

CHAPTER 7
INVESTIGATION DOCUMENTATION

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TABLE OF CONTENTS

GENERAL	7-1
DETERMINING COMPLAINT CLASSIFICATION	7-1
General	7-1
Highest Category Allegation	7-1
Investigation Circumstances	7-1
DETERMINING DOCUMENTATION LEVEL	7-2
Required Documentation	7-2
Narrative Format	7-3
Optional Documentation	7-3
Non-Complaints	7-3
FORMS	7-3
CHP 240, Complaint Investigation	7-3
CHP 240A, Complaint Control Log	7-7
CHP 240B, Citizens' Complaint Information	7-8
CHP 240C, Witness List	7-9
CHP 240D, Citizens' Complaint Information (Nonuniformed)	7-9
REPORT NARRATIVE FORMATS	7-9
Format Category I or II Complaints	7-9
Other Complaint	7-11
ADDITIONAL TYPES OF DOCUMENTATION	7-13
Civil Claim	7-13
Board of Control Claim	7-13
CLOSING DOCUMENTATION	7-13
General	7-13
Closing Correspondence to Complainant	7-13
Corrective Documentation to Employee	7-14
Closing Documentation to Employee	7-16
Governor and Legislative Responses	7-16

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CHAPTER 7

INVESTIGATION DOCUMENTATION

1. GENERAL. Once a complaint has been investigated and the investigator has reached a suitable finding, the investigation must be documented. This documentation will consist of a CHP 240, a CHP 240C if applicable, a specifically defined narrative for each category of complaint, and attached exhibits. Investigations shall be typed.

2. DETERMINING COMPLAINT CLASSIFICATION.

a. General. As described in Chapter 2, citizens' complaints are classified by the Department as either Category I, Category II, or Other. The classification of a given complaint is determined by two factors: highest category allegation and the investigation circumstances.

b. Highest Category Allegation. This is the most severe allegation made by the complainant at any stage of the complaint process. The category of an allegation (I or II) is determined by referring to the table in Annex A.

EXAMPLE: A citizen files a complaint against Officer Smith for verbal discourtesy and citation validity, which would be investigated as a Category II complaint. One week later, while the investigation is still in progress, the complainant informs the investigator that Smith perjured himself while testifying about the citation in traffic court. This Category I allegation would be added to the complaint, which would then be documented in a Category I format.

c. Investigation Circumstances. In some cases, facts uncovered during the course of the investigation will cause the investigator and/or commander to determine the complaint need not be documented in either the formal Category I or II format. These complaints are classified as Other complaints and shall be documented as described in this chapter. The following are considered to be Other complaints:

(1) Rescinded. As defined in Chapter 2, a complaint is considered to be rescinded when the complainant, after having initiated a complaint, later requests to withdraw all of the allegations. Commanders may elect to accept or decline the request to rescind, basing their decision on the reasons for the request and the circumstances of the complaint known at that point. Some complaints, because of their nature or sensitivity, should be continued to their normal conclusion despite a request to rescind. Should the commander agree to rescind a complaint, closing correspondence to the complainant is still

required and shall reiterate the complainant's desire to rescind the complaint. A sample of this correspondence is located in Annex D.

(2) Frivolous. As defined in Chapter 2, these are complaints which appear to be irrational or have been filed with malicious intent against the employee. This determination will normally be made by the commander sometime during the course of the investigation, when articulable facts are discovered that indicate a complaint is frivolous. As with all complaints, closing correspondence to the complainant is still required. A sample of this correspondence is located in Annex D.

Factors which **may** lead a commander or investigator to conclude that a complaint is Frivolous include:

- (a) The allegations appear to be, on their face, preposterous.
- (b) The complainant refused to sign or did not return the CHP 240B (uniformed employees only). However, the mere fact a complainant declines to sign or return a CHP 240B, should not, in of itself, be considered grounds to deem a complaint as frivolous. That is, the CHP 240B should not be considered a 'litmus test' for the acceptance or investigation of a complaint. It is, however, a strong indicator that a complainant's motives may be suspect.
- (c) The complainant has previously filed other frivolous complaints with this Department or another agency. Contact BIA for information regarding an individual's history of complaints with the Department.
- (d) The complainant has provided conflicting or false statements.
- (e) The allegations are severely dated, and the complainant cannot reasonably explain the necessity for not filing the complaint in a more timely manner.

