

COMPLAINTS AGAINST PERSONNEL

AUTHORITY:	Section 832.5 of the California Penal Code California Government Code Section 3300-3312 Title 28 of the Code of Federal Regulations (CFR) Standards, Part 115- Prison Rape Elimination Act (PREA)	
RESCINDS:	Procedure Manual Item 1-3-404, dated 3/25/21	
FORMS:	Complaints Against Personnel Log	(PSD Log)
	Complaint Acknowledgement Letter	(PSD Document)
	Complaint Response Letter	(PSD Document)
	Verbal Advisement of Administrative Investigative Interview	(PSD Document)
	Complaints Against Personnel Form (English)	(ProbNet)
	Complaints Against Personnel Form (Spanish)	(ProbNet)
	Complaints Against Personnel Form (Vietnamese)	(ProbNet)
	Complaints Against Personnel Form (Korean)	(ProbNet)
PURPOSE:	To outline a uniform method of processing formal complaints against personnel, all of which are tracked by the Professional Standards Division-Internal Affairs (PSD-IA) Unit.	

I. GENERAL INFORMATION

- A. Complaint Defined: Personnel complaints consist of any allegation of dissatisfaction with Department service, procedure or practice and any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state, or local law.
- B. This item covers only the processing of citizen complaints. Specific instructions and guidelines for investigating allegations and initiating formal or informal disciplinary action are contained elsewhere in the Policy Manual and the Human Resources Guidelines for Supervisors Manual.
- C. Employee "misconduct" is specifically defined as an act or action by an employee that constitutes a violation of law or a violation of written policies and procedures of the Probation Department or the County of Orange; or allegations of sexual assault, sexual abuse, and/or sexual harassment as outlined in Title 28 of the CFR Standards, Part 115-PREA.
- D. All complaints of employee misconduct are promptly brought to the attention of the Chief Probation Officer (CPO) via the chain of command, acknowledged in writing, and forwarded to PSD-**IA** for investigation.
- E. Citizens, including youth or those acting on behalf of the youth, may make a complaint in person, by telephone, via e-mail or in written form. To facilitate the investigation, citizens making a complaint by phone or in person may be asked to submit a Complaints Against Personnel (CAP) Form. CAP Forms are available in

all reception areas, on Probnet, and available to the public via the Orange County Probation Department's public facing website, www.ocgov.com/gov/probation, under the "Contact Us" tab. The employee receiving the complaint must take the complaint regardless of whether or not the complaining party completes the CAP Form.

The employee must notify the PSD-**IA** Assistant Division Director (ADD) (or designee) and provide a brief summary of the complaint, the date, time, and method in which they received the complaint, and the name, address, and phone number of the complainant.

- F. Complaints received regarding a possible lawsuit, threats against staff, or other complaints requiring an urgent response are to be forwarded immediately to the CPO via the chain of command.

II. PROCEDURE

A. Receipt of a Written Complaint

A written complaint may arrive as a letter, an e-mail, or a CAP Form. The recipient will forward the complaint to the PSD-**IA** ADD, who will assign the matter for review. The PSD-**IA** ADD (or designee) will then prepare a Complaint Acknowledgement Letter and forward it, along with a copy of the complaint, to the CPO (or designee) for review and signature. The CPO will send the signed letter to the complainant acknowledging receipt of the complaint. A copy of the signed letter is also provided to PSD-**IA** to log in the CAP Log.

B. Complaints Made in Person

1. A CAP Form should be made available to any citizen who requests one, as listed above in Section I, D.
2. If a citizen wishes to make a verbal complaint about an employee, refer them to the employee's immediate supervisor. The supervisor of the staff who is the focus of the complaining party should attempt to resolve the issue. If the complainant requests a CAP Form, one shall be provided to them.
3. If the complainant does not desire to submit the form, the supervisor should complete it for the complainant if employee misconduct is alleged. Request the complainant sign the form. If the complainant refuses to sign, write "refused" on the signature line, initial it, and date the document.
4. The CAP Form is then processed the same as a written complaint, as listed above in Section II, A.

C. Complaints Received by Phone

1. If a citizen makes a complaint by telephone, refer the caller to the immediate supervisor of the employee the complaint is in reference to. The supervisor first determines whether or not the complainant is alleging specific employee misconduct (as defined above) or some lesser behavior.

2. If the complaint is regarding informal issues, the supervisor will attempt to resolve the issue professionally and to the reasonable satisfaction of the complainant. The conversation with the complainant should be documented and the chain of command advised. Following approval from the chain of command, ensuring the allegations will not be further investigated, the employee will be notified of the complaint. At no time will the involved employee be subject to an interrogation without being given the option to consult with and have representation present.
3. If employee misconduct is alleged, a CAP Form should be offered to the complainant (See Section I, D for CAP Form availability). If the complainant declines the form, the supervisor should complete it on their behalf and process it the same as a written complaint as listed above in Section II, A.

