



DATE ISSUED: December 1, 1995

GENERAL ORDER O-6

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**SUBJECT: PROCESSING COMPLAINTS AGAINST DEPARTMENT EMPLOYEES,
POLICIES AND OPERATIONS**

- I. PURPOSE** - To prescribe duties of Departmental personnel in receiving, processing, and disposing of citizens' complaints of misconduct and/or substandard service by Police Department employees. This Order sets forth the purpose, organization, and responsibilities of a Complaint Investigation Unit (CIU) for processing such complaints. The system set forth in this General Order is to be applied in concert with other applicable University employee procedures except where statutes expressly supersede existing policy, e.g., Penal Code 832.5(b) requiring that "complaints (against police personnel) and any reports and findings relating thereto shall be retained for a period of at least five years" in contrast to UC "Staff Personnel Policy" 270.12's two year requirement.

II. POLICY

1. This Order supersedes the Order dated November 5, 1986 and the Addendum, dated January 22, 1993.
2. A proper relationship between the police and the public they serve, fostered by confidence and trust, is essential to successful law enforcement and peacekeeping. Police Officers must be free to exercise their discretion and best judgment in situations of danger or disorder and to initiate action in a reasonable, lawful, and impartial manner without fear of reprisal. They must also meticulously observe the rights of all people.

The implementation of this Order imposes upon the Department the responsibility of providing for expressions of satisfaction or concern, and an effective system of complaint and disciplinary procedures. This process will not only subject Officers to corrective action when they conduct themselves improperly, but will protect them from unwarranted criticism and vindicate them when they discharge their duties properly.

It is imperative, therefore, that adequate provision be made for the prompt receipt, classification, investigation, and disposition of complaints. To this end, the Department welcomes from the people of the community constructive criticism and feedback regarding the Department as well as valid complaints against its employees, policies or operations.

Because of the protections of personal privacy mandated by state law as well as University policy and the overriding public interest in preserving the confidentiality of investigations of complaints against police personnel, the records of such investigations shall remain confidential to the extent permissible under law.



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3. SCOPE

- a. This Order does not include the investigation of traffic accidents involving Department members and vehicles.
- b. It is intended that the system in this Order operates in conjunction with the procedures established for the Chancellor's Police Review Board.
- c. Nothing in this Order precludes supervisors or managers from taking appropriate disciplinary action when they deem it necessary.

III. DEFINITIONS

4. Citizen's Complaint - A formal allegation of employee misconduct and/or substandard service made by someone from outside the Department which may result in an investigation conducted by the Department. A Citizen's Complaint may also be directed at established policy or operational procedures. A formal "complaint" under Penal Code 832.5 is a complaint which does not result in a "Work File Memo" (WFM.)
5. Internal Affairs Complaint - An allegation generated from within the Department of serious employee misconduct, criminal or otherwise.
6. Complaint Investigation Unit (CIU) - A function of the Office of the Chief of Police which oversees the operation of the processes described in this Order. This includes the investigation of all citizens' complaints. The functions of the CIU are described in detail in Section V.
7. Sufficiency Review Board (SRB) - A Board consisting of three members; the CIU Captain, the Captain/Director of the division of the subject of the complaint, and one other Captain, who review the sufficiency of a complaint investigation and make a recommendation to the Chief of Police as to the disposition of the complaint. The Subject named in the complaint may submit a list containing four (4) supervisors and four (4) peers from which lists the CIU Captain will choose one supervisor and one peer to sit in on the Review portion of the SRB.
8. Work File Memo (WFM) - A form used to document concerns brought to the attention of the Department which have been resolved to the satisfaction of the complainant. A WFM may also be generated on the part of a citizen who wishes to commend an employee's actions.
A Work File Memo may also result after a formal complaint or an internal affairs



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complaint has been reviewed by the CIU. This occurs when the complaint is determined to be minor and is resolved by the CIU or as a disposition after the CIU Captain has reviewed it and recommended to the Chief that the complaint is of such nature as not to warrant being designated a complaint of misconduct.

A Work File Memo is not a "complaint" as defined in PC 832.5.

IV. PROCEDURES

9. Receipt of Complaints

- a. All employees of the Department are responsible for courteously receiving any complaints that are lodged against the Department, or any employee thereof, and referring them to a supervisor; and for preserving any evidence (such as tapes or photos) relevant to the complaint.

Complaints against members of the department will not be accepted more than thirty (30) calendar days after the alleged incident, except for:

- 1) A chargeable violation of law supported by evidence, within the statutes of limitations.
- 2) A reason(s) beyond the control of the complainant because of illness or inability to make a report. Such cases shall be reviewed for exception on a case by case basis by the Chief of Police.
- 3) As provided in the UC Police Review Board Procedures.
- 4) A complaint of sexual harassment against a member of the Department shall not be accepted more than ninety (90) calendar days after the alleged incident.
- 5) Complainants will be allowed a reasonable extension of the filing time limit, as determined by the Chief of Police, for good cause. Good cause for such extension will usually be limited to a circumstance in which a complainant can make a reasonable showing that an employee in one of the administrative offices apart from UCPD, designated to receive citizen complaints, has made an improper referral or otherwise provided incomplete information.