(3) Departmental. As defined in Chapter 2, these are complaints made solely against departmental policies or procedures, and no employee misconduct is alleged.

(4) Citation Validity. If citation validity is the sole allegation, the complaint may be classified as Other and documented accordingly.

3. DETERMINING DOCUMENTATION LEVEL.

- a. Required Documentation. All category I, II, and Other complaints shall be documented with a CHP 240, *Complaint Investigation* (1/99 or later revision), a CHP 240C, *Witness List* (if applicable), the appropriate narrative, and relevant exhibits.
- b. Narrative Format. The Formal narrative format shall be used for all Category I and II complaints, and the Other narrative format for all complaints classified as Other. The specific requirements for each format are discussed later in this chapter.
- c. Optional Documentation. A commander may deem that the prescribed level of documentation is inadequate for a given complaint and may direct, on an exception basis, the investigator to use a higher level format. That is, a commander may determine that a complaint which contains serious allegations, but is being considered frivolous, will be documented in the more detailed Category I or II format. This does not mean the complaint itself is being elevated to the higher classification, only the level of documentation.
- d. Non-Complaints. All other issues brought to the attention of the Department (e.g., traffic, storage validity, off-duty conduct issues which do not meet the criteria for investigation, etc.) are considered non-complaints and should be processed as described in Chapter 3, Complaint Acceptance.

4. FORMS.

a. CHP 240, *Complaint Investigation*. Appropriate entries are to be made on the CHP 240 by each level of command involved in the complaint investigation, review, and transmittal process. If there are more entries than spaces available in a given section (such as more than three employees or four allegations), additional CHP 240 forms should be used to accommodate the additional information. When additional forms are used, only the complaint control number and employee identification information are mandatory on any added form. A sample CHP 240 is provided in Annex M. Specific directions for completing this form are as follows:

- (1) Original/Amended. Mark only one. Refer to Chapter 10 if submitting an amended complaint.
- (2) Control Number. To be entered by the Command investigating the complaint. Use the same number previously recorded on the CHP 240A, *Complaint Control Log*.
- (3) Route TO - FROM. This portion of the form is utilized to facilitate routing. The date to be entered is the date the command forwards the CHP 240.

(4) Date Complaint Received. Enter the date the Department was notified of the complaint. This entry shall match the date/time recorded on the CHP 240A.

(5) How Received. Mark only one box.

(6) Complaint Origination. Mark only one box.

(7) Special. Mark the "Off-duty allegations" box if the complaint was initiated as the result of alleged off-duty misconduct by the employee. Mark the CHP 268 box if a CHP 268, *Potential Civil Litigation Report*, was completed.

(8) BIA Control Number. Assigned only by the Bureau of Internal Affairs for complaints with a BIA suspense date. In order to clear suspense files, investigating commands receiving a CHP 240 from BIA shall ensure the assigned BIA Control Number is included on the CHP 240 used to document the complaint investigation.

(9) BIA Suspense Date. Provides the suspense date for complaints due back to BIA.

(10) Special Project Code. Used when directed by Division or headquarters to track complaints stemming from a specific incident or major enforcement action.

(11) Employee's Information. For each employee, enter the last name, first name, middle initial, Department identification number, three digit Area designator, rank (abbreviations acceptable, e.g., Off, Sgt, Lt, Capt, CS I, CO II, etc.), sex, and age. Enter the years employed, rounded to the nearest year, with an entry of "1" for employees with less than one year of employment with the Department. Years shall include time employed by the California State Police. If the employee is unknown, insert "Unknown" in this section. If the complaint is being classified as Departmental, as described in Chapter 2, insert "Department."

