



San Diego Community College District Police Department Policy and Procedures

1.10 CITIZEN COMPLAINT PROCEDURES & INVESTIGATIONS

EFF. 10/01/19

I. PURPOSE

This Department procedure establishes guidelines for receiving citizen complaints and identifies the assigned responsibilities in investigating citizen complaints

II. SCOPE

This procedure applies to all members of the Department.

III. BACKGROUND

It is very important for the college community and the general public to have confidence in the College Police Department and the services we render. In order to maintain that confidence and integrity, allegations of misconduct must be thoroughly and fairly and expeditiously investigated.

Every person has an absolute right to file a complaint against the Department and its members. This procedure is established to expedite the reception and investigation of citizen's complaints.

IV. DEFINITIONS

A. Category I complaints – all citizen complaints or allegations lodged against Department members, including volunteers, which involve one or more of the following:

1. Arrest – an allegation that a member knew, or should have known, that there was insufficient probable cause for an arrest. Included are bad faith Fourth Amendment searches.
 2. Criminal conduct – an allegation of Federal, State, County, or Municipal law violation(s).
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3. Discrimination – an allegation of unequal treatment due to a subject’s gender (including gender identity and gender expression), race, color, national origin, ancestry, religion, physical or mental disability, medical condition (including cancer, HIV, and AIDS), age, political beliefs or affiliation, marital status, sexual orientation, lifestyle, or similar personal characteristics.
 4. Force – an allegation that more force was used than reasonably necessary. Threats of force are not included.
 5. Slur – an allegation of a derogatory term that a reasonable person would recognize as an inherent insult or degradation of another, based upon the subject’s gender (including gender identity and gender expression), race, color, national origin, ancestry, religion, physical or mental disability, medical condition (including cancer, HIV, and AIDS), age, political beliefs or affiliation, marital status, sexual orientation, lifestyle, or similar personal characteristics.
- B. Category II complaints – allegations limited to one or more of the following:
1. Service;
 2. Courtesy;
 3. Procedure;
 4. Conduct; or,
 5. Other (specify).
- C. Complaint Control Form - used to record citizen complaints regarding personnel, police services, or Department policies and procedures.
- D. Inquiry - the documentation of a citizen’s concern regarding a Department policy(s) and/or procedure(s), which is recorded on a Complaint Control Form.
- E. Subject officers/members - personnel against whom a complaint is made, who is the subject of an investigation.

V. CITIZEN COMPLAINT PROCEDURES

A. Reception of citizen complaints:

1. Any citizen's complaint may be lodged at any police office or with any member of the Department. Complaints will be accepted in writing, in person, by telephone,

and whether or not the complainant remains anonymous or wishes not to be identified.

- a. If a Department member receives a complaint against any member of the Department in person or by telephone, they shall put the complainant in contact with the appropriate sergeant, acting sergeant, lieutenant, supervisor, or on-call supervisor.
 - b. If a supervisor is unavailable, the Department member receiving a complaint will take the complaint information. In no case will a person be told to come back or call at another time nor will their refusal to write out a complaint or sign a written report preclude anyone from taking the complaint information. The Department member taking the complaint will inform the complainant that they will be contacted later by a supervisor.
2. The San Diego Community College District Police Department's "Complaint Form" is used to record any complaint regarding our Department personnel, services, policies or procedures.
- a. The complaint information will be as complete as possible. If additional space is needed, continue the report on additional sheet(s) of paper and attach them to the form.
 - b. Request the complainant write out their version of the complaint and sign the report. If they desire not to write it or sign it, show them your written report for accuracy. If the complainant refuses to sign the acknowledgment, write "refused to sign" on the complainant signature line.
 - c. Furnish the complainant a copy of the completed report form and note the date, time and to whom it was furnished, on the report.
 - d. The completed complaint forms will be forwarded to the Chief's office.

B. Assignments for investigation of complaints:

1. The Chief or the Chief's designee will assign the complaints for investigation.
 - a. In a situation requiring an immediate response or action, the supervisor on duty will take appropriate action.
 - b. Category I complaints and criminal allegations will generally be assigned to the Internal Affairs Section, but, may be referred to another agency such as the San Diego Police Department, the San Diego District Attorney or the California

Department of Justice.

- c. Category II complaints will generally be assigned to the command involved, but, may be referred to the Internal Affairs Section.
 - d. All investigations will be conducted in a manner consistent with the rules of law, including Government Code Section 3300 et. seq., District Human Resources Manual Filing DI-3100, other District policies, employee's bargaining agreements and the Department's Operations Manual.
 - e. All investigations will be conducted promptly and are to be completed within thirty (30) calendar days of the date the complaint was received by the Department. If it is not possible for the supervisor to complete the investigation within thirty (30) days, the Internal Affairs Section will be notified of the reason for the delay and an extension requested with a new due date assigned.
2. Findings of the investigations of complaints will be classified as follows:
- a. Sustained: The Department member committed all or part of the alleged actions of misconduct.
 - b. Not Sustained: The investigation produced insufficient information to prove clearly or to disprove the allegations.
 - c. Exonerated: The alleged act occurred but was justified, legal and proper.
 - d. Unfounded: The alleged act did not occur.
 - e. False Complaint: The investigation revealed the complainant knowingly made a false allegation(s) against a member of the Department.
 - f. Misconduct Noted: The investigation evidenced Category I violation(s) of Department rules, regulations, policies or procedures not alleged in the complaint.
 - g. Discrepancy Noted: The investigation evidenced Category II violation(s) of Department rules, regulations, policies or procedures not alleged in the complaint.
 - h. Complainant Not Cooperative (CNC): The complainant withdraws the allegation, cannot be located, or declines to be interviewed.
3. The complainant will be notified of the results of the investigation (i.e., the

finding of "sustained," "not sustained," etc.). Any specific disciplinary information will not be released. When disciplinary action is taken, the complainant will be told only the "appropriate" disciplinary action was/will be taken. [Penal Code Section 832.7(e)].

C. Responsibilities of Internal Affairs Section:

1. Internal Affairs will be responsible for:

- a. Recording and tracking all citizen complaints;
- b. Maintaining necessary files;
- c. Generating statistical reports as necessary;
- d. Quality control over completed investigations; and
- e. Conducting investigations assigned by the Chief.

2. Internal Affairs files on citizens' complaints will be retained as provided for in PC 832.5 for a period of five years.

D. Any disciplinary action taken will be in accordance with the procedures and due process as provided for in Government Code Section 3300 et. seq., District Human Resources Manual Filing DI-3110, other District policies, and the Department Policy and Procedures Manual.

VI. INVESTIGATIONS OF CITIZEN COMPLAINTS

A. Category I complaints.

When you are assigned to investigate a Category I citizen's complaint, you will generally follow this procedure:

1. Contact the complainant; notify the complainant that you are the investigator assigned and arrange to interview them.
2. Interview the complainant and witnesses before you contact the officer or person involved. Obtain any physical evidence available, including logs, reports, tapes, etc.
3. Determine if the complaint is factual and translate the complaint into a violation of District Human Resources Manual Filing DI-3110, other District policies,

and/or the Department Policy and Procedures Manual.

4. Anonymous, verbal or unsigned complaints will be taken and investigated. For instance, if you receive a call from someone that wants to remain anonymous, obtain the information needed to verify the facts/credibility of the complaint (i.e., dates, times, witness information, statements) or anything that will enable you to establish that the officer who is the subject of the complaint, did in fact commit or not commit the violation. It is possible to sustain or dismiss a complaint without the complainant, especially if it is a third-party complaint. Do not refuse a complaint because of a perceived procedural defect, or you do not have a signed 148.6 P.C., Information Advisory.
5. If you have the officer submit a written report before you conduct the interview with the officer (which is recommended), make sure that you have already conducted the complainant and witness interviews and have collected any evidence available.
6. Give the officer sufficient time to send you a written report (7-10 days).
7. Format the questions you need answered by the officer ahead of time. The officer is not allowed to see or get a copy of these questions.
8. Notify the officer to report for the interrogation, giving the officer sufficient time to prepare (i.e., obtain a representative, etc. within 7-10 days).
9. Conduct the interrogation in accordance with the Public Safety Officer's Procedural Bill of Rights (Government Code Section 3300 et. seq.).
 - a. This includes the appropriate admonishment.
 - b Record the interrogation and allow the officer to record the interrogation.
10. Conduct any further interviews and prepare your report. In the event you have to re-interview the officer against whom the complaint was made, you must provide the officer with a copy of the tape of the first interrogation at the officer's request. The re-interview will be conducted in the same manner as the first interrogation.
11. Submit your completed report to the Chief of Police or the Chief's designee.

B. Category II complaints.

When you are assigned to investigate a Category II citizen's complaint, you will

generally follow this procedure:

1. Interview the complainant and all witnesses. Interview Department members and obtain written reports when necessary. The preferred method of investigation is to interview officers as opposed to asking for a written report.
2. Prepare an investigative report and submit your completed report and recommended findings to the appropriate Regional Lieutenant for review. Forward approved reports to the Chief of Police.
3. If the subject officer prefers the more formalized procedure for investigation of Category I complaints (use of tape recorded interviews, etc.), use the procedures for investigation of Category I complaints.

C. Review, approval, and discipline procedures.

1. Prior to serving the completed investigation upon a subject member(s), the investigation will be sent to the Chief of Police for a thorough review and approval.
2. The Chief of Police will approve the recommended discipline for those complaint findings that are Sustained, Misconduct Noted or Discrepancy Noted. The Chief of Police will meet with the area lieutenant and/or investigating supervisor before determining the appropriate level of discipline.
3. Any disciplinary action taken will be in accordance with the procedures and due process as provided for in the Government Code Section 3300 et. Seq., District Human Resources Manual Filing DI-3110, other District policies, and the Department Police and Procedures Manual.
4. In all cases, once a complaint investigation has been reviewed and approved by the Chief of Police, the area lieutenant will review the investigation results with the subject member(s). Identifying information of other subject member(s) will be redacted from the reviewed investigation. The area lieutenant will have the member(s) read and sign a copy of the investigation. The area lieutenant will then return the copy with the subject employee's original signature to the Chief of Police.