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- b. Employees are responsible for routing the complaint and/or complainant to the Duty Sergeant or Captain. (During normal business hours, complaints against civilians are to be referred to the Civilian Supervisor.) Supervisors receiving initial complaints are responsible for attempting to resolve the area of conflict or concern to the satisfaction of the complainant, if at all possible.
- c. Any employee who has reason to believe that he or she has contributed to a circumstance which may cause him or her to be a principal in a citizen's complaint shall make a reasonable attempt to resolve the area of misunderstanding at the time of occurrence.
- d. The supervisor is responsible for obtaining all information necessary to document the matter. If the supervisor is able to resolve the matter to the satisfaction of the complainant, the matter will be documented on a "Work File Memo." This disposition of a minor problem shall be called, and must always result in, a "Work File Memo."

Otherwise, the supervisor will complete the appropriate part of the Citizen's Complaint Intake Form and have the complainant complete the statement portion. These will be immediately routed to the CIU. If the complainant does not wish to complete the statement portion immediately, the supervisor should summarize the specifics of the complaint, based on his/her interview to enable the investigator to begin his/her work.

- e. The supervisor shall inform the complainant that he/she must return the complaint statement form within ten (10) working days. He/she shall further inform the complainant that if he/she does not comply with this request, the complaint will be considered withdrawn and documented as an "Inquiry" only.
- f. In situations where the complainant is uncooperative, e.g., does not respond to initial requests to speak with the investigator, after a reasonable amount of time, the investigator may send the complainant a certified, "return receipt requested" letter, informing the complainant that if he/she does not respond within ten (10) working days, the complaint will be considered withdrawn and documented as an "Inquiry" only.



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10. Intake Forms

Whenever a citizen complaint is received, one of the two forms attached must be employed. The first is a Work File Memo used by the supervisor contacted or by the CIU when the complaint is minor and can be responded to immediately. The WFM should be directed to the named employee's supervisor if the supervisor has not seen it initially.

The second, a "Citizen's Complaint Form," must be used in all other cases and, after completion, the form must be routed to the CIU immediately, not to the named employee's supervisor. Names, addresses, and phone numbers shall be obtained for all complainants and witnesses.

a. Work File Memo

All supervisors and the CIU will utilize the attached Work File Memo form (Addendum A) to document minor personnel conduct items of all kinds. They will not normally be used to document internally initiated commendations.

- 1) The Work File Memo is to be completed by the supervisor contacted by the citizen.

b. Citizen's Complaint Form

The attached "Citizen's Complaint Form" (Addendum B) will be employed for the documentation of formal complaint investigations. The CIU will maintain all forms and files.

11. Routing of Work File Memos

- a. Once a Work File Memo is generated, it will first be routed to the employee's immediate supervisor or, in the case of a policy or operational complaint, to the Captain or Director of the employee's division. If at any point, it appears that the matter requires a full investigation, it should be immediately referred to the CIU.



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- b. If the supervisor determines that the matter is satisfied by the WFM and it is complete, he/she will take appropriate action and forward the Work File Memo and disposition to the Captain or Director of the employee's division.

The Captain or Director of the employee's division will review the WFM and the supervisor's actions and then forward it through the chain of command to the CIU Captain for review. The CIU will log the WFM and number it sequentially. The WFM Log will include date and location of occurrence, type of WFM, nature of topic and disposition. The WFM will then be returned to the Captain or Director of the employee's division who will route it to the immediate supervisor for filing.

- c. Work File Memos will be kept by the employee's immediate supervisor. Work File Memos shall not be distributed except as provided here. Work File Memos are confidential and shall be available only to the employee, his/her immediate supervisors and a CIU investigator on request. These records might also be available to other administrative levels on a need-to-know basis in accordance with applicable policies regarding access to and disclosure of records.

- 1) It shall be the responsibility of all supervisors to retain the Work File Memos, reviewing them at three month periods. They must be discussed with the subordinates named in them (allowing them the opportunity to sign and/or respond in writing.)
- 2) Work File Memos will normally be maintained in file until the employee's next regular performance evaluation or for three months (whichever is longer.) The CIU may designate an alternate retention period on the Work File Memo which will supersede the periods above. Work File Memos may be purged after shorter periods with the approval of the CIU Captain. They are not to be held for longer periods without specific approval.



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V. COMPLAINT INVESTIGATION UNIT (CIU)

12. Purpose of the Complaint Investigation Unit

The CIU is a function of the Office of the Chief, the purpose of which is to conduct complete investigations and to make fair and impartial evaluations of complaints which are made against employees of the Department, its policies, and/or operations. The thorough investigation of all complaints which are received, together with fair and impartial evaluations of findings, serves to protect the Department and the public against acts of misconduct by police personnel and affords protection to police personnel against invalid charges made by citizens.

