SUBJECT: CIVILIAN COMPLAINTS

POLICY

The Department will handle civilian complaints in accordance with Penal Code section 148.6. Any law enforcement agency accepting an allegation of misconduct against a peace officer shall require the complainant to read and sign the Civilian’s Complaint Advisory. Law enforcement agencies shall provide the Civilian Complaint Advisory in multiple languages. Language translations are available via the respective Assistant Deputy Chief Probation Officers (ADCPO) of each division.

PROCEDURES

1. In the event a civilian wishes to file a complaint against an employee of the Probation Department, a Civilian’s Complaint Form Attachment A shall be made available to them either by mail or in person. This should be accomplished at the unit supervisor level.

2. The Civilian’s Complaint Form is self-explanatory, but employees are expected to courteously assist the complainant whenever there is an expressed need for clarity.

3. At the level where the completed civilian complaint is submitted, a control and tracking sheet shall be attached (Prob 15). This form will facilitate and expedite the flow of these complaints through disposition. This document is also self-explanatory.

4. The employee receiving the completed Civilian’s Complaint Form shall forward it to the Assistant Deputy Chief Probation Officer having jurisdiction.

5. Upon receipt of a completed Civilian Complaint Form, the Assistant Deputy Chief Probation Officer shall assign and affix a case number to the complaint form and control sheet. The number code will reflect the year the complaint was filed, the sequential number of the complaint in relation to the year and division to which the complaint was directed. For example, case #96-5-JH would signify that it was the fifth civilian’s complaint filed against Juvenile Hall staff in 1996. This coding system will allow for complaints to be processed at the division level prior to review by the Chief Probation Officer. It will also afford the Department an opportunity to gather statistical data by division for reporting to the State. The following codes have been adopted to identify probation divisions on complaint forms:

   A  --  Adult Services Division
   J  --  Juvenile Services Division
   JH --  Juvenile Hall
   ADM -- Administration
6. After the complaint has been reviewed and a case number assigned to it, the Assistant Deputy Chief Probation Officer shall assign the matter to an officer (usually at the Probation Unit Supervisor level and/or Facility supervisor) to investigate.

7. The officer assigned the case shall follow the investigation procedure outlined on the Civilian’s Complaint Form. From information obtained from the investigation, the investigator shall prepare a concise report relative to his or her findings.

8. The entire package, including the Civilian’s Complaint Form, report, supporting data and control document will be submitted to the Assistant Deputy Chief Probation Officer for review. It will then be approved and forwarded to the Deputy Chief Probation Officer for review, who will forward to the Chief Probation Officer for approval or return for further follow-up.

9. Once received by the Chief Probation Officer, a determination of the final disposition must be made:

   a. Sustained: The allegation is found to be true and in violation of the rules, regulations, policies, procedures, or orders of the department.

   b. Exonerated: The alleged act or failure to act is found to be true; however, such act or failure to act is permitted, or at least not prohibited, by the department and/or was appropriate under the circumstances in the instant case.

   c. Not Sustained: The allegation can neither be proved nor disproved and no further action is to be considered.

   d. Unfounded: The allegation has no basis in fact or has been disproved through the investigation.

10. The Chief Probation Officer may close the matter due to exonerated, not sustained, or unfounded findings. If the complaint is sustained, the Chief Probation Officer may order that appropriate sanctions be pursued. At any time, the Chief Probation Officer may return the civilian complaint to lower levels for further investigation.

11. The Assistant Deputy Chief Probation Officer will notify the subject of the complaint of the disposition of the investigation and, if applicable, ensure that appropriate action has been taken.

12. Once the matter has been closed, the Assistant Chief Probation Officer will notify the complainant that the investigation has been completed. However, results of the investigation are confidential.

13. A civilian complaint as described by Penal Code section 148.6 shall not be made part of an employee personnel file. Rather, civilian complaints shall be retained by administration in a “Civilian Complaint File” by year of origin and remain so situated for a period of no more than five years in accordance with the requirement of Penal
Code section 148.6.

14. If the Probation Department determines a civilian complaint is false, the Probation Department shall forward the results of its investigation to the County Office of the District Attorney for prosecution.

