitted against the Chief of Police, the PAB will make its recommendations to the immediate supervisor of the Chief of Police.

Internal Complaints filed by UCMPD officers or other UCMPD personnel will be handled internally by the UCMPD. The PAB will not review investigatory reports regarding such Internal Complaints. Complaints received regarding another law enforcement agency (e.g., City of Merced Police Department) will be referred to that agency.

B. FILING OPTIONS

A member of the campus community or public may file a Civilian Complaint:

- Online: Via the [Online Complaint Form](#)
- By Email: Send a description of the incident to pab@ucmerced.edu
- In-Person: Visit the UC Merced Police Department (complaint will be forwarded to Ethics and Compliance)

The Chancellor may also refer complaints to Ethics and Compliance for investigation and other UCMPD matters to the PAB for review and recommendation.

C. FILING DEADLINE

The prompt filing of complaints is strongly encouraged, as it provides the best opportunity for thorough and timely investigation. Complaints must be filed in writing no later than one hundred and eighty (180) calendar days following the date of the alleged misconduct or infraction. The filing period shall be paused when a complainant is incapacitated and unable to file.

D. CIVILIAN COMPLAINT INFORMATION

The complaint form should include:

- Contact information for the complainant (except in cases where an anonymous report is submitted);
- A detailed narrative, including:
 - the nature of the complaint;
 - the timing of the alleged misconduct;
 - the names of the officers involved if known;
 - any injuries resulting from the alleged misconduct;
 - a description of the alleged misconduct; and
 - the signature of the complainant or an electronic certification.

The complainant will be provided with a copy of the complaint and any related statements at the time the complaint is filed.

E. ANONYMOUS CIVILIAN COMPLAINTS

Anonymous complaints made by a member of the public will be accepted and may be investigated depending upon the sufficiency of the information provided. Anonymous complaints should provide as much detail as possible to enable appropriate review and investigation.

F. SHARING OF CIVILIAN COMPLAINTS

Any complaint received by the UMCPD will be shared with Ethics and Compliance for review and processing within two (2) business days. Any complaint received by Ethics and Compliance will be shared with the Chief of Police within two (2) business

days. At least monthly, Ethics and Compliance will report to the PAB on any complaints received since the previous monthly report was forwarded to the PAB.

If, through the intake process (or subsequently during the investigation), additional allegations surface that were not contained in the original complaint but relate to the original complaint, the additional allegations being investigated by the independent investigator will be forwarded to the Chief of Police.

G. EARLY RESOLUTION OF CIVILIAN COMPLAINTS

If a complaint is filed in person at the UCMPD and an uninvolved supervisor or the Watch Commander determines that the complainant is satisfied that the complaint required nothing more than an explanation regarding the proper implementation of department policy, procedure, or law, the complaint shall be labeled "Resolved" and forwarded to Ethics and Compliance within two (2) business days. Ethics and Compliance will follow up with the complainant to confirm their satisfaction with the early resolution.

H. INITIAL DETERMINATION AND INFORMATION GATHERING BY ETHICS AND COMPLIANCE

A confidential file will be established for each complaint received and access will be restricted to Ethics and Compliance. These files will be stored securely and maintained for at least five (5) years. The Chief Ethics and Compliance Officer/designee will evaluate each complaint for information necessary to conduct an investigation and proceed as follows:

1. If additional information is needed and where the complainant's identity is known, Ethics and Compliance will request additional information from the complainant. If the complainant is anonymous and there is insufficient information to warrant an investigation, Ethics and Compliance will close the file, and no investigation shall be conducted.
2. If the Chief Ethics and Compliance Officer/designee determines that the complaint is untimely, there is insufficient information to conduct an investigation, the allegations themselves demonstrate on their face that the acts complained of were proper, or the nature of the complaint is not suitable for investigation and review by the PAB, Ethics and Compliance will notify the complainant, the Chief of Police, and the PAB of the disposition in writing citing the specific reasons for the determining that the complaint will not be investigated.

3. If the Chief Ethics and Compliance Officer/designee determines there is sufficient information and cause to investigate, they will refer the complaint to an independent third-party investigator for investigation and notify the complainant, the Chief of Police, and the PAB in writing.