(12) Complainant(s) Information. Enter the complainant's last name, first name, middle initial, telephone numbers, address, and other contact information. If the complainant is not known or declines to identify himself/herself, enter "Anonymous." If the complainant is known, yet requests their identity be kept confidential from the employee, enter "Confidential," and do not include any address or telephone information. In addition, the complainant's identifying information shall be typed on a separate document and placed in a sealed envelope attached to the investigation.

(13) Person Receiving Complaint. Enter the last name, first name, middle initial, identification number, rank, and three digit Area designator of the person receiving the initial complaint.

(14) Assigned Investigator. Enter the last name, first name, middle initial, identification number, rank, and three digit Area designator of the primary investigator.

(15) Allegation(s) and Findings. This section is used to denote what the allegations in the complaints are, which employees the allegations were made against, and what the findings are for each allegation. Under the "CODE" heading, enter the appropriate code as specified in Annex A, for each allegation. In the block to the right, enter the matching allegation descriptor (also as specified in Annex A). Allegations should be listed in the same order as they appear in the Findings portion of the narrative. Only codes and descriptors provided in Annex A are to be utilized. If allegation "99A - Other" is used, a brief statement following "Other" is required.

EXAMPLE: A complainant states Officer Smith, while on duty and in uniform, was wearing a political campaign button for a local mayoral candidate. Since no other codes are appropriate for this particular allegation, "99A - Other/Political Activity" should be used.

Under the "EMPLOYEE" heading, check the appropriate boxes to indicate which employees have been accused of which allegation(s). The employee numbers (1, 2 & 3) match the employee numbers listed on the upper portion of the form.

For each box checked under the "EMPLOYEE" heading, enter a check under the appropriate finding heading, and matching the same employee number. Departmental complaints/allegations shall be given a finding of Departmental. No finding shall be entered for rescinded or frivolous complaints.

EXAMPLE: Employee #1 is accused of verbal discourtesy and citation validity, while employee #2 was accused of using excessive force in applying handcuffs, as well as being discourteous. Both of the discourtesy allegations are considered to be Undetermined/No Finding, while citation validity and excessive handcuffing allegations were exonerated. Given the above scenario, the ALLEGATION(S) AND FINDINGS portion should match figure 7a.

ALLEGATION(S) AND FINDINGS																			
EMPLOYEE			CODE	ALLEGATION(S)	SUSTAINED			UNINTENTIONAL ERROR			UNDETERMINED NO FINDING			DEPARTMENTAL			EXONERATED		
1	2	3			1	2	3	1	2	3	1	2	3	1	2	3	1	2	3
	✓		11C	Excess/Handcuffing														✓	
✓	✓		05A	Discourtesy/Verbal						✓	✓								
✓			13A	Validity/Citation														✓	

Figure 7a
Sample ALLEGATION(S) AND FINDINGS Section

(16) Department of Justice Information. This information is required to meet state reporting requirements in accordance with Penal Code §13012(d) (P.C.), and shall be completed by the primary investigator. All information from this section shall also be transferred to the CHP 240A to assist with reporting requirements.

(a) Felony. Check this box if the most serious allegation in the complaint is against a uniformed employee and is of an act which is criminal in nature and constitutes a felony, regardless of findings.

(b) Misdemeanor. Check this box if the most serious allegation in the complaint is against a uniformed employee and is of an act which is criminal in nature and constitutes a misdemeanor, regardless of findings.

(c) Non-Criminal. Check this box if the most serious allegation in the complaint is against a uniformed employee and is of an act which would not be considered criminal in nature, regardless of findings.

(d) Sustained/Uninten. Error. Check this box if the finding for the most serious allegation (Felony, Misdemeanor, Non-Criminal) made against a uniformed employee is Sustained or Unintentional Error. The findings of lesser allegations should not be considered. That is, a complaint with an Exonerated felony allegation but a Sustained misdemeanor allegation would NOT result in this box being checked.

