

CHAPTER 3
COMPLAINT ACCEPTANCE
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CHAPTER 3

COMPLAINT ACCEPTANCE

1. GENERAL. The Department and individual commands may be notified of a complaint by a citizen through several avenues. In nearly all cases, the Department's response will be uniform in nature. This chapter will provide detailed guidance on proper acceptance and initial processing procedures. In addition, direction is provided for the proper handling of non-complaint issues.

2. FORMS.

a. CHP 240, *Complaint Investigation*. This form is the 'face page' of the complaint investigation package and is the primary method of complaint documentation. The CHP 240 will be completed for all Category I, Category II, and Other complaints. Refer to Chapter 7 for specific instructions for completion of the form. A sample is provided in Annex M.

b. CHP 240A, *Complaint Control Log*. This form is used to initially document receipt of citizens' complaints, and as a management tool to track investigation status. Information required to complete the annual report to BIA is tracked on this form. The CHP 240A shall be maintained in a location that ensures its confidentiality. While the form is largely self-explanatory, refer to Chapter 7 for specific guidelines for completion of the form. A sample is provided in Annex M.

c. CHP 240B, *Citizens' Complaint Information*. This form is intended to be the primary instrument for citizens to file complaints against uniformed (peace officer) employees, while also informing complainants about the complaint process. The form also contains a statement, required by the Penal Code, which advises potential complainants of the criminal penalties for filing a false complaint against a peace officer. Normally this form is provided to complainants at the time of their initial contact with the Department. While the form is largely self-explanatory, refer to Chapter 7 for a more specific description. A sample is provided in Annex M.

d. CHP 240D, *Citizens' Complaint Information (Nonuniformed)*. This form is intended to be the primary instrument for citizens to file complaints against non-uniformed (non-peace officer) employees, while also informing complainants about the complaint process. Normally this form is provided to complainants at the time of their initial contact with the Department. While the form is largely self-explanatory, refer to Chapter 7 for a more specific description. A sample is provided in Annex M.

3. RECEIVING COMPLAINTS.

a. The overall process for the receiving and initial processing of complaints is outlined below. Not all steps provided may be applicable in all circumstances or completed in the order given. Note that some steps would normally be taken by a supervisor or manager and others should be the responsibility of the assigned investigator. Refer to Figure 3A for a simplified representation of this process. Please note that each block of the chart corresponds to a paragraph below which further describes that action.

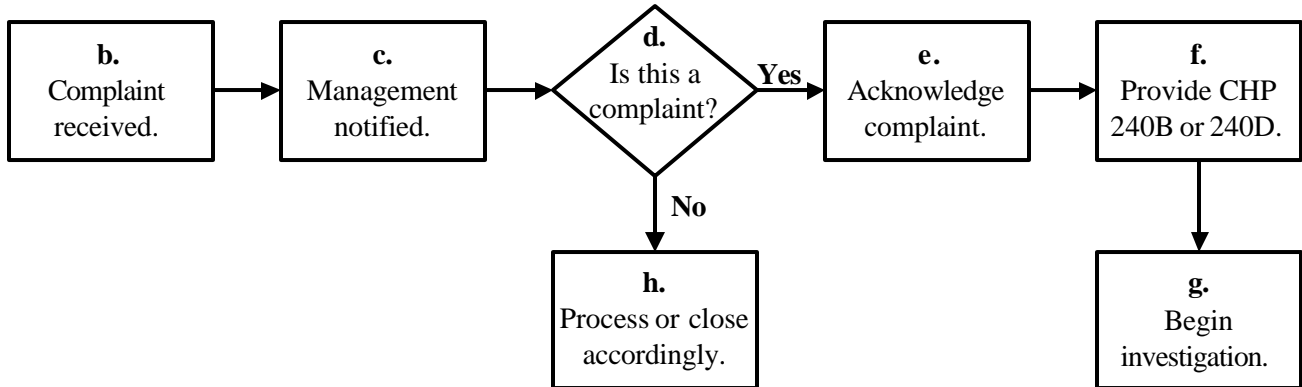


Fig. 3A
Complaint Acceptance Process

b. Commands receive complaints through many sources: telephone, mail, legislative staff, in person, or forwarded by BIA and other commands. Normally a supervisor will accept telephone calls from, or conduct personal interviews with, potential complainants. If a supervisor is not immediately available, enough identifying information shall be obtained from the complainant so that a supervisor will be able to contact them as soon as practical. Complainants who contact the Department by telephone and express a desire to file a complaint against a non-uniformed employee, shall be notified that should they so desire the complaint can be filed via the Internet and that many local libraries offer Internet access. Refer to the Internet Based and Electronic Complaints section of this chapter for additional information.