VI. CIVILIAN COMPLAINT INVESTIGATION PROCEDURES

A. GENERAL

Whether conducted by personnel in Ethics and Compliance or an outside investigator jointly selected by the Chief Ethics and Compliance Officer and the Chief of Police, the following procedures shall govern the investigation process, which include complying with the Public Safety Officers Procedural Bill of Rights (POBR) at Government Code §3300 et seq. To the extent that there is any inconsistency between these Procedures and POBR, POBR controls. A current copy of the POBR can be found [here](#).

1. The Chief of Police will be the investigator's point of contact to gain access to the UCMPD information, documentation, and personnel. In this role, the Chief of Police will ensure necessary access to officers, information, and documentation needed to conduct a thorough and timely investigation. If the Chief of Police has a conflict related to the complaint, a designee will be appointed by the Chief. The investigator will have access to any UCMCPD information the investigator or the PAB deems relevant to the complaint, complainant, the accused officer(s), and any witnesses, collecting relevant evidence, including but not limited to UCMPD reports and records, photographs, video, and audio records.
2. Interviews with accused officer(s) will be recorded, as will other interviews to the extent that the complainant and witnesses agree. Accused officers may also record the interview, and if they have been previously interviewed, a copy of that recorded interview shall be provided to them prior to any subsequent interview. (Government Code § 3303(g)).
3. Peace officers shall be provided with reasonable notice prior to being interviewed and interviews of accused peace officers shall be conducted during reasonable hours. (Government Code § 3303(a)).
4. If the accused peace officer is off duty, they will be compensated for the interview time. (Government Code § 3303(a)).

5. No more than two (2) interviewers may ask questions of an accused peace officer. (Government Code § 3303(b)).
6. Prior to any interview, the peace officer will be informed of the nature of the investigation. (Government Code § 3303(c)).
7. All interviews will be for a reasonable period and the peace officer's personal needs will be accommodated during the interview. (Government Code § 3303(d)).
8. No peace officer shall be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. (Government Code § 3303(e)).
9. Peace officers shall be informed of their constitutional rights irrespective of whether the accused peace officer may be charged with a criminal offense. (Government Code § 3303(h)).
10. Peace officers subjected to interviews that could result in punitive action shall have the right to have an uninvolved representative present during the interview. (Government Code § 3303(i)).
11. All peace officers shall provide complete and truthful responses to questions posed during interviews. Failure to do so will result in discipline, up to and including termination of employment.
12. No peace officer shall be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation. (Government Code § 3307).
13. Interviews should be conducted with minimal interference to police operations and in conformity with the POBR. Any documentary evidence received during the investigation by the investigator will be included in the investigative file even if the investigator determines the document later to be irrelevant to the investigation.
14. If there is pending criminal prosecution regarding the same operative facts and circumstances surrounding the complaint, the investigation will be stayed until criminal proceedings are concluded.
15. If an investigation is stayed, all documents and information under UCMPD's control related to the incident in question will be preserved and maintained by

the Chief of Police during the pendency of the stay to ensure no evidence is destroyed.

16. Barring mitigating factors, the investigation should be completed and an investigation report submitted to the PAB within ninety (90) calendar days of it being assigned to an investigator unless the Chief Ethics and Compliance Officer authorizes an extension upon a showing of good cause for the delay, or legitimate need for additional time to complete the investigation. Ethics and Compliance will provide notification of the extension of time to the Chief of Police, the complainant, and the respondent.
17. All investigation reports of complaints made by members of the public shall be considered confidential peace officer personnel files. The contents of such files shall not be revealed except to authorized personnel pursuant to lawful process.
18. If the accused peace officer or representative knowingly makes a false representation regarding any investigation or discipline publicly, the UCMPD may release factual information concerning the disciplinary investigation. (Penal Code § 832.7(d)).
19. Complaints and any report or finding relating to the complaint shall be retained for a period of at least five (5) years. (Penal Code § 832.5(b)).

B. INVESTIGATION REPORTS AND PAB REVIEW PROCEDURES

1. Report Format

The investigator shall provide a confidential report to the PAB that is redacted and does not identify the individuals involved. The Chief of Police will receive an unredacted version of the investigation report. Both reports will include:

- An Introduction;
- A Summary of Allegations (including applicable policies);
- Evidence Regarding Each Allegation (including comprehensive summaries of interviews or statements and identification of relevant documentary and electronic evidence and other evidence);
- Conclusions and Findings; and
- Exhibit Listing

2. Findings

Based on a preponderance of the evidence, the investigator's report should include one or more of the following findings in response to each of the allegations made by the complainant. The "preponderance of the evidence" standard is met when it appears more likely than not the allegations of misconduct occurred as described.

