



February 21, 2008

SENT VIA FAX AND U.S. MAIL

Chief Jerry Dyer
Fresno Police Department
2323 Mariposa Mall
Fresno, CA 93721
FAX: 559-621-2000

Re: Fresno Police Department's Response to Citizens' Complaints

Dear Chief Dyer,

It has come to our attention that your department has a practice of not telling members of the public who file complaints with your department about the disposition of their complaints. Penal Code section 832.7 requires a police department to notify complainants as to the disposition of complaints and we ask that you change your practice.

We were contacted about this issue by Ellie Bluestein of Central California Criminal Justice Committee ("CCCJC") who provided us with a sample response letter received from Lieutenant Galvan of Police Internal Affairs in response to a request by Rebeca Rangel of the CCCJC. The relevant part of the letter reads as follows:

A formal investigation into your complaint concerning the conduct of employee(s) of this Department has been completed. The findings of the investigation have been reviewed and you can be assured that the matter has been thoroughly investigated.

Appropriate corrective action is taken when necessary, for violations of Department rules and regulations. Pursuant to California Penal Code § 832.7, I am unable to provide you with the specific details of this personnel investigation.

We have subsequently obtained two additional response letters that contain nearly identical language.

The response letter indicates that the Department cannot inform complainants about the result of the complaint. In fact, Penal Code § 832.7 *requires* the Department to inform complainants as to findings made upon completion of the investigation. Section (e)(1) provides that "the department or agency shall provide written notification to the

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STEPHEN V. BOMSE, GENERAL COUNSEL

complaining party of the disposition of the complaint within 30 days of the disposition.” A plain reading of this language requires that your department – at the very least – inform complainants as to whether the complaint is sustained, not-sustained, found to be proper conduct, or unfounded.

The legislative history fully supports this requirement. The impetus for the amendments to 832.7 that created this requirement was concerns raised by the State Bar of California. The Bar passed a resolution 4-2-93, which proposed complainants be notified of the outcome of their complaints. This resolution, cited by both the Assembly Public Safety Committee and Senate Rules Committee in their bill analysis, discussed the public distrust that flows from secrecy around police complaints.

Current law permits law enforcement agencies to receive citizen complaints of peace officer misconduct and withhold the results of any investigation of the complaint. Law enforcement may refuse to inform the complainant whether a complaint was investigated *or whether any disposition* occurred as a result of the complaint...Citizens who feel strongly enough to report police misconduct have a right to know what disposition occurred as a result of their complaints...Allowing public agencies to receive complaints and to refuse notification of the results of their investigation discourages others from reporting misconduct...This secrecy causes public suspicion these complaints are not meaningfully investigated or even investigated at all.

During the legislative debate around the bill, there was some disagreement over what disposition should include. The ACLU, for example, argued that the statute should explicitly require the release of additional summary information including a summary of witness statements and evidence, summary of conclusions, and specific discipline taken. There was never any dispute, however, over whether the language would require that the complainant be informed of the outcome of the investigation.

It is critical that individuals who have taken the time and effort to inform the police department about their complaints learn whether or not their complaint has been sustained and how their complaint has been handled. I hope that you will act to rectify this situation within three weeks from your receipt of this letter. I am available to discuss with you language that would fulfill the requirements of 832.7. I can be reached at 415-621-2493 ext. 316.

Sincerely,



Mark Schlosberg
Police Practices Policy Director
ACLU of Northern California

City of



Mariposa Mall
P.O. Box 1271
Fresno, California 93715-1271

SAMPLE

Police Department

Jerry P. Dyer
Chief of Police

October 12, 2007

Mr. John Smith
123 W. First Street
Fresno, CA 93700

Dear Mr. Smith:

A formal investigation into your complaint concerning the conduct of employee(s) of this Department has been completed. The findings of the investigation have been reviewed and you can be assured that the matter has been thoroughly investigated.

Appropriate corrective action is taken when necessary, for violations of Department rules and regulations. Pursuant to California Penal Code § 832.7, I am unable to provide you with the specific details of this personnel investigation.

Thank you for bringing this incident to our attention as we constantly endeavor to improve the performance of our employees. I apologize for any inconvenience this may have caused you. If you have any questions or wish to discuss the matter further, you may contact Lt. Shannon Galvan, the commander of the Internal Affairs Bureau at (559) 621-2730.

Sincerely,

Roger Enmark
Deputy Chief of Police
Administrative Services Division