c. Notify a supervisor or command management. Document the initial contact on the CHP 240, *Complaint Investigation*, completing the appropriate sections pertaining to complainant identification.

d. Determine if the complaint appears to be a valid citizens' complaint (Category I, Category II, or Other as defined in Chapter 2) against an employee of the command. This includes complaints which may initially appear to be frivolous. If so, complete the appropriate sections of the CHP 240A and continue with step 'e'. Otherwise, refer to step 'h' below.

e. All complainants shall be acknowledged by correspondence within five (5) business days of the Department's notification of the complaint. As an exception, interim correspondence is not required if the complainant originally contacted the Department in person and the requisite information normally contained in an interim letter was provided at that time. Interim correspondence should include a brief summary of the allegations, which command will conduct the investigation, notification that an investigator will contact the complainant as a part of the investigation, and that the investigation findings will be provided in writing. Such correspondence is normally prepared for the signature of the Area or Division commander, as appropriate. Sample letters are contained in Annex C. If the complaint is against an employee who was assigned to another command at the time of the alleged event, the following applies:

(1) Provide initial correspondence to the complainant, advising that the complaint has been received and is being forwarded to the appropriate command for action. A sample of such correspondence is contained in Annex C.

(2) The complaint shall then be forwarded via telephone, fax, e-mail, or memorandum to the proper command. If utilizing a memorandum, the forwarding command shall include a CHP 240 with all available information completed, as well as a copy of the interim response sent to the complainant and any correspondence received from the complainant. A copy of the forwarding memorandum shall also be sent to the next higher command level. If the complaint is forwarded by telephone, fax, or e-mail, the name and rank of the person to whom the complaint was sent, as well as the date, shall be annotated on the CHP 240A.

f. The CHP 240B or CHP 240D, as appropriate, must be provided to all potential complainants. The method of providing the CHP 240B or CHP 240D will depend on how the complaint was received and local policy/procedure. For instance, if the complaint was received in person, the CHP 240B or CHP 240D may be provided to the complainant at that time. If the complaint was received by letter or via telephone, the proper form may be mailed with the interim correspondence as described above.

(1) If the complaint involves a departmental peace officer, the complainant shall be requested to sign the advisory statement on the CHP 240B. In either case, the complainant shall be requested to return the CHP 240B or CHP 240D within ten (10) business days. When the CHP 240B or CHP 240D is mailed to the complainant, a return envelope shall be provided to facilitate the return of the form to the command.

(2) The Department is also obligated to provide each complainant with a copy of his/her allegations. This may be accomplished simultaneously with issuance of

the CHP 240B or CHP 240D by summarizing the complainant's statement or allegations on the rear of the form and then providing a photocopy for their records.

g. Assign a complaint control number as outlined in the instructions for completing the CHP 240A in Chapter 7. The commander or his/her designee shall then assign an investigator, as described in Chapter 4.

h. If a complaint does not appear to fit the definition of a citizens' complaint, as it is defined in this manual, then process the matter according to the instructions for each special case as follows:

(1) Other Agency. If the complaint is determined to be against an allied law enforcement agency or its personnel, provide correspondence to the complainant advising that his/her concerns should be directed to the appropriate agency. A sample of such correspondence to the complainant is contained in Annex D. The commander shall also forward all pertinent information received from the complainant or gathered by this Department, to the allied agency for their consideration and/or action.

(2) Third Party. If the complaint is from a third party (see Chapter 2 for the definition), send the inquiring party correspondence acknowledging receipt of their concerns and informing them that the allegedly aggrieved party will be contacted directly. The command shall then contact the complainant directly to ascertain their intentions, normally with a requested turnaround period of 30 days. A sample of this correspondence is contained in Annex C.

(3) Off-Duty Conduct Complaint

(a) The primary purpose of the citizens' complaint process is to address allegations of duty related misconduct. As such, the acceptance of a formal citizens' complaint regarding allegations of off-duty misconduct should be limited to certain conditions. Specifically, such investigations shall be restricted to instances where a clear connection or nexus to employment by this Department has been made by the employee. However, the fact the allegedly aggrieved party is simply aware of the employee's position does not alone provide a nexus to the Department. See Annex D for an example of closing correspondence for this is situation.

EXAMPLE: A neighbor complains about Officer Smith's pet damaging his lawn. The mere fact that the neighbor has knowledge of Smith's employment is NOT a nexus to the Department. However, if Smith is alleged to have told the neighbor he is 'untouchable' because he works for the California Highway Patrol, then a valid basis for accepting a complaint exists.

(b) However, nothing in this manual should be construed as precluding a commander from investigating any off-duty misconduct under the auspices of HPM 10.2, *Internal Investigations*, if such investigation is deemed appropriate. Situations in which an investigation under HPM 10.2 would be warranted include: allegations of illegal conduct (excepting infractions), actions of a highly questionable nature or which bring discredit to the Department, or when a commander deems an investigation to be in the best interests of the Department.