15. The Probation Department shall request to be informed by the prosecuting attorney of the final disposition of the case, per Penal Code sections 679.2 and 11116.10.

16. The final disposition of the case shall be retained by the administration of the Probation Department in the “Civilian’s Complaint File” as described above.
PROCEDURE FOR INVESTIGATING CIVILIAN’S COMPLAINT AGAINST PROBATION STAFF

1. Please complete this form and return it to the appropriate probation division listed above either by mail or in person. The responsible Division Director, or his or her designee, will accept the review your complaint.

2. A Probation Officer of appropriate authority will be assigned to investigate the complaint in a fair and objective manner.

3. The investigator will contact and interview the complainant.

4. All available witnesses will be interviewed.

5. After all evidence and interviews are obtained, the investigator shall make his or her findings known to the appropriate probation division director.

6. All findings are subject to final review by the Chief Probation Officer. The Chief Probation Officer has final authority to matters regarding sustained, unsustained, unfounded or exonerated allegations.

7. Penal Code Section 832.7 states a sworn peace officer’s personnel records are confidential and can only be disclosed through a special court order during criminal or civil proceedings. We cannot disclose any information regarding discipline.

8. The complainant’s allegation (s), both verbal and written, shall be made available to the employee who is the subject of the complaint.

Name
Address:
Home Telephone:
Work Telephone:
Date and time incident occurred:
Deputy P.O., Group Counselor, Civilian Employee’s Name(s) (If known):
Witness Name:
Address:
Home Telephone:
Work Telephone:
Witness Name:
Address:
Home Telephone:
Work Telephone:

Does your complaint involve alleged racial or identity profiling? [ ] Yes [ ] No
If yes, check the appropriate boxes: [ ] race or ethnicity (including color) [ ] nationality [ ] age [ ] religion [ ] gender
[ ] gender expression [ ] sexual orientation [ ] mental disability [ ] physical disability

Facts of Your Complaint:

In cases where it has been clearly shown a complaint was false and filed maliciously against an officer, that officer is entitled to file a civil action for defamation of character in accordance with Section 47.5 of the Civil Code.

CIVILIAN’S COMPLAINT ADVISORY (Required by Penal Code Section 148.6(b)
YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE OFFICER CONDUCT. FOR THE PURPOSE OF THIS ADVISORY, POLICE OFFICER INCLUDES PROBATION OFFICER. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CIVILIAN’S COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CIVILIAN COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS. IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

I have read and understood the above statement. Complainant: __________________________ Date: __________________________
Signature of Parent/Guardian, if complainant is under 18 years __________________________ Date: __________________________

DISTRIBUTION: White: Administration Yellow: Division Pink: Complainant
PURPOSE: THIS FORM IS TO ENSURE TIMELY INVESTIGATION OF CIVILIAN COMPLAINTS, PURSUANT TO SECTION 148.6 P.C. IT SHALL BE ATTACHED TO THE CIVILIAN’S COMPLAINT FORM AND forwarded TO THE APPROPRIATE STAFF AND REVIEWED BY THE CHIEF PROBATION OFFICER.

Employee(s) Subject of Complaint: _______________________________ Title: _______________________________
(If known) (If known)

Date and Time Occurred: ________________________________

Complainant’s Name: ________________________________ Date Filed: __________________________

Address: __________________________________________

Home Phone: __________________________ Work Phone: __________________________

Employee Receiving Complaint: _______________________________ Title: _______________________________ Date: __________________________

Type of complaint: ☐ criminal ☐ non-criminal ☐ racial/identity profiling

Date Initial

Complaint forwarded to Division Director

Complaint Number Assigned by Division ADCPO

Investigator Assigned:

Subject (employee) of Complaint notified.

Investigation completed and submitted to Division ADCPO:

Division ADCPO received and reviewed investigation

☐ Approved ☐ Resubmitted for further investigation

DCPO received and reviewed investigation

☐ Approved ☐ Resubmitted for further investigation

Complaint submitted to CPO for review:

☐ Approved ☐ Resubmitted for further investigation

Allegations contained in the complaint were:

☐ SUSTAINED

☐ EXONERATED

☐ NOT SUSTAINED

☐ UNFOUNDED

DISTRIBUTION: White: Administration Yellow: Division (When completed)