(e) N/A. Check this box if only non-uniformed personnel are named in the complaint, regardless of the allegations or findings.

(17) Highest Category. Mark the box corresponding to the highest category (e.g. I or II) allegation in the complaint, as specified in Annex A.

(18) Form Of Documentation. Mark the box corresponding to the classification of the complaint, either formal Category I or II, or Other.

(19) Employee Complaint History Reviewed. Self-explanatory. Since this is a required action, a negative response should be explained in the remarks section.

(20) Employee Closing Action. Mark the box indicating the most severe closing or corrective action issued to an employee named in the complaint. This applies only to closing or corrective action issued as a result of misconduct alleged by the complainant, not external issues discovered during the investigation. The check boxes are listed on the form in order, left to right, from least to most severe.

(21) Additional Action. Mark the appropriate box if the complaint was classified as Rescinded or Frivolous. Mark the §148.6 P.C. box if charges were filed, or are anticipated to be filed, under this section against the complainant (filing of a false complaint against a peace officer).

(22) Final Correspondence to Complainant. Self-explanatory. Since this is a required action, a negative response should be explained in the remarks section.

(23) Employee Discussion and Review. At the time the employee has been afforded the opportunity to review the complaint, as described in Chapter 8, he or she shall sign and date in the space for that employee number specified near the top of the form (1, 2 or 3). The supervisor or manager conducting the review shall sign in this section, as well as indicate their rank and Department identification number. Refer to Chapter 8 for additional instructions on when this portion of the form is completed.

(24) Remarks. This section may be used as needed by the respective commands. As an example, Divisions may require a brief description of the allegations in this section for Category II and Other complaint investigations.

(25) Commander's Signature/Date. Signed by the employee's commander upon approval, in accordance with the procedures outlined in Chapter 9.

(26) Division Reviewing Officer's Signature/Date. Signed by the appointed Division authority upon approval, in accordance with the procedures outlined in Chapter 9.

b. CHP 240A, Complaint Control Log. Refer to Chapter 3 for a description of the purpose and use of this form. A sample CHP 240A is provided in Annex M. While most portions of the form are self-explanatory, specific directions for completing some sections are outlined as follows:

- (1) Employee Information. The involved employee's full name, identification number, and Area. If not known, enter "Unknown," or if the complaint is solely against Department policy, enter "Department."
- (2) Complainant Information. Enter the complainant's full name, address, and telephone number. If the complainant is not known, enter "Anonymous." If the complainant is known, yet requests their identity be kept confidential from the employee, enter "Confidential."
- (3) Control Number. A control number shall be assigned by the investigating command to all complaints documented in the Category I, Category II, or Other formats. The first three digits of the control number are the investigating command's location code; the fourth and fifth digits indicate the year the complaint was received; and the final three digits are a sequential control number beginning with 001 on January 1, at 0001 hours each year. As an example, the 15th complaint of the year for 1999 in Area 950 would yield control number 950-99-015. A control number is not required for non-complaints, but may be assigned for tracking purposes at the discretion of the commander.
- (4) Remarks. If a command forwards a complaint to another command by telephone, the name and rank of the person accepting the complaint, as well as the date, shall be recorded in this section. In addition, appropriate remarks shall be made concerning rescinded, third party, frivolous, and Other Agency complaints. When an employee transfers to another command, this fact shall be noted in this section. The Remarks section may also be utilized at the discretion of local commanders.
- (5) Suspense Date. For use by local commands, if not provided by BIA.
- (6) Routed to Division. The date the investigation was forwarded for review/approval.
- (7) Division Approval. The date the CHP 240 has been reviewed and approved by Division.
- (8) Department of Justice Information. Used to track information required for the annual report of complaint information to BIA (and subsequently to the California Department of Justice), as specified in §13012(d) P.C. and Chapter 9 of this manual. Retrieve the information from the duplicate section on the corresponding CHP 240.
- (9) Category. The complaint classification. Normally completed by the assigned investigator.