EXAMPLE: A landlord contacts the Department to complain that a tenant, who is a Department employee, is two months behind in his/her rent payment. This is strictly a civil matter and the Department should not become involved. However, allegations of fraud or other malfeasance (such as multiple dishonored rent checks, etc.) would constitute a basis for an investigation in accordance with HPM 10.2.

(4) Complaints From Department Personnel. The citizens' complaint process is intended to afford the public an avenue to voice concerns. Since other processes are available for Department employees to voice concerns regarding employee conduct, the citizens' complaint process shall not be utilized to document internal complaints or grievances. Questions concerning deviation from this policy shall be directed to BIA.

(5) Traffic Complaints. Requests for specific enforcement emphasis or reporting of potentially hazardous traffic conditions shall be processed and documented as required by the Area or Division commander.

(6) Vehicle Storage/Impound Validity. Normally these requests are directed to the appropriate shift supervisor or tow hearing officer. Refer to HPM 81.2, *Vehicle Procedures Manual*, for all inquiries involving storage or impound issues, as well as complaints against tow operators. Note that there can be a subtle, but important, distinction between a complaint about a vehicle storage and a complaint about a specific officer's actions in the storage.

EXAMPLE: A complainant acknowledges his vehicle registration was expired for 14 months, but alleges Officer Smith stored his vehicle only after Smith became angry at the complainant's discourtesy. This is a complaint against Smith, not one of storage validity.

(7) Board of Control Tort Claim. Investigations initiated as a result of a citizen filing suit against the Department shall be conducted in accordance with this manual and HPM 11.1, *Administrative Procedures Manual*, and shall be coordinated directly with the Legal Coordination Unit.

(8) Claim of Monetary Damages. Any complainant who makes a claim of monetary damages, which are alleged to have been proximately caused by the actions, or inaction, of a Department employee shall be provided with a CHP 287, *Claims of \$1,000 or Less*, or a BC-1A (Board of Control) *Tort Claim*, as appropriate.

i. If a complainant expresses a desire to remain confidential, he/she shall be informed that the Department will attempt to honor their request to the greatest extent possible. However, an employee has the right to review a complaint upon completion (pursuant to Government Code §3305) and uniformed employees have the right to file a civil claim against a complainant (pursuant to Civil Code §47.5). Accordingly, the complainant shall also be notified that due to these legal requirements, should the employee request a copy of the investigation, the Department's ability to maintain absolute confidentiality will be severely limited. Refer to the procedures in Chapter 7 for completion of the CHP 240 and CHP 240A for further directions on the processing of a confidential complaint.

4. LEGISLATIVE COMPLAINTS. Complaints filed on behalf of constituents by a legislator or other governing entity require special processing. Normally, these complaints will be forwarded to commands by the Bureau of Internal Affairs (BIA), and the initial correspondence to the legislator will have already been accomplished. In the event a command receives a legislative complaint that was not forwarded from BIA, the command, in coordination with the Department's Office of Special Representative, shall also send a response letter directly to the legislator or other originating entity. A sample of this correspondence is contained in Annex C. Special suspense time frames also apply; and, depending on the desires of the legislator, separate closing documentation may be required. Refer to Chapters 4 and 8, respectively.

5. INTERNET BASED AND ELECTRONIC COMPLAINTS.

a. General. As required by law, the Department maintains an electronic medium through which members of the public may express opinions regarding departmental policies or programs. Information pertaining to the citizen's complaint process has also been made available. As further required by law, a complainant contacting the Department by telephone regarding a non-uniformed employee shall be informed that information about filing such a complaint may be obtained via the Internet and that many local libraries offer Internet access.

b. Internet. The Department's officially sanctioned Internet site shall be used for this purpose, and may be accessed at <http://www.chp.ca.gov>. From this site, individuals may read a brief description of the Department's citizens' complaint policies and philosophy. In addition, the site provides for the ability to download and

print a CHP 240D, *Citizens' Complaint Information (Non Uniformed)* form, which may then be mailed or delivered to the Department. Complaints received by BIA through this process will be evaluated and forwarded to the proper command for investigation as appropriate.

c. Peace Officer Exemption. This process specifically excludes complaints against peace officers (uniformed employees). The contents of the Internet site, as well as the CHP 240D itself, both contain clear advisories that complaints against peace officers should not be filed in this manner. However, in the interest of public service, the Department will accept and investigate complaints as otherwise described in this manual against uniformed employees submitted through this method. Investigators shall ensure that a standard CHP 240B is provided to such complainants, to ensure that the proper Penal Code advisory has been complied with.

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