13. Organization of the CIU - Staff Duties

- a. The CIU is under the overall command of the Chief of Police. The CIU is under the direction of the Administrative Captain who shall oversee the operations of the Unit on a continuing basis, shall be familiar with each complaint and become personally involved in investigations when the incident so warrants.
- b. The Unit shall be staffed by the Administrative Sergeant, clerical support and a pool of qualified trained investigators.

Any staff member may be designated by the Chief to conduct an investigation and will have the authority to do so regardless of rank.

- c. The CIU Captain will:
 - 1) Assign an investigator to investigate the complaint.
 - 2) Monitor, follow up and coordinate all CIU investigations to ensure proper and timely action and coordination through the Department.
 - 3) Maintain a list of qualified complaint investigators to be assigned CIU investigations. Included in this list will be supervisors and managers. The Chief of Police may assign Officers not in the pool should specialized investigators be needed.
 - 4) Ensure adequate training for CIU investigators as well as guidelines for investigations.



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- d. The CIU in the Office of the Chief will be responsible for the maintenance of all investigation files.

14. Receiving Complaints

- a. The CIU shall accept all complaints made by citizens against employees of the Department. Citizen complaints shall be accepted from any source, whether made in person, by mail, or by telephone. In addition to the Police Department, complaints may be made at the following campus offices:
 - 1) Office of Vice Chancellor - Business and Administrative Services
 - 2) Any campus Ombudsman Office
 - 3) Student Activities and Services
 - 4) ASUC (Student Advocate's Office)
 - 5) Office of Community Affairs
 - 6) Complaints of sexual harassment - Title IX Compliance Office
 - a) If a formal complaint results, the date of filing the complaint will be the date the complaint was received by the Title IX Compliance Officer.

Information may be from all sources; however, anonymous allegations of employee misconduct shall not be accepted under this Order. Anonymous complaints of a serious and/or criminal nature shall be evaluated by the CIU Captain who shall recommend to the Chief the extent to which they shall be investigated.

- b. Complaints made at UCPD should be referred to the Patrol supervisor, or supervisor or manager of the unit involved. Complaints will be referred to the CIU only if no other supervisor is available.
- c. Outside of business hours, when complaints of apparent gravity are received, i.e., where the action that is alleged, if true, would result in serious discipline, the ranking Officer should notify the CIU Captain without delay.
- d. CIU staff shall initiate the following action on every complaint which is referred or received:



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- 1) The Work File Memo is issued a number and logged into a WFM Log for a given year. The WFM Log will include date and location of occurrence, type of WFM, nature of topic and disposition. The WFM will then be returned to the relevant Captain/Director who will route it to the immediate supervisor for filing.
 - 2) The Complaint Form is reviewed for completeness, issued a number and logged into a "Citizen's Complaint Log," and a file initiated.
 - 3) Information should be obtained to maintain statistical reports and track progress of complaint investigations.
- e. Notification shall be made to those parties involved in the complaint.
- 1) Individual employee(s) named in the complaint shall receive a letter within seven business days, stating that they:
 - a) Are under investigation by the CIU in regard to a citizen's complaint received.
 - b) Shall not attempt to contact the complainant(s) or witness(es) named in the complaint.
 - c) May provide a list of four supervisors and four coworkers, from which list, the CIU Captain may select one of each to sit on the SRB.
 - 2) Complainants shall be sent a letter within seven working days from the receipt of their complaint which states:
 - a) The date of receipt of their complaint by the CIU and the complaint number.
 - b) The next step for their complaint.



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15. Complaint Investigation and Report of Findings

- a. The CIU staff, as well as any employee who is assigned by the Chief to conduct any aspect of any investigation of an alleged act of misconduct on the part of any employee of the Department, shall conduct a thorough and impartial investigation. Such investigation should include the taking of statements from involved persons, the gathering and preservation of evidence and the recording on tape or in writing of all information pertinent to the case.
- b. The CIU investigator shall put into writing the results of his/her investigation as a Report of Findings which shall include:
 - 1) A point-by-point statement of the specific allegations.
 - 2) A description of the incident, physical evidence and other information pertinent to the case.
 - 3) Summaries of the statements of all persons involved in the incident.
 - 4) The factual observations and conclusions including a point-by-point evaluation of the allegations, as determined by the CIU Captain, discussing specifically that which is proven and that which cannot be proven.
- c. The completed Report of Findings shall be approved and signed by the CIU Captain and shall then be presented by the CIU Captain to a Sufficiency Review Board.
- d. Sufficiency Review Board (SRB)

The CIU reports will be routed by the CIU Captain for review to the Sufficiency Review Board (SRB). If any one of the three Captains/Director on the Board is directly involved in the matter or unavailable, an alternate will be appointed by the Chief of Police.

When requested by the subject of an investigation, the CIU Captain will appoint to the SRB a supervisor and a coworker from a list of four provided by the subject. Their function will be solely to review the



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sufficiency of the investigation. They will not determine a recommended disposition. The SRB will receive confidential copies of the CIU Report of Findings, in advance.

- 1) The SRB will review the completed CIU Report for consistency between the information gathered and the evaluations, as well as quality and thoroughness.
 - 2) The CIU Captain will make a recommendation to the Chief for discipline or corrective measures where such action is called for.
 - 3) The CIU Report of Findings and the SRB's recommendations will then be routed to the Chief of Police.
 - 4) In cases alleging sexual harassment, the Campus Title IX Officer shall be appointed to the Board by the Chief of Police. The Title IX Officer's sole function is to review the sufficiency of the investigation for compliance with the Campus Sexual Harassment Policy and not to determine a recommended disposition. He or she shall sit in on the initial aspect of the SRB only.
- e. One of the following dispositions shall be included by the SRB for each allegation in the completed report of investigation:
- 1) Work File Memo: The intake and investigation show there was no formal complaint justified, and that the matter is satisfied and the initial concern resolved by a notice to the supervisor of the employee. The matter is of such a nature that it does not warrant being designated as a complaint of misconduct but rather it should be viewed as a job performance issue. A Work File Memo document shall be generated by the employee's supervisor and circulated and the complaint closed.
 - 2) Unfounded: The investigation discloses that the act(s) complained of did not occur. (This disposition also applies when the individual employee(s) were not involved in the act or acts which may have occurred.)



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- 3) Exonerated: The investigation discloses that the incident occurred, as charged in the allegation, but the act is found to be proper, lawful and justified.
 - 4) Not Sustained: The investigation discloses insufficient evidence either to prove or disprove the allegation(s) in the complaint.
 - 5) Sustained: The investigation discloses a preponderance of evidence that supports the allegation(s) in the complaint.
 - 6) Misconduct not Based on a Complaint: The investigation has uncovered misconduct, either by the Subject Officer or by another Officer, which was not referred to in the original allegation(s).
- f. The Chief of Police will review the Report of Findings and recommendations, and either approve or disapprove the Report and/or recommendation.
- 1) If the Chief of Police disapproves the case, it will be returned to the CIU for additional investigation or to the SRB for other necessary actions.
 - 2) If the report is approved by the Chief of Police, it shall be processed as follows:
 - a) If the report contains a disposition of Work File Memo, it shall be routed immediately to the named employee's immediate supervisor by the Captain or Director of the named employee's division.
 - b) If the report contains a disposition of "Sustained," it shall be processed as provided in Part VI of this Order.
 - c) If the report contains any disposition other than "Sustained," it shall be routed for review to the commanding officer of the staff member named. Thereafter, the report shall be returned to the CIU and kept filed for five years as per PC 832.7.



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g. The CIU Captain will advise the complainant of the completion of the investigation in writing, and review it with the complainant if desired, in person or by phone at the complainant's choice. The CIU shall also advise every subject employee named in the complaint of the completion of the investigation. Copies of the Investigation Report and other materials shall be made available to named personnel having a right to it as provided for in this Order and other laws.

h. Time Frames and Targets

The entire investigation and SRB process will be completed within forty-five (45) working days. The CIU Captain may extend the time frame targets for good cause only. When an extension is granted, the subject Officer should be notified. In no event, however, will the process require more than sixty (60) days, total, unless the Chief of Police approves the delay in writing.

16. Quarterly Reports

The CIU shall prepare a Quarterly Survey of Activities Report and a Yearly Survey of Activities Report and distribute them to the Chief of Police and to all organizational units of the Department. The reports, which can be made public, shall contain the following information:

- a. Number of complaints by type (against employee, policy, or operation).
- b. Nature of allegations and disposition of each.
- c. Number of Work File Memos.
- d. Number of investigations pertaining to noncomplaint matters (such as Work File Memos or procedural inquiries) routed to or through the CIU.

17. Complaint Process Guide

- a. The Department will maintain a "Complaint Process Guide" (CPG) designed as a brochure to acquaint members of the public with the processes described in this Order. The philosophy and procedures of this internal review system for citizen complaints will be set forth, complete with a chart to help explain the series of choices available to complainants.



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- b. The CPG will feature a Feedback Form which will allow the complainant to evaluate the Department's internal review process.
- c. The CPG will be maintained and distributed by the Police Department. CIU staff should arrange an annual meeting with the other academic and service units which also accept complaints, to keep them current on the complaint process.

18. Complaints Regarding Incidents and Operations

As part of the overall internal review system, the CIU will accept complaints regarding operations of the Department. These matters will be assigned for response to the Division Commander. The response will be routed for review by the CIU and Office of the Chief. The Chief or CIU may require any additional investigation they feel is appropriate.

19. Complaints Regarding Policies and Procedures

As part of the overall review system, the CIU will accept complaints regarding policies of the Department. These complaints will be reviewed and responded to through the Division Captain/Director or as assigned by and submitted to the Chief of Police in the same manner as other complaints.