c. CHP 240B, Citizens' Complaint Information. Refer to Chapter 3 for a description of the purpose and use of this form. A sample CHP 240B is provided in Annex M. While the form is largely self-explanatory, the following is a description of its basic sections:

- (1) Basic identification information of the complainant and the incident.
- (2) A brief summary of the Department's complaint process.
- (3) Notifications to complainants of potential civil liability for filing a false complaint against a peace officer.
- (4) Advisory to complainants, as required by statute, of the criminal penalties for filing a known false complaint against a peace officer.
- (5) A signature block for the complainant to acknowledge receipt of the advisory.
- (6) The reverse side of the form provides an area for the complainant and/or the Department to specify or further clarify the allegations.
- (7) The upper right corner of the front of the CHP 240B contains a blank area to allow the issuing command to insert their address to facilitate return of the form. Failure to include the command's address can cause the complaint to be returned to the BIA and thereby result in unnecessary investigation delays.

d. CHP 240C, Witness List. This form shall be used to list all witnesses in a complaint investigation. Alternatively, commands may use a locally generated form or word-processing document, provided that it includes the same information contained in a CHP 240C. A sample CHP 240C is provided in Annex M.

e. CHP 240D, Citizens' Complaint Information (Non Uniformed). Refer to Chapter 3 for a description of the purpose and use of this form. A sample CHP 240D is provided in Annex M. While the form is largely self-explanatory, the following is a description of its basic sections:

- (1) Basic identification information of the complainant and the incident.
- (2) A brief summary of the Department's complaint process.
- (3) An explicit advisory that the form is not intended for the filing of complaints against peace officers (uniformed employees).

(4) The lower portion of the front page, as well as the reverse side of the form provide an area for the complainant and/or the Department to specify or further clarify the allegations.

(5) The upper right corner of the front of the CHP 240D contains a blank area to allow the issuing command to insert their address to facilitate return of the form. Failure to include the command's address can cause unnecessary investigation delays.

5. REPORT NARRATIVE FORMATS.

a. Formal Category I or II Complaints. A sample Category I complaint investigation and narrative is provided as Annex E, and a sample Category II complaint investigation and narrative is provided as Annex F. All Category I and II investigation narratives shall be prepared in the following format, including using all sections (except where designated as optional):

(1) Complaint Summary. This heading is followed by a brief summary of complaint circumstances, and a numerical listing of the complainant's allegations against all employees.

(2) Complaint Findings. Under the heading "Complaint Findings" place a numbered listing of each allegation, in the format of "Allegation descriptor (Category [I or II]) - [finding]." Example: Court/Perjury (Category I) - Exonerated. Following each allegation listed will be a brief narrative describing the basis for the finding, with sufficient detail to explain the investigator's rationale. The allegations shall be listed in the same order as they appear on the CHP 240.

(3) Recommendations. This section, which immediately follows Complaint Findings, is a brief description of any recommended action by the investigator, such as the issuance of a censurable Incident Report, Memorandum of Direction, counseling, additional training, or initiating a request for adverse action. If no corrective action is warranted, the recommendation should be "None." Additionally, issues submitted to the district attorney, or any employee misconduct or other peripheral issues not alleged by the complainant, but discovered during the investigation shall be discussed in this section. The discovery of such information should not be discussed with the complainant.

EXAMPLE: Officer Smith was having lunch at a restaurant when a citizen interrupted him to ask directions. Smith responded inappropriately and the citizen later files a complaint for verbal discourtesy. During the course of the complaint investigation, it was determined Smith had been at the restaurant for over three hours and had not properly identified his status to the

communications center. This misconduct, and any corrective action, should be addressed in the Recommendations section, but not added as an allegation or discussed in the closing correspondence to the complainant.

(4) Chronological Summary. **Optional** for Category II complaints. The Chronological Summary, also known as a chronological log, is perhaps the investigator's most valuable investigative tool. Properly used and documented, the Chronological Summary can clearly demonstrate how an investigation was conducted. Each entry in the summary should be written as briefly and concisely as possible. Corresponding reports, documents, and complete statements should be included as exhibits, and then referenced by number in this section.

(a) The summary should be in chronological sequence and based upon the steps taken by the investigator, beginning with the information which precipitated the investigation.

(b) Briefly summarize witness' statements and employee interviews in the sequence they were developed. The entire statement should be an exhibit in the investigation file when deemed necessary.

(c) Briefly describe physical evidence, its relevance, and the location where the evidence is being retained. Include relevant documentary evidence as exhibits.

(d) Briefly summarize attempts to contact a complainant or witness. It is not necessary to make a separate entry for each attempt to contact; a single entry indicating the number of attempts would suffice.

(e) All Chronological Summary entries shall be written in the 3rd person tense.

(5) Investigator's Notes. **Optional** for either Category I or II complaints. The inclusion of this section is entirely at the investigator's or commander's discretion. The heading is followed by comments, observations, or opinions of the investigator pertinent to the investigation. All factual information should be included in the Chronological Summary or Findings sections of the narrative.

(6) List of Exhibits. A numerical list of all exhibits used or referenced in the investigation. The exhibits may be listed in the order the assigned investigator deems most appropriate, but generally this should be in the order they were collected. Additionally, to preserve confidentiality and privacy, if a particular exhibit is not appropriate for review or release to other employees listed in the complaint, indicate as such by a parenthetical remark. Example: "15. CHP 2

(Not releasable to Off. Jones).” See below for a description of required investigation exhibits.

(7) Signature Block. The name and signature of the primary investigator.

(8) Exhibits. Relevant documents gathered during the investigation shall be included as exhibits in the investigation file. Examples would include statements, completed CHP 240B or CHP 240D forms, memorandums, transcripts, maps, photographs, diagrams, arrest reports, citations, etc. All correspondence to the complainant and witnesses, as well as any documentation issued to the involved employee(s) shall also be included as exhibits. Items retained in the command’s evidence storage facility shall be noted as an exhibit by the inclusion of the CHP 36, *Evidence/Property Receipt/Report*. Exhibits shall be physically numbered or tabbed. They shall be arranged in the order the investigator specified in the “List of Exhibits.” Do NOT include a CHP 268, *Potential Civil Litigation Report*, as an exhibit.

b. Other Complaint. Sample Other complaint narratives are provided as Annexes G through J. All Other complaint investigations narratives shall be prepared in the following format:

(1) Complaint Summary. This heading is followed by a brief summary of circumstances surrounding the complaint, the complainant's allegation(s), and the manner in which the complaint was investigated. Any investigative steps taken should be discussed in this section. This would include the specific rationale for classifying a complaint as frivolous, or the circumstances of the complainant’s request to rescind, as applicable.

(2) Chronological Summary. **Optional** for all Other complaints. The inclusion of a Chronological Summary in an Other Complaint narrative is entirely at the investigator’s or commander’s discretion. If included, it shall meet all requirements as described in this section. Properly used and documented, the chronological summary is perhaps the investigator’s most valuable investigative tool and can clearly demonstrate how an investigation was conducted. Each entry in the summary should be written as briefly and concisely as possible. Corresponding reports, documents, and complete statements should be included as exhibits, and then referenced by number in this section.

(a) The summary should be in chronological sequence and based upon the steps taken by the investigator, beginning with the information which precipitated the investigation.

(b) Briefly summarize witnesses' statements and employee interviews in the sequence they were developed. The entire statement should be an exhibit in the investigation file when deemed necessary.

(c) Briefly describe the physical evidence, its relevance, and the location where the evidence is being retained. Include relevant documentary evidence as exhibits.

(d) Briefly summarize attempts to contact a complainant or witness. It is not necessary to make a separate entry for each attempt to contact, and a single entry indicating the number of attempts would suffice.

(e) All Chronological Summary entries shall be written in the third person.

(3) Investigative Summary. **Optional** for all Other complaints. This heading is followed by factual comments or observations of the investigator.