- **Unfounded:** When the investigation discloses that the alleged act(s) did not occur or did not involve department personnel. Complaints determined to be frivolous will be treated as unfounded (Code of Civil Procedure § 128.5 and Penal Code § 832.5(c)).
- **Exonerated:** The evidence supports a finding that the alleged acts occurred; however, the conduct was justified, lawful, or proper.
- **Not Sustained:** The evidence is insufficient to support a finding that the alleged conduct occurred or violated department policy or procedure.
- **Sustained:** The evidence supports a finding that the alleged conduct occurred and was improper (e.g., violated department policy or procedure).

3. PAB Review and Recommendation(s)

In closed session, the PAB (both members and alternates in attendance) will collectively review the redacted investigative report(s). PAB members will vote on its recommendations to adopt, amend, or reject the investigator's findings. If an entity's PAB member is absent, the alternate may vote on behalf of the entity. Hard copies of reports or online access via a secure, password-protected website to the reports will be made available prior to the closed session.

The PAB has the authority to direct the investigator to re-open the investigation to pursue additional information requested by the PAB.

In addition to its recommendations concerning whether the investigator's findings are sustained, the PAB may also recommend a broad spectrum of actions to the Chief of Police, including, for example, modifying policies or training. The PAB, however, will not recommend a particular level of discipline or a specific corrective action, as the Chief of Police retains the responsibility of and discretion to impose discipline. The PAB's policy recommendations may result from issues related to a specific complaint investigation or a general policy review and analysis.

The PAB's recommendations regarding the investigative findings shall be in writing and, through Ethics and Compliance, forwarded to the Chief of Police within one (1) week after the PAB has voted in closed session.

The PAB may also solicit progress reports from the Chief of Police regarding policy and training recommendations.

C. ROLE OF CHIEF OF POLICE AND ULTIMATE RECORD KEEPING

During an investigation, and before making a final determination, the Chief of Police may ask for additional investigation. Ultimately, the Chief of Police may adopt all, part, or none of the PAB's recommendations and retains full authority, discretion, and responsibility regarding the final disposition of the matter, including disciplinary determinations. Within thirty (30) calendar days of the final review and determination by the Chief of Police, written notice of the finding will be sent to the complainant and Ethics and Compliance. This notice shall indicate the findings but will not disclose the discipline, if any, that is imposed. The complainant will also be provided with a copy of their original complaint if one has not already been provided. Upon final determination, all information and documents related to the underlying complaint shall be consolidated and maintained by the UCPD.

The disposition and disciplinary determinations made by the Chief of Police are not subject to appeal by the complaining party or the PAB. Anyone dissatisfied with the Chief of Police's ultimate disposition of the complaint may contact the Chief of Police to discuss the matter further.

VII. ANNUAL REPORTING PROCEDURES

The complaint and PAB review processes are subject to annual audit, review, and reporting. The PAB will submit an audit and analysis of complaints directly to the Chief of Police each year. The PAB's annual public report will include the following information:

1. Total number of complaints filed;
2. Types of complaints filed and analysis of trends or patterns;
3. Disposition of complaints (e.g., not investigated, sustained, not sustained, exonerated, or unfounded);
4. Percentage of complaints in which the Chief of Police accepted, rejected, or modified the PAB's findings; and

5. Policy, procedure, and training recommendations.

The PAB’s report shall be made available to members of the public at their request and maintained online at pab.ucmerced.edu.

VIII. RESPONSIBILITIES

The complaint procedure involves the following offices:

Ethics and Compliance: Serves as a liaison to independent investigators.

Police Accountability Board (PAB): Reviews investigatory reports and makes findings and recommendations to the Chief of Police.

Chief of Police: Makes the final determination with respect to each complaint.

Vice Chancellor for Physical Operations, Planning and Development: As supervisor of the Chief of Police, makes the final determination in the event that a civilian complaint is submitted against the Chief of Police.

IX. PROCEDURE REVISION HISTORY

Date	Action/Summary of Changes
7/1/2023	Procedure Issued
11/27/2023	Technical Revision, updated: <ul style="list-style-type: none">• the name for clarity (added "Complaint");• Filing Options section to reflect new internal procedures for submissions of complaints;• Initial Determination and Information Gathering by Ethics and Compliance to reflect local tracking procedures.