

**CHAPTER 9**  
**FILING & CONTROL PROCEDURES**  
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## CHAPTER 9

### FILING & CONTROL PROCEDURES

1. GENERAL. This chapter specifies policy for the filing and retention of citizens' complaints. The confidentiality of complaint files is discussed, as are the restrictions regarding the release of complaint documentation and information. Finally, this chapter discusses the Department's two primary methods of controlling the complaint process: the Bureau of Internal Affairs (BIA) annual citizens' complaint audits and the annual complaint activity report generated by all Sections, Areas and Divisions.

#### 2. FILING OF COMPLAINT DOCUMENTATION.

a. Location. Command shall store complaint documentation as specified below:

(1) Complaint Investigations. All commands shall maintain a Master Complaint File, in which all Category I, Category II and Other complaint investigations shall be stored. The investigations shall be stored alphabetically, grouped by the employee's last name, and include complaints completed by other commands (as the result of a transfer). All complaints for a given employee shall be filed in chronological order, most recent to least recent. Complaint files for supervisors and managers may be stored in a separate physical location, if deemed necessary by the commander. Each employee named in a complaint (not merely present or a witness) must have a copy of the investigation included in his/her complaint file. This will necessitate making additional copies of complaint packages where multiple employees have been named. A complaint investigation is defined as the CHP 240, *Complaint Investigation* face page, the CHP 240C, *Witness List* (if applicable), the investigative narrative and all exhibits.

(2) Corrective or Closing Documentation To Employee. A copy of any corrective documentation issued to an employee, which as specified in Chapter 7 may only refer to allegations with findings of Sustained or Unintentional Error, shall be placed in the employee's field personnel folder. Other closing documentation issued to an employee shall remain as an exhibit in the complaint investigation, but shall not be placed in the field personnel folder.

(3) Response From Employee. As described in Chapter 7, an employee may submit written documentation as a response to a complaint investigation or corrective action. Receiving commands shall ensure that a copy of the response documentation is attached to all known copies of the investigation, including forwarding a copy to BIA if the complaint contains Category I allegations (since the original investigation is maintained in the Legal Files

section). If the response was submitted as a result of documentation which was placed in the employee's personnel folder (such as corrective action), a copy of the response shall also be placed in the personnel file.

(4) Ancillary Documentation. Any supplemental document issued to an employee, which is complaint related but not necessarily specific to a particular investigation (such as notification of attendance for additional training to address a pattern of conduct, etc.), shall be filed in the employee's field personnel folder subject to the requirements of Penal Code §832.5 (can only refer to complaints with allegations that have findings of Sustained or Unintentional Error). Otherwise, such documents should be attached to the complaint investigation to which they are most directly related (i.e. the complaint which triggered the document in question).

(5) CHP 240A. The CHP 240A, *Complaint Control Log*, shall be maintained in a location which allows for ready access by command management and supervisory personnel, while also ensuring sufficient control procedures are in place to prevent unauthorized or inappropriate access.

b. Retention Period. Each command shall retain complaint documentation as specified below. All commanders shall establish procedures to ensure expired complaint documentation is purged in a timely manner.

(1) Complaint Investigations. Category I, Category II, and Other complaints shall be destroyed after a period of five (5) years, commencing from the date the Department originally received the complaint. This specifically includes the original Category I investigations retained by the headquarters Legal Files Unit. Until scheduled destruction, no documents or exhibits may be removed from the complaint investigation.

(2) Corrective Documentation To Employee. Any corrective documentation issued to an employee as the result of a complaint investigation, shall be removed from the employee's field personnel folder after a period of three (3) years, commencing from the date of issue. The original (or a copy) of the same document shall remain with the complaint investigation itself until the investigation's scheduled destruction.

(3) Response From Employee. Responses submitted by employees as a result of a complaint or corrective action shall be retained for the life of the document with which it has been filed. That is, a response filed with a corrective memorandum in the employee's personnel folder would be destroyed when that memorandum is removed after three (3) years, and a response attached to a complaint investigation would be destroyed together with the file after five (5) years.

(4) CHP 240A. The CHP 240A shall be maintained by local commands for a period of five (5) years.

c. Transferred Employees. When an employee transfers, all complaint files in the command's Master Complaint File for that employee shall be transferred to the new command, and in a manner that will ensure confidentiality is maintained. The new command shall be responsible for maintaining all complaint files on the employee in accordance with this manual after receipt. The CHP 240A shall be annotated with the date and Area to which the complaint was transferred. Refer to HPM 10.3, *Personnel Transactions Manual*, for further guidance.

### 3. CONFIDENTIALITY OF INVESTIGATIONS.

a. Discovery. All personnel complaint investigations are confidential in accordance with Penal Code §832.7, and are only discoverable pursuant to Evidence Code §1043 and §1046. Legal discovery, however, does not apply to investigations or proceedings concerning the conduct of peace officers or a law enforcement agency conducted by a grand jury, district attorney's office, or the Attorney General's office. Policy pertaining to the discovery of peace officer personnel records is contained in HPM 120.1, *Discovery of Peace Officer Personnel Records*. Issues regarding discovery should be coordinated directly with the Legal Coordination Unit. Applicable sections of law are provided in Annex B.

b. Physical Security. Commanders shall ensure that all complaint-related files, including the CHP 240A, are physically secured and that access is limited to command management and supervisory personnel.