(4) List of Exhibits. A numerical list of all exhibits used or referenced in the investigation. The exhibits may be listed in the order the assigned investigator deems most appropriate, but generally this should be in the order they were collected. Additionally, to preserve confidentiality and privacy, if a particular exhibit is not appropriate for review or release to other employees listed in the complaint, indicate as such by a parenthetical remark. Example: "15. CHP 2 (Not releasable to Off. Jones)." See below for a description of required investigation exhibits.

(5) Signature Block. The name and signature of the primary investigator.

(6) Exhibits. Relevant documents gathered during the investigation shall be included as exhibits in the investigation file. Examples would include statements, completed CHP 240B or CHP 240D forms, memorandums, transcripts, maps, photographs, diagrams, arrest reports, citations, etc. All correspondence to the complainant and witnesses, as well as any documentation issued to the involved employee(s) shall also be included as exhibits. Items retained in the command's evidence storage facility shall be noted as an exhibit by the inclusion of the CHP 36, *Evidence/Property Receipt/Report*. Exhibits shall be physically numbered or tabbed. They shall be arranged in the order the investigator specified in the "List of Exhibits." Do NOT include a CHP 268, *Potential Civil Litigation Report*, as an exhibit.

6. ADDITIONAL TYPES OF DOCUMENTATION.

- a. Civil Claim. If the complaint investigation uncovers any actual or alleged damage to property, or injuries to persons which may result in a claim against the state, a CHP 268, *Potential Civil Litigation Report*, shall be completed and forwarded in accordance with HPM 11.1, *Administrative Procedures Manual*, Chapter 8. Mark the appropriate box on the CHP 240 indicating the CHP 268 was submitted to ensure timely alerting of the attorney general's office. Never include a CHP 268 as an exhibit in a complaint investigation.
- b. Board of Control Claim. 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.

7. CLOSING DOCUMENTATION.

- a. General. The final documentation the investigator must consider is the closing documentation to the complainant and, if warranted, to the employee. In some cases, additional closing correspondence to a legislator or other government entity will also be required.
- b. Closing Correspondence to Complainant. This correspondence is required in all cases, including frivolous and rescinded complaints, and even in instances where the complainant has specifically requested no further contact with the Department. Deviations from this policy shall be approved by BIA. The following should be considered when preparing closing correspondence.
 - (1) Correspondence shall be prepared on departmental letterhead in accordance with HPM 5.1, *Correspondence Manual*. Commanders shall address the issues tactfully, diplomatically, and reflect a personal interest.
 - (2) Following a brief introduction, discuss each of the complainant's allegations. It is not necessary to restate issues word for word, but closing correspondence should supply sufficient information to assure the complainant all allegations were investigated.
 - (3) Advise the complainant an internal investigation was conducted and clearly state the results of the investigation. If disciplinary action resulted from the investigation, the complainant should be apprised that appropriate corrective action was taken to preclude the act(s) from occurring in the future. Do not specify what corrective action was taken against an employee, as this information is confidential.
 - (4) If the complainant refused to be interviewed or was never able to be contacted by the investigator, this should be noted in the correspondence.

(5) Closing correspondence shall not be sent to the complainant until the complaint investigation has been approved by the appropriate reviewing authority as outlined in Chapter 8.

(6) Closing correspondence shall be sent within 30 calendar days of the investigation being approved.

(7) Several samples of closing correspondence to complainants are provided in Annex D.

c. Corrective Documentation to Employee. Commanders shall take corrective action against an employee for all investigations which reveal the employee was in error, whether it was intentional or not. That is, complaints with allegations that have a finding of Sustained or Unintentional Error. At the commander's discretion, this may also include misconduct not originally alleged by the complainant, but discovered during the investigation process. As outlined previously in this chapter, any corrective action taken should be specifically noted in the Recommendations section of the investigation narrative. As with closing correspondence to the complainant, any closing action to the employee should not be issued until the investigation has been approved by the appropriate review authority as outlined in Chapter 8. Examples of corrective documentation are contained in Annex L.

(1) Required Type. Corrective action shall be in written form. The commander shall use one of the following, depending on the severity of the corrective action required:

(a) Request for Adverse Action.

(b) CHP 2, *Incident Report (Censurable)*.

(c) Memorandum of Direction.

(d) Memorandum of Findings.

(2) Content Limitations. Since a copy of the issued corrective documentation will be placed in the employee's field personnel folder, only allegations with findings of Sustained or Unintentional Error may be addressed in the document. This specifically includes complaints with multiple allegations and mixed findings. For instance, the corrective action issued for a complaint with a Sustained verbal discourtesy allegation and an Exonerated citation validity allegation, would only mention the verbal discourtesy issues.

(3) Bazemore Admonition. In accordance with State Personnel Board decisions, employees shall be notified that misconduct for which he/she is being counseled, may still be charged in a future Adverse Action. Accordingly,

the Bazemore admonition shall be included in all Memorandums of Findings or Direction which are counseling or remedial in nature. In instances where the corrective documentation is being issued solely as a result of a finding of Unintentional Error, the inclusion of the Bazemore admonition should be left to the discretion of the commander. Additionally, since the Department does not generally charge misconduct in an Adverse Action for which an employee has previously been issued a censurable CHP 2, the Bazemore admonition shall not be included in any CHP 2. **(Revised 11-03.)**

Bazemore admonition: *Your conduct on this occasion [these occasions] was unacceptable and will not be tolerated by this Department. If you engage in similar conduct in the future, the Department may take Adverse Action against you based on the incident[s] cited in this documentation, as well as any future incidents.*

(4) Government Code Section 3306 Admonition. Any employee covered under the Public Safety Officers Procedural Bill of Rights (POBR) has the right to submit a written response within thirty (30) days to any adverse comment entered into his/her personnel file. Accordingly, employees being issued a Memorandum of Direction or Findings (if it is counseling or remedial in nature), or a censurable CHP 2, should be notified of the option to file a written response. Although notification to the employee is not required, employees may also submit responses to any complaint investigation which they are the subject of, irrespective of the findings. Should an employee submit such a written response within the allotted time frame, refer to Chapter 9 for processing and filing procedures.

§3306 admonition: *In accordance with Government Code section 3306, you are hereby advised of your right to file a written response to the above referenced matter within thirty (30) days. Such written comments shall be attached to and shall accompany this document in your personnel file.*

d. Closing Documentation to Employee. The above stated policy does not preclude the commander from issuing closing documentation to an employee from any complaint investigation, if it is deemed appropriate. Such closing documentation may address potential training/procedural deficiencies or other issues which became apparent during the investigation, but are not related to an allegation with a finding of Sustained or Unintentional Error. Such documentation must still comply with the Bazemore and Government Code §3306 admonitions as specified above.

EXAMPLE: Officer Smith has a complaint filed against her for verbal discourtesy, which was given a finding of Undetermined / No Finding. This is Officer Smith's third complaint regarding alleged verbal discourtesy in the past

year. As such, the commander issues a Memorandum of Findings which contains a statement advising the officer that she should be more cognizant of potential conflicts in her contacts with the public, and recommending that she consider using an audio tape recorder in the future.

e. Governor and Legislative Responses. When a state or federal official was a third party and wrote the investigating command directly, the closing correspondence to that government entity may be prepared and sent by the command in coordination with the Office of Special Representative (OSR). Correspondence which fits specific criteria as specified below shall be prepared by BIA, with the coordination of OSR. Once an investigation has been approved per the procedures in Chapter 8, the command shall send BIA an entire copy of the investigation to assist in preparing the correspondence. The criteria are as follows:

- (1) The information is deemed relevant to Department-wide matters.
- (2) The investigation contains matters of a sensitive nature.
- (3) The investigation is related to potential or current legislation.
- (4) Protocol mandates closing correspondence from the Commissioner, Agency Secretary, Legislator, or Governor.

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