

SAN BERNARDINO COUNTY PROBATION DEPARTMENT PROCEDURE

Department Investigations/Critical Incident Reviews

Purpose:

To establish guidelines relating to departmental investigations and critical incident reviews. To the extent a complaint involves claims of harassment, discrimination, or retaliation; such complaints will be handled in accordance with County Policy Number 07-01.

Definitions:

Administrative Complaint (AC): A complaint initiated by Probation Department Administration into alleged staff misconduct, violation of any memorandum of understanding (MOU), county and/or department rule, regulation, policy, procedure, or local, state or federal law, or ordinance.

Citizen Complaint (CC): A complaint against the Probation Department or a Probation Department employee initiated by members of the community, including individuals detained in Probation facilities, probationers, or the general public.

Critical Incident Review (CIR): An operational analysis of an event to determine if any departmental issues exist relating to policies, procedures, training, supervision, protocols, inspections, etc.

Employee Complaint (EC): A complaint against the Probation Department or a Probation Department employee initiated by an employee of the Probation Department.

Internal Affairs Investigation (IA): An investigation into alleged staff misconduct, violation of any MOU, county and/or department rule, regulation, policy, procedure, or local, state or federal law, or ordinance, etc.

Informal Fact Finding (IFF): An informal review of information.

Investigation Findings:

- Unfounded/Not Founded: The allegation has no basis in fact or has been disproved.
- Exonerated: The allegation was found not to be a violation of any MOU, county and/or department rule, regulation, policy, procedure, or local, state or federal law, or ordinance, etc.
- Not Sustained: The allegation can neither be proved nor disproved and no further action will be taken.
- Sustained: The allegation is found to be true and constituted a violation of any MOU, county and/or department rule, regulation, policy, procedure, or local, state or federal law, or ordinance, etc.
- Handled at the Management Level: The allegation did not rise to the level of misconduct; however, there were peripheral issues addressed by management.
- No Finding/Incomplete/Closed: This finding could be used in situations which may include, but are not limited to: the complainant failed/refused to disclose information needed to further the investigation; the complainant withdrew the complaint; or the complainant is no longer available for clarification. In addition, it could be used when information provided is not sufficient to determine the identity of the employee; the information provided is impossible to investigate; or the complaint is a duplicate of one already submitted.

Responsibilities:

- I. Administrative Complaints: Administrative Complaints shall be initiated by a Deputy Chief Probation Officer (DCPO) or a Division Director (DD) with approval from a DCPO or above. If applicable, a *“Request for Administrative Initiated Investigative Report”* form may be filled out and forwarded to the Director of Professional Standards (DPS). Upon receipt of the request, the Director of Professional Standards will review the material and in conjunction with the Chief Probation Officer (CPO) or their designee, determine if the matter will be opened as an internal affairs investigation or could be resolved at a lower level.
- II. Citizen Complaints: All department staff are authorized to accept completed Citizen Complaint forms. The employee accepting the complaint shall make sure it is signed and dated and the complainant receives a copy. All completed Citizen Complaint forms shall be forwarded to the DPS within two (2) working days. Upon receipt, the DPS will review the material and in conjunction with the CPO or their designee, determine if the matter will be opened as an internal affairs investigation or could be resolved at a lower level.
- III. Employee Complaints: Every employee in the department has a right to file a complaint. A complaint may be filed through the employees’ chain of command, their personal representative, or directly with Professional Standards. All completed Employee Complaint forms not filed directly with Professional Standards should be forwarded to the DPS within two (2) working days. Upon receipt, the DPS will review the material and in conjunction with the CPO or their designee, determine if the matter will be opened as an internal affairs investigation or could be resolved at a lower level.
- IV. Critical Incident Review (CIR): Upon direction of the CPO or a DCPO, the Professional Standards Division Director or the CPO’s designee will conduct a CIR. A CIR will be an operational analysis to determine if any departmental issues exist relating to policies, procedure, training, supervision, protocols, and/or inspections, etc. A critical incident could be: 1) an unexpected event involving death or serious physical injury, or an event that could have caused such; 2) an event that results in any individual being taken to a hospital for examination for other than routine or planned hospital visits; 3) an event that significantly deviates from the department’s usual process for providing services; 4) an event that either undermines, or potentially could undermine public confidence in the department; 5) an event of such gravity so as to warrant a critical incident review as determined by Probation Administration; or 6) an event which points to the need to examine procedural or training issues.

A CIR can be initiated by a DD or above. If applicable, a *“Request for Administrative CIR”* form may be filled out and forwarded through the chain of command. The DCPO will then consult with the CPO to determine whether a CIR should be initiated. Following a CIR a report shall be completed that outlines the incident and details all relevant and critical factors relating to the event. This should include, but not be limited to: a review of training protocols, a review of legal issues, a review of County and Department procedures, and a summation of all the information.

- V. Professional Standards: The Professional Standards Unit shall maintain a record of all complaints received by them. Each complaint shall receive a tracking number. The record shall indicate, at minimum, the date of the complaint, the date of the incident, the tracking number, the name of the complainant, and the subject of the complaint. The Professional Standards Unit will be responsible for all required notifications. The Director of Professional Standards will keep the CPO apprised as to the progress of all complaints.

Guidelines:

- A. All complaints received by the Probation Department will be handled in compliance with all applicable State and Federal laws, as well as, all County and Department policies and procedures.
- B. Staff who are the subject of an investigation are entitled to all rights as stated in their MOU, County Personnel Rules, Department policies and procedures, and State and Federal law, etc.
- C. The Department shall make available to the public a Citizen's Complaint form for submitting a formal written complaint.
- D. The Department shall make a written description of the procedure for filing a Citizen's Complaint available to the public.
- E. At the direction of the CPO or their designee, any possible law violations or criminal misconduct on the part of Probation Department staff are to be referred to the local police agency having jurisdiction.
- F. At the direction of the CPO or their designee, any allegation of child abuse by Probation Department staff while on duty, whether obtained from a suspected child abuse report form or otherwise, shall cause the start of an administrative inquiry into the possibility of staff misconduct. The Director of Professional Standards in conjunction with the CPO or their designee shall review the information to determine whether the possibility of staff misconduct or negligence occurred and whether such allegation should be referred to the local police agency having jurisdiction.

Inspections:

Refer to the Policy and Procedure Inspection Matrix.

Foundation:

Government Code 3300-3313
Penal Codes 832.5, 832.7, 832.8
Meyers-Milias Brown Act, Section 3508.1
Evidence Code Sections 1043, 1044, 1045, 1046

Replaces:

Internal Investigations/Critical Incident Reviews

References:

San Bernardino County Personnel Rules
San Bernardino County Policy 07-01
San Bernardino County Probation Employee Memorandum of Understanding

Policy

Complaints
Complaints Management

Procedure

Policy and Procedure Manual
Documentation
Letters of Reprimand, Notice of Disciplinary Action and Appeals

TDO

New Crime Filings in JDAC's and Treatment Facilities

Issued by:


Michelle Scray Brown, Chief/Probation Officer

10/24/18
Date

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