**VI. DISPOSITION OF SUSTAINED COMPLAINTS AGAINST DEPARTMENT
PERSONNEL, POLICIES AND OPERATIONS**

- 20. When a recommendation of "Sustained" is approved by the SRB for a completed Report of Findings by the CIU, and the SRB recommendation has been approved by the Chief, the Department will immediately initiate corrective action in conformity with the Disposition.



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21. When corrective personnel action is indicated by the Disposition, one or more of the following actions may be taken in accord with appropriate University personnel policies and procedures:

- a. Counseling
- b. Training
- c. Oral Reprimand
- d. Written Reprimand
- e. Suspension
- f. Reduction in Rank or other discipline as authorized by applicable personnel policy
- g. Termination from the Department

22. Appeals

- a. This General Order shall in no way limit the provisions of "Staff Personnel Policies," Section 280, which covers employee grievances or other applicable personnel policy. Those policies provide for a graduated series of informal and formal reviews, culminating in a formal hearing. In addition, case law provides for a formal hearing with the Chief of Police for Officers wishing to appeal a suspension of five days or more, or a termination. In b. below, provision for the "Skelly Hearing" is made a part of this General Order, and expanded in coverage.
- b. If requested or provided for, an appeal hearing shall be held by the Chief. Those people who may attend the hearing are: the subject employee, the employee's representative (not a person involved in the investigation) and others as deemed necessary by the Chief.
- c. The Purpose of the Appeal Hearing
 - 1) The hearing is an opportunity for the employee to appeal to the Chief to reconsider the action proposed.
 - 2) At the appeal hearing, the subject may present his/her side of the case, including witnesses, evidence, etc., or dispute the fairness of the CIU's investigation.



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23. Final Decision, After Appeal

- a. After an appeal, the Chief may decide either to proceed with, amend, or cancel the original Disposition.

24. Report Filing

- a. All CIU complaint investigation files must be retained in CIU files for a minimum of five years, as per P.C. 832.5. No copies are to be made for filing within any other unit or division of the Department. Purging of complaint investigations and logs shall be done in a systematic manner as dictated by agency policy and governing law. (See California Government Code) All records of complaints shall be maintained by the designated custodian of records.
- b. In cases resulting in a dismissal for cause or a charged public offense, the Chief of Police may choose to maintain the file beyond five years.

N.B.: Sections on Rights/Interrogation and Advisements have been removed to the end as Addenda C and D.

VII. COMPLAINT PROCESS REVIEW

- 25. The key element of this system is a consistent and regular review of both personnel complaints and use-of-force incidents. Each incoming complaint should be reviewed by the CIU Captain to determine if the involved personnel have been named in previous similar incidents within a designated time frame. Should an employee show a pattern of inappropriate behavior, regardless of the adjudication of each individual complaint, a remedial program may be appropriate. Administrative staff should track complaints over time in an attempt to identify and address training needs, ensure compliance with existing policies and procedures, and modify those policies and procedures, if necessary. Documentation of citizen and internal complaints provides data which could be the basis for such a system, sometimes called an "Early Warning System."



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26. This General Order and the processes it describes should be subject to a complete review every two years by a committee of employees appointed by the Chief of Police.
27. This General Order provides for a public report on complaint activity as well as reporting to the Department of Justice, as required by law.

A handwritten signature in black ink, appearing to read "Victoria L. Harrison".

Victoria L. Harrison
Chief of Police

APPENDIX A: Work File Memo Form
APPENDIX B: Citizen's Complaint Intake/Statement Form
APPENDIX C: Rights of and Interrogation of Sworn Personnel
APPENDIX D: Advisements

Initially Issued: September 23, 1985
First Revision: November 1, 1985
Second Revision: November 5, 1986
Amendment: August 19, 1992
Amendment: January 22, 1993
Third Revision: December 1, 1995



**UNIVERSITY OF CALIFORNIA POLICE DEPARTMENT
BERKELEY
WORK FILE MEMO**

DATE RECEIVED: _____ TIME: _____ CIU # _____

TYPE OF MEMO:

☐ Counseling ☐ Commendation ☐ Information ☐ Documentation

REGARDING:

☐ Employee ☐ Operation ☐ Policy

SUBJECT:

DIVISION:

CONTACT AS A RESULT OF:

☐ In Person ☐ Telephone ☐ Writing ☐ E-mail ☐ Observation ☐ Referral

CONTACTING PERSON:

ADDRESS:

TELEPHONE:

LOCATION OF INCIDENT:

DATE OF INCIDENT: _____ TIME: _____

INCIDENT SUMMARY:

EMPLOYEE NOTIFIED? ☐ Yes ☐ No SIGNATURE: _____

SUBMITTED BY: _____ DATE: _____

ROUTED TO:	<input type="checkbox"/> Immediate Supervisor	DATE: _____	BY: _____
	<input type="checkbox"/> Division Lieutenant/Captain	DATE: _____	BY: _____
	<input type="checkbox"/> CIU Commander	DATE: _____	BY: _____

DISPOSITION BY COMPLAINT INVESTIGATION UNIT: (Logged: _____)

☐ CIU investigation

☐ Additional follow-up as specified

Assigned to: _____ Due date: _____

☐ Supervisor action & file as specified

☐ Return to immediate supervisor via Captain for review with employee

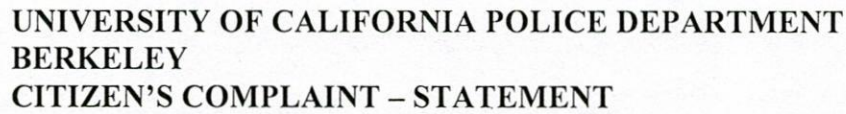
COMMENTS:

RETENTION

☐ 3 months ☐ 6 months ☐ Evaluation period ☐ Other: _____

CIU COMMANDER: _____ DATE: _____

EMPLOYEE ACKNOWLEDGE: _____ DATE: _____



MAILING ADDRESS: _____

STATEMENT:

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook page or a sheet of stationery.

DATE: _____

CCS 05/06



UNIVERSITY OF CALIFORNIA POLICE DEPARTMENT
BERKELEY
CITIZEN'S COMPLAINT – INTAKE REPORT

COMPLAINT INFORMATION:

NAME: _____ TELEPHONE: _____

MAILING ADDRESS: _____

AFFILIATION: ☐ Student ☐ UC Employee ☐ Non-Affiliate

REGARDING: ☐ Employee ☐ Operation ☐ Policy

INCIDENT LOCATION: _____ DATE & TIME: _____

OFFICER(S)/EMPLOYEE(S) INVOLVED: _____

INCIDENT SUMMARY AND SPECIFIC ALLEGATIONS (attach pages as necessary):

COMPLAINT RECEIVED & SUBMITTED BY: _____

OF: ☐ UCPD ☐ SAS ☐ ASUC ☐ PRB ☐ Other: _____

DATE & TIME: _____ LOCATION: _____

COMPLAINT FORM: ☐ ATTACHED or ☐ TO BE RETURNED IN _____ DAYS

NOTE: Upon report of a complaint, provide the complainant with the "Complaint Process Guide" pamphlet, the "Citizen's Complaint" form and statement form(s). If possible, the complainant should immediately complete and submit these forms – if not, instruct the complainant to return the completed forms to UCPD within ten (10) days.

CIU USE ONLY:

CIU # _____ RECEIVED BY: _____ DATE & TIME: _____



UNIVERSITY OF CALIFORNIA POLICE DEPARTMENT
BERKELEY
CITIZEN'S COMPLAINT

INCIDENT DATE: _____ TIME: _____

INCIDENT LOCATION: _____

OFFICER(S)/EMPLOYEE(S) INVOLVED: _____

WITNESSES / OTHERS INVOLVED:

NAME: _____ CONTACT INFO: _____

NAME: _____ CONTACT INFO: _____

NAME: _____ CONTACT INFO: _____

SPECIFIC TYPE OF ALLEGATION(S):

(Describe the incident in detail on attached pages)

☐ Unprofessional conduct ☐ Unreasonable use of force ☐ Property damage or loss

☐ Discrimination ☐ Dishonesty ☐ False detention or arrest

☐ Other (describe): _____

INSTRUCTIONS: Complete, sign and return this form and attach a statement describing the details of the incident to UCPD (Room 1 Sproul Hall, UC Berkeley) within ten (10) days of receipt. Failure to return your statement and forms in a timely manner may adversely affect consideration of your complaint. Please refer to the UCPD "Complaint Process Guide" pamphlet or <http://police.berkeley.edu> for more information about complaint procedures and options.

CONTACT INFORMATION AND CERTIFICATION (Required):

NAME (Print): _____ TELEPHONE: _____

MAILING ADDRESS: _____

With my signature I hereby certify that my description of this incident as submitted is true, accurate and complete. I understand I am submitting a formal complaint and I agree to be interviewed and to cooperate with UCPD personnel assigned to investigate this report.