D. Process

All other complaints are handled as follows:

1. The PSD-**IA** ADD (or designee) enters the complaint information in the CAP Log, assigns a complaint number, and maintains a copy of the complaint in order to **ensure** the investigation proceeds and findings are made in a timely manner.
2. The PSD-**IA** ADD (or designee) will evaluate the CAP for possible threats to officer safety or significant liability concerns. Should these be a concern, the PSD-**IA** ADD (or designee) will alert the employee's chain of command.
3. The CPO (or designee) sends a Complaint Acknowledgement Letter as indicated in Section II, A.
4. The PSD-**IA** investigator assigned to investigate the complaint proceeds with an objective investigation. Upon completion of the investigation, the PSD-**IA** investigator will prepare a report, which will be forwarded to the appropriate Chief Deputy Probation Officer (CDPO) (or designee) for review and findings.
5. At the conclusion of the investigation, the CDPO (or designee) will assign one of the following outcomes:
 - a. **SUSTAINED**: The investigation **disclosed sufficient evidence to prove the truth of allegation in the complaint by the preponderance of evidence.**
 - b. **EXONERATED**: The investigation clearly established that the actions of the officer that formed the basis for the complaint are not violations of law or department policy.
 - c. **NOT SUSTAINED**: The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation in the complaint.
 - d. **UNFOUNDED**: The investigation clearly established that the allegation is not true.
 - e. **FRIVOLOUS**: Totally and completely without merit or for the sole purpose of harassing an opposing party.

- f. In addition to determining an outcome as noted above, the CDPO (or designee) may require additional action. These actions could include, but are not limited to: No Further Action; Additional Training; Verbal Counseling; Administrative Investigative Interview.
6. If the CDPO (or designee) requires a formal investigation (Administrative Investigative Interview), PSD-**IA** will proceed in accordance with the Public Safety Officers Procedural Bill of Rights (Government Code 3300-3312). The subject employee(s) will be notified of the complaint by PSD-**IA** via a Verbal Advisement of Administrative Investigative Interview prior to any interrogation/interview. Following the Administrative Investigative Interview, the CDPO (or designee) will review the CAP and all relevant material. The CDPO (or designee) will determine the outcome of the CAP as indicated in Section II, D, 5, **f** and may order discipline. In all cases, the employee will be notified of the outcome of the complaint and any findings through the chain of command and/or PSD-**IA**.
7. If the CDPO (or designee) finds the complaint does not require a formal investigation, regardless of the outcome determination, the CDPO (or designee) will advise their Division Director (DD), who will notify the subject employee of the complaint and findings of the investigation through the chain of command. The chain of command will also be obligated to follow any recommendations made by the CDPO (or designee) as indicated in Section II, D, 5, **f**.
8. In all cases of formal complaints, and in accordance with the Public Safety Officers Procedural Bill of Rights, the subject employee(s) will be notified of a formal complaint made against them by either of the two scenarios previously described in Section II, D, 6 or Section II, D, 7.
9. When the investigation is complete and findings have been made by the CDPO, the PSD-**IA** ADD (or designee) will prepare a response letter notifying the complainant of the outcome of the investigation, as referenced above. The letter and investigative materials will be sent to the CPO (or designee) for review. The CPO will sign and send the letter to the complainant, and a signed copy will be provided to PSD-**IA** for tracking purposes.
10. Contents of an employee's personnel file shall be retained in accordance to the employee's respective Memorandum of Understanding (MOU) or applicable laws.
11. **Anonymous complaints are accepted and fully investigated in accordance with the same procedures applied to complaints against personnel. Accordingly, the identity of a complainant is kept confidential to the extent possible. Peace officer personnel investigations are an example of a situation where anonymity may not be guaranteed. Government Code §3303(g) entitles a peace officer to copies of reports made by investigators or other persons. Additionally, complaints can be submitted via the County U-Tip/OC Fraud Hotline@ www.gov.com or www.ocgov.com/services/fraud or by calling (714) 834-3608.**

REFERENCES:

Procedures:	1-3-105	Maintenance and Release of Employee Discipline Records
Policy:	A-8	Telephone Calls, Voice/Electronic Mail and Correspondence
	A-21	Liability
	C-11	Employee Personnel File
	C-14	Citizen Complaints, Compliments and Complaints against Peace Officers
	C-16	Employee Conduct - On Duty
	C-17	Employee Conduct - Off Duty - Law Violations
	C-18	Investigations: Departmental Response to Allegations of Employee Misconduct

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APPROVED BY: