

## COMPLAINTS AGAINST PERSONNEL

- AUTHORITY:** Section 832.5 of the California Penal Code  
California Government Code Section 3300  
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 01/20/12 (Major Revision)
- FORMS:** Complaints Against Personnel Log (PSD Log)  
Complaint Acknowledgement Letter (PSD Document)  
Complaint Response Letter (PSD Document)  
Complaints Against Personnel Form (English) (Probnet)  
Complaints Against Personnel Form (Spanish) (Probnet)  
Complaints Against Personnel Form (Vietnamese) (Probnet)
- PURPOSE:** To outline a uniform method of processing formal complaints against personnel, all of which are tracked by the Professional Standards Division (PSD).

### I. GENERAL INFORMATION

- A. 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.
- B. 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.
- C. 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 for investigation.
- D. Citizens, including wards or those acting on behalf of the ward, 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. However, the employee receiving the complaint must take the complaint regardless of whether or not the complaining party completes the CAP Form.

The employee must document the complaint and notify the PSD Assistant Division Director (ADD). The documentation should include 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.

- E. Complaints received regarding a possible lawsuit, threats against staff, or from a high profile person (i.e. a judge, court administrator or member of the Board of Supervisors) are to be forwarded immediately to the CPO via the chain of command.
- F. Should the general public (including the media) inquire about citizen complaint procedures, refer them to the PSD ADD (or designee). State law may allow them to review the Department's policies and procedures, but other laws (Government Code Section 3300) may limit their access to specific complaint investigation documentation and outcomes.

## 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 ADD, who will assign the matter for review. The PSD ADD 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 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. They are available in all reception areas, from supervisors/management, and on ProbNet.
2. If a citizen wishes to make a verbal complaint about an employee, refer him/her 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 may 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 employee misconduct is alleged, a CAP Form should be offered to the complainant. If the complainant declines the form, the supervisor may complete it on their behalf and process it the same as a written complaint as listed above in Section II. A.
3. 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 should be documented and the chain of command advised.

D. Process

All other complaints are handled as follows:

1. The PSD 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 assure the investigation proceeds and findings are made in a timely manner.
2. The CPO (or designee) sends a Complaint Acknowledgement Letter as indicated in Section II. A.
3. The PSD investigator assigned to investigate the complaint proceeds with an objective investigation. Upon completion of the investigation, the PSD investigator will prepare a report, which will be forwarded to the appropriate Chief Deputy Probation Officer (CDPO) (or designee) for review and findings.
4. At the conclusion of the investigation, the CDPO (or designee) will assign one of the following outcomes:
  - a. NO FURTHER ACTION: The investigation did not establish facts sufficient to prove the allegations. It might also mean the allegations, even if true and proven by the evidence, did not constitute misconduct for which the Department can or would discipline its employees.
  - b. UNFOUNDED: The alleged act or omission either did not occur or did not involve a Department employee.
  - c. ACTIONS JUSTIFIED: The incident occurred but was lawful, proper and within Department policy and procedure. ("Justified" does not necessarily mean "desirable" and some changes in policy and procedure, as well as personnel action, may result).
  - d. UNSUBSTANTIATED: The evidence was insufficient to establish either that misconduct occurred or that the employee's actions were reasonable and proper.
  - e. SUBSTANTIATED: The investigation substantiated the alleged misconduct and a violation was sustained.

5. When the investigation is complete and findings have been made by the CDPO, the PSD ADD will prepare a close-out 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 for tracking purposes.
6. If formal discipline is recommended by Executive Management (EM), PSD will proceed in accordance with the Public Safety Officer's Procedural Bill of Rights (Government Code 3300-3312).
7. At the conclusion of the investigation, the PSD ADD will advise the employee and his/her supervisor of the findings of the investigation.

**REFERENCES:**

Procedures: None

Policies: A-8 Telephone Calls, Voice/Electronic Mail and Correspondence  
A-21 Liability  
C-11 Employee Personnel File  
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:**