SIGNED: _____ DATE: _____



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APPENDIX C: RIGHTS OF AND INTERROGATION OF SWORN PERSONNEL

1. Provisions are set forth here, concerning the rights of, and interrogation of sworn personnel. The issues of rights of other employees (civilians) and their interrogation, are covered in separate contracts of employment and/or UC Staff Personnel Policy (and not, therefore, covered herein).
2. **For the purpose of Appendices C and D, the term "investigation" shall pertain both to personnel complaints and to internal affairs investigations.**
3. If the employee is not the subject of criminal focus, he/she shall be required to participate in the CIU investigation. Employees are required to answer questions by or render material and relevant statements to a competent authority in a Departmental investigation when so directed. The employee must answer truthfully. A person who refuses to respond to questions or submit to interrogations shall be informed that failure to answer questions related to the investigation or interrogation may result in punitive action.
4. Chapter 9.7 of the Government Code, commencing at Section 3300, sets forth the Public Safety Officer's Procedural Bill of Rights Act.
5. As used herein, the term "complaint investigation" shall mean an investigation conducted by the CIU with respect to a complaint of conduct or procedures made by, or received from, any person.
6. As described in Section 3303 of the Government Code, any interrogation of a sworn employee shall be conducted under the conditions enumerated below.
 - a. Unless the seriousness of the investigation requires to the contrary, an interrogation conducted incident to an internal investigation shall be conducted at a time when the subject Officer is on duty or during normal working hours.
 - 1) To be of sufficient seriousness to interrogate an employee during nonworking or working hours, the incident being investigated must be one which, in the opinion of the Duty Sergeant or Watch Commander requires immediate follow-up action.
 - 2) An employee required to participate in an internal investigation during off-duty time shall receive compensation in accordance with existing procedures.



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- b. Before any interrogation concerning an internal investigation is conducted, the employee to be questioned shall be informed of the nature of the complaint being investigated, the name of the person in charge of the investigation, and the names of all persons to be present during any interrogation.

- c. Interrogation

- 1) An employee who is the subject of an internal investigation shall, at his/her request, have the right to have a representative present while being interrogated. The right to have a representative present applies to employees who are known or believed to be the subject of an investigation. If, at any time during an internal investigation, an employee is focused upon as a suspect in a criminal act, the investigation shall be terminated and no interrogation will be pursued until the matter is reviewed. If it is determined that the matter shall be pursued criminally, the employee shall be so informed and appropriately admonished.
- 2) The representative may observe all aspects of the interrogation. The representative may not interfere in the interrogation but may raise points of objection. Any points of objection not resolved during the interrogation shall be noted and reported by the CIU investigator as part of the official report prepared and submitted on the matter.
- 3) The representative shall not be required to disclose, nor be subject to any punitive action for refusing to disclose, any information received from the employee under investigation.

All questions directed to an employee being interrogated incident to an internal investigation shall be asked by no more than two interrogators at one time. The employee shall not be subjected to offensive language or threatened with punitive action. No promise of reward shall be made as an inducement to answering any questions.

- d. The interrogation session shall be for a reasonable duration, taking into consideration the complexity and gravity of the matter being investigated.



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- e. The Department shall not cause an employee who is the subject of an internal investigation to be visited by the news media without his/her express consent. The name, address, or photograph of the employee will not be given to the news media without that person's express consent.
- f. Interrogations conducted incident to internal investigations normally are tape recorded. The employee being questioned shall be advised of that fact and he/she shall have the right to review the tape recording, if any is made, before any subsequent questioning takes place, and
 - 1) May use his/her own recording devices, and
 - 2) May review any reports or other documents pertinent to the matter under investigation, except those which are deemed to be confidential.
- g. No documents deemed to be confidential shall be entered in the employee's personnel file.
- 7. No employee shall be compelled to submit to a polygraph examination against his/her will.
 - a. In appropriate cases, employees may be requested to take a polygraph examination incident to an internal investigation. However, no disciplinary action or recrimination shall be taken against an employee who refuses to submit to a polygraph examination and no notation shall be entered in any record to the effect that the employee refused to take such an examination.
 - b. Employees must recognize that complainants and witnesses will be requested, in appropriate cases, to submit to polygraph examination. The results of such examinations will be taken into consideration in arriving at case findings.
- 8. No employee shall be subjected to punitive action or denied promotion, or be threatened with any such treatment because of the lawful exercise of his/her rights.
 - a. Government Code Section 3304 provides that "Nothing in this section shall preclude a head of an agency from ordering a public safety officer to cooperate with other agencies involved in criminal investigations. If an officer fails to comply with such an order, the agency may officially charge him with insubordination. "



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- b. No punitive action, or denial of promotion on grounds other than merit, shall be undertaken by the Department without providing an employee with an opportunity for administrative appeal.
9. No comment adverse to the interest of an employee shall be entered in the person's personnel file unless the employee shall first have the opportunity to read and sign the document containing such comment. If the employee refuses to sign the document, a notation will be made to that effect and it will be dated and signed by the person entering the notation. As specified in the Government Code, in addition to existing appeal procedures, an employee may, within 30 days, file a written response to any adverse comment entered in his personnel file. Such written response shall be attached to the document containing the adverse comment.



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APPENDIX D: ADVISEMENTS

The following procedural advisements, for use with employee subjects of investigations, are incorporated herein as part of the complaint review system.

1. Subject Advisement (Administrative Investigation)

Today's date is , and the time is . I am (Name and Rank of Interviewer), and with me to be interviewed is (Name and Rank of Subject).

This interview is being held at (location), and is being tape recorded. (Identify all others present, if any.)

You are the subject of an Administrative Investigation ordered as a result of a complaint filed by (name of complainant), in which it is alleged that you (specify the nature of the allegation).

