

CHAPTER 4
INTRODUCTION
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CHAPTER 4

INVESTIGATION RESPONSIBILITY

1. COMMANDER'S RESPONSIBILITY.

a. Primary Responsibility. Commanders have the primary responsibility for the citizens' complaint program at the field and Division level. These responsibilities include ensuring that all complaint investigations are conducted in a thorough and unbiased manner and that all departmental guidelines and policies are followed.

b. Determining Investigative Responsibility. The responsibility to investigate a citizen's complaint rests with the current commander of the Area/Section to which the involved employee was assigned *at the time the incident occurred*. However, Division commanders may assign personnel of their choice to investigate any complaint within their respective Division and may also request resources from BIA. If the employee has transferred, the responsible commander should coordinate directly with the employee's new commander to obtain any required information.

c. Assigning an Investigator. The commander or his/her designee shall assign a primary investigator in a timely manner. The assigned primary investigator shall be at least one grade higher than the involved employee, unless otherwise approved by the Division commander or appropriate Assistant Commissioner. The primary investigator should not be a party or witness to the incident in question. The primary investigator may utilize other Department personnel to assist with an investigation, including lower ranking personnel with specific qualifications such as Drug Recognition Experts, Physical Methods of Arrest instructors, Emergency Medical Technicians, MAIT members, etc., to provide expert opinion or analysis. In addition, with the concurrence of the commander, the limited use of acting sergeants or Officers-In-Charge to assist with specific facets of an investigation is permitted.

d. Suspenses. The commander is responsible for ensuring all investigations are completed in a timely manner. The normal suspense period for complaints received at the command, or forwarded from BIA, is sixty (60) days. The suspense period for legislative complaints is thirty (30) days. In general practice, the desire to conduct thorough and complete investigations should outweigh suspense considerations. Suspenses originating from BIA may be extended by telephonic contact or by MIS (mnemonic OIAP), or departmental e-mail to a current member of BIA. In some instances, a request to extend a legislative complaint suspense may necessitate notifying the legislator of the reason and the length of the delay. Consequently, commands should consult with BIA if this becomes necessary.

2. SPECIAL CASES.

a. Academy Training. Citizens' complaints which originate while an employee is in training at the Academy will be the responsibility of the Academy commander. The investigation and any subsequent corrective action will be coordinated directly with the employee's permanent commander.

b. Special Assignments. Occasionally, employees will be assigned to special programs that remove them from direct Department supervision (i.e., CAMP, drug/vehicle theft task forces). Although citizens' complaints arising from such assignments remain the responsibility of the employee's departmental commander, it may prove more practical to coordinate the investigation and documentation of any complaints with the employee's special assignment supervisor. Commanders shall develop a Memorandum of Understanding (MOU) with the agencies involved in such assignments detailing the procedures to be followed in regard to citizens' complaints. Questions pertaining to the development of such an MOU shall be directed to the office of the Assistant Commissioner, Field. Questions pertaining to the documentation and processing of such complaints should be directed to BIA. In no event shall the responsibility for conducting citizens' complaint investigations initiated against employees of this Department be relinquished to any outside agency.

c. Temporary Assignments. Citizens' complaints which originate while an employee is working a temporary assignment within the Department, such as a Protective Services Detail, Motor Carrier Inspection Program, watch officer, etc., remain the responsibility of the employee's permanent commander. However, Division commanders may direct such complaints be investigated by the temporary assignment commander or supervisor.

d. Multi-Command Investigations. When an investigation involves multiple employees assigned to different commands, a single Division, Area, or Section shall be appointed as the primary investigative command. In most instances, this will be the command with the employee who has the most severe allegations, or the command with the greatest number of employees named in the complaint. The designation of the primary investigative command shall be coordinated with the Division commander or Assistant Commissioner as necessary. The primary investigating command will issue a single complaint control number and will be responsible for the overall coordination of the investigation with the assistance of all commands who also have employees named in the complaint. In the event corrective action for an employee not assigned to the investigating command appears warranted, the employee's actual commander shall be consulted and must approve before such action can be included in the investigation.

e. Board Of Control Claims. In accordance with HPM 11.1, *Administrative Procedures Manual*, when a commander is notified that a Board of Control claim has been filed which alleges employee misconduct not previously investigated by the Department, then a citizens' complaint investigation, as defined in this manual, shall be initiated.

3. INVESTIGATOR'S RESPONSIBILITIES.

a. General. While the commander is responsible for the overall complaint and investigative process, the primary investigator is accountable for the conduct and quality of the investigation and documentation. In addition to conducting the actual investigation, the investigator is responsible for the following:

b. Correspondence. Ensure that all applicable correspondence is completed, including interim/acknowledging, closing, legislative, etc.

c. CHP 240B or CHP 240D. Ensure that all complainants are provided a copy of the CHP 240B or CHP 240D as appropriate. This may be done by mail or in person. Refer to Chapter 3 for specific policy on the method of providing the form to complainants. It is recommended that the complainant's specific allegation(s) be outlined on the back of the CHP 240B or CHP 240D. This will help to ensure the complainant and the investigator are in agreement as to what is to be investigated.

d. Provide Allegations. All complainants shall be provided with a copy of their allegations. This may be accomplished by specifying the allegations in the narrative portion of the CHP 240B or CHP 240D, or in the text of the interim response letter. The circumstances of how the allegations were provided to the complainant (date, place, method, etc.) shall be documented in the complaint investigation narrative.

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