### 4. RELEASE OF INVESTIGATIONS.

a. General. Except as outlined below, no complaint-related information, including generic statistical data, may be released to any entity without the coordination of the Office of the Commissioner or BIA.

b. Attorney General's Office. A commander may release a complaint investigation file to the Attorney General or his/her investigator whenever the Attorney General is defending the Department or its employees. Such release should be coordinated with the Legal Coordination Unit.

c. Grand Juries. Any request by a Grand Jury for citizens' complaint investigation files shall be coordinated through BIA and the Legal Coordination Unit. As a state entity, the Department is not necessarily obligated to provide such records without a subpoena or court order.

d. Departmental Program Tracking. The release of complaint investigation information to an Office of Primary Interest (OPI) for the explicit purpose of extracting information necessary for evaluating a particular departmental program is authorized. The following restrictions apply:

(1) The release of complaint information for this purpose shall not occur without the consent of BIA.

(2) The only information which may be retained by an OPI is statistical data provided on the CHP 240, *Complaint Investigation* face page.

(3) Information which identifies an involved employee, complainant, and/or witness shall not be retained by an OPI for the purpose of evaluating a particular program.

e. Noninvolved Departmental Employees. Complaint investigation files, or portions thereof, shall only be released to noninvolved employees who require such information during the course of their duties.

f. Involved Departmental Employees. Upon written request, involved employees shall be provided with a copy of the investigation file in its entirety, except as specified below. Questions concerning the release of this information should be directed to BIA. The following procedures apply:

(1) Prior to its release, the employee shall sign a memorandum acknowledging the release and confidentiality of the file. Should the employee desire to use the document in a civil action, the procedures required to retain the document's legal confidential status are specified. The memorandum also advises the employee to refer to Chapter 10 of this manual regarding other restrictions when filing a civil claim. Finally, the memorandum states that portions of the investigation may have been redacted to ensure the privacy of other employees. A sample release memorandum is provided as Annex O, and a sample protective order is provided as Annex P.

(2) Despite a complainant's request for confidentiality, the employee shall be provided with the complainant's identifying information (which normally appears on the CHP 240, *Complaint Investigation* face page), unless such a release is prohibited by Government Code §6254 or other applicable statutes.

(3) The memorandum, with the employee's signature, is to be placed in the employee's personnel folder, with a copy attached to the original citizens' complaint investigation and all copies of the file. The memorandum will be retained for the life of the investigation file. A courtesy copy of the memorandum shall be forwarded to the Legal Coordination Unit.

(4) Before release to the employee, all references to other employees in the investigation shall be redacted to preserve their confidentiality and privacy. Specifically, such editing will include the names, addresses, and identification numbers of other employees. The editing can normally be accomplished using a heavy black marker or corrective tape or fluid. Any exhibit specifically marked in the "List of Exhibits" as not releasable to the employee receiving the complaint shall likewise be removed.

## 5. ANNUAL AUDITS.

a. Purpose. Audit procedures are established to ensure the integrity and uniformity of the complaint process. They are utilized as a management tool to enhance the quality of investigations and the level of public service. Audits focus on compliance with departmental policy, legal requirements, uniformity in conducting investigations, application of corrective action, and the thoroughness of investigations and documentation.

b. Bureau of Internal Affairs. The Bureau of Internal Affairs shall conduct annual on-site audits of all formal Category II and Other complaint investigations (that do not contain a Category I allegation), and the CHP 240A, *Complaint Control Log*. Coordination will be made with Division prior to such audits. Audit results will be provided by memorandum through the appropriate Assistant Commissioner's office to each effected command.

c. Findings. In general, audit findings are provided only for guidance to commands. Unless otherwise specified, no corrections to completed investigations will be required as a result of an audit.

## 6. ANNUAL REPORTING.

a. Procedure. To ensure the integrity of statistical information maintained by BIA, all Divisions, Areas, and Sections shall report complaint information on an annual basis. In addition, BIA shall forward a portion of the data collected to the California Department of Justice to satisfy annual reporting requirements. BIA shall also maintain statistical information to satisfy the terms and conditions of the Curtis Rodriguez Settlement Agreement. **(Revised 11-03.)**

b. Method. Reporting shall be by MIS, memorandum, fax, or e-mail (to a current member of BIA), arriving no later than January 20<sup>th</sup> of each year. Normally, each Division will be responsible to gather this data from subordinate commands, forwarding the collected data as a group to BIA. Negative reports are required. Except for questions pertaining to investigations that are pending completion, commands should not include data from complaints which have not been

completed or approved. If the information has been entered correctly and consistently throughout the year, the vast majority of data needed to complete the report can be culled from the Department of Justice Information section of CHP 240A, *Complaint Control Log*.

c. Format. A sample Annual Report is provided as Annex N. The following shall be contained in the report: **(Revised 11-03.)**

- (1) The total # of formal Category I complaints investigated by the Area.
- (2) The total # of formal Category II complaints investigated by the Area.
- (3) The total # of Other complaints investigated by the Area.
- (4) The overall total # of Citizens' Complaints investigated by the Area.  
(Should equal items 1 + 2 + 3 above.)
- (5) The total # of investigations pending completion (or approval).

NOTE: Remaining items apply solely to Category I & II, and 'Other' complaints (except Frivolous and Rescinded) against uniformed employees. Do not include uncompleted complaints.

- (6) Total # complaints in which the most serious allegation is of felony misconduct.
- (7) Total from item 6 in which the allegation was Sustained or Unintentional Error.
- (8) Total # of complaints in which the most serious allegation consists of misdemeanor misconduct.
- (9) Total from item 8 in which the allegation was Sustained or Unintentional Error.
- (10) Total # of complaints in which the most serious allegation consists of non-criminal misconduct.
- (11) Total from item 10 in which the allegation was Sustained or Unintentional Error.