As an employee of the UC Police Department, you are expected to be fully cooperative and impartial when asked for information concerning CIU investigations, and shall truthfully and completely answer all questions relating to your employment, conduct and operation of the Department.

Since this is an Administrative Investigation, you are required by Department General Order to cooperate completely, and answer my questions completely and truthfully. If you refuse to answer my questions or cooperate, this is in itself a violation of Department rules and policy, and you will be subject to disciplinary action, up to and including dismissal.

2. Witness Advisement (Administrative/Criminal Investigation)

Today's date is , and the time is . I am (Name and Rank of Interviewer), and with me to be interviewed is (Name and Rank of Subject).

This interview is being held at (location), and is being tape recorded. (Identify all others present, if any.)

This is an (Administrative/Criminal) Investigation ordered by the Chief; however, you are not the subject of the investigation. The purpose of this interview is to obtain any and all information that will aid in reaching a thorough and factual conclusion regarding the matter of concern.

As an employee of the UC Police Department, you are expected to be fully cooperative and impartial when asked for information concerning CIU investigations, and shall truthfully and completely answer all questions relating to your employment, conduct and operation of the Department.



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3. Miranda-Garrity Advisement - (Criminal Acts Which May Result in Prosecution)

Today's date is , and the time is . I am (Name and Rank of Interviewer), and with me to be interviewed is (Name and Rank of Subject).

This interview is being held at (location), and is being tape recorded. (Identify all others present, if any.)

This investigation concerns matters of criminal acts which you are suspected of committing. The nature of these acts are (explain all allegations), and the specific criminal violations are (specify Penal Code sections). Upon conclusion of this investigation, a report may be submitted to the District Attorney for review and possible issuance of a complaint.

I am going to advise you of your rights. First, you have the right to remain silent. You are not required to say anything at any time, or to answer any questions. If you do make a statement or answer questions, anything you say can be used against you in a court of law.

Second, you have the right to talk to a lawyer for advice before making a statement or answering any questions, and you may have a lawyer present with you during questioning if you wish. If you do want a lawyer, but cannot afford one, a lawyer will be provided for you. If you want to answer questions now without a lawyer present, you still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.

Third, even though you are an employee of the Police Department, and ordinarily you would be required by regulations to answer questions put forth to you by a supervisor or superior officer regarding your official duties, in this instance those regulations do not apply, and you will not be required to answer.

If you do not wish to answer any of these questions, your refusal to answer alone will not subject you to disciplinary action by the Police Department.

Do you understand that I want to question you about criminal matters?

Do you understand that you do not have to make a statement or answer any question?

Do you understand that if you do make a statement or answer questions, anything you say which incriminates you can be used against you in a court of law?

Do you understand that you have the right to talk to a lawyer, and have one present during questioning?



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Do you understand that if you do not wish to make a statement or answer questions, your desire to remain silent alone will not subject you to disciplinary action by the Police Department?

Do you have any questions concerning the rights that I have just explained to you?

Do you want to talk to a lawyer?

Do you want to answer questions at this time?

4. Lybarger (formerly Reverse Garrity Advisement) - (Criminal Acts Which Will Not Be Prosecuted)

(This advisement is the appropriate warning to be read to an employee when being questioned about matters that include or could include criminal acts, but it has previously been officially determined that any self-incriminating statements made by the employee during this questioning will not be used against the employee for the purpose of criminal prosecution.)

Today's date is , and the time is . I am (Name and Rank of Interviewer), and with me to be interviewed is (Name and Rank of Subject).

This interview is being held at (location), and is being tape recorded. (Identify all others present, if any.)

This is an administrative investigation, and I want to question you regarding (explain allegations). Although this matter may or may not involve criminal acts, I am not questioning you for the purpose of instituting criminal prosecution against you; and anything you say during this questioning about the matter in question which indicates that you may be guilty of criminal conduct will not be used against you.

If this were a criminal investigation, any statements you made could be used against you in a court of law. Since this is an administrative investigation, neither your statements nor any information or evidence which is gained by such statements can be used against you in any subsequent criminal proceeding. These statements may be used against you in subsequent administrative actions, however.

You are being ordered to answer questions specifically related to the performance of your official duties and/or your conduct as related to your employment with this Department. You have the right to remain silent, and you have the right to the presence and assistance of counsel.



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You are hereby notified, however, that although you have the right to remain silent, since this is an Administrative Investigation, you are required by Department General Order to cooperate completely, and answer my questions completely and truthfully. If you refuse to answer my questions or cooperate, this is in itself a violation of Department rules and policy, and you will be subject to disciplinary action, up to and including dismissal.

You have the right to have a representative of your choice, who is not involved in this investigation, present with you during your interview. You may tape record this interview, if you wish.

Do you understand what I have just read to you?

Do you understand that any incriminating statements made by you will not be used against you for the purpose of criminal prosecution?

Do you have any questions concerning what I have just read to you? I now order you to answer any questions that I may ask of you regarding this investigation.