

TRAINING BULLETIN

A PUBLICATION OF THE SAN DIEGO POLICE DEPARTMENT

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MANDATORY CITIZEN COMPLAINT ADVISORY

I. PURPOSE

This Training Bulletin establishes guidelines to assist personnel in complying with the mandatory citizen complaint advisory during a complaint intake.

II. SCOPE

This Training Bulletin applies to all Department members.

III. BACKGROUND

California law mandates law enforcement agencies to accept citizen complaints against peace officers in accordance with California Penal Code Section 148.6. The law requires law enforcement agencies, before accepting a complaint alleging misconduct by a peace officer, to require the complainant to sign an advisory informing the complainant that filing a knowingly false complaint may result in criminal prosecution. Section 148.6(a)(2) states in part:

A law enforcement agency accepting an allegation of misconduct against a peace officers shall require the complainant to read and signed the following advisory....:

You have the right to make a complaint against a police officer for any improper police conduct. California law requires this agency to have a procedure to investigate civilians' complaints. You have a right to a written description of this procedure. This agency may find after investigation that there is not enough evidence to warrant action on your complaint; even if that is the case, you have the right to make the complaint and have it investigated if you believe an officer behaved improperly. Civilian complaints and any reports or

findings relating to complaints must be retained by this agency for at least five years.

It is against the law to make a complaint that you know to be false. If you make a complaint against an officer knowing that it is false, you can be prosecuted on a misdemeanor charge.

In response to a recent court decision regarding this statute, the San Diego Police Department will incorporate this advisory into its citizen complaint process.

IV. PROCEDURES

Any citizen may lodge a complaint against a Department member at any time. All Department members are eligible to receive citizen complaints, though typically they are lodged with supervisors. When receiving a citizen complaint, officers shall adhere to the processes articulated in Department Procedure 1.10 Citizen Complaints, Officer-Involved Shootings, and In-Custody Deaths; Receipt, Investigation, and Routing.

The Department member receiving the complaint in the field shall attempt to record the interaction via Body Worn Camera or audio recording device. If the complainant does not consent to being recorded, the Department member shall not intentionally record them. Once the complainant expresses their desired resolution to the complaint (i.e., formal or informal investigation), the Department member shall facilitate the complaint advisory and ensure the complainant understands the admonishment by requiring the complainant to read and sign the Advisory Form.

A. In Person Complaints: Signing the Advisory Form

1. The Department member receiving the complaint in the field provides the complainant with the Advisory Form.
2. The Complainant reads and signs the form before returning it to the Department member.
3. The Department member completes a Blue Team entry for the complaint and uploads the signed Advisory Form to Blue Team prior to routing the complaint to Internal Affairs via the Department member's Chain of Command.
4. The citizen is not entitled to a copy of the signed Advisory Form, however, officers may refer the complainant to 148.6(a)(2) PC or furnish the complainant with an unsigned Advisory Form for their records.

B. In Person Complaints: Citizen Refuses to Sign the Advisory Form

1. The Department member receiving the complaint in the field provides the complainant with the Advisory Form.
2. If the Complainant refuses to read and/or sign the Advisory Form, the Department member writes, "Refused to Sign," on the Advisory Form in the area designated for the Complainant's signature.
3. The Department member completes a Blue Team entry for the complaint and uploads the Advisory Form to Blue Team prior to routing the complaint to Internal Affairs via the Department member's Chain of Command.

C. Complaints by Phone

1. Department members receiving complaints by phone will attempt to obtain permission to record the conversation.
2. Once the complainant expresses their desired resolution to the complaint, the Department member shall attempt to meet with the complainant in person to furnish them with the Advisory Form and obtain their signature.
3. If the complainant is unwilling or unable to meet with the Department member in person, the member will attempt to accommodate the complainant and obtain an email address, mailing address, or other means by which to both send the Advisory form and receive it upon its completion.
 - A. If a complainant is unwilling to provide an email address or mailing, or any other option to receive an Advisory Form, the supervisor may choose to direct the complainant to the City of San Diego's website to fill out an online complaint to complete the Advisory Form. The Department member, however, must still proceed with the complaint intake and complete a Blue Team entry.
4. The Department member will complete the Complaint Blue Team entry and explain the reasons for not obtaining a signed Advisory Form and any steps taken to obtain the signed form in the Summary section.

D. Online Complaints

1. All complaints submitted online via the San Diego Police Department/Commission on Police Practices Complaint Form will require an acknowledgment of the Advisory Form prior to submittal.
2. Online Complaints obtained any other way will be managed by the Internal Affairs Unit

E. Anonymous Complaints

The San Diego Police Department receives anonymous complaints. However, as a general rule for any investigation, if the information provided is insufficient, or if investigators are unable to contact complainants to ask essential questions, it may not be possible to complete the investigation due to a lack of clarifying facts.

If a Department member receives an anonymous complaint, the Department member will proceed with the complaint as described above without the benefit of knowing the complainant's identity.

F. Third Party Complaints

The San Diego Police Department receives Third Party Complaints. However, generally, for any investigation, if the information provided is insufficient, or if investigators are unable to contact complainants to ask essential questions, it may not be possible to complete the investigation due to a lack of clarifying facts.

If a Department member receives a third party complaint, the Department member will proceed with the intake interview as described above as if the third party complainant was the actual complainant.

For complainants who desire alternatives to lodging a complaint in person, they may lodge a written complaint at any police station or storefront as well as Police Headquarters at 1401 Broadway in downtown San Diego. If they prefer, they may forward a complaint electronically to sdpdia@pd.sandiego.gov.

Complainants may also call San Diego Police Department Internal Affairs directly at (619) 531-2801 or visit our website at: www.sandiego.gov/police/contact/file-complaint

Lastly, complainants may also submit a complaint to the CPP at 202 C Street, MS 9A, San Diego CA 92101, by phone at (619) 236-6296, or online at: commissiononpolicepractices@sandiego.gov

Copies of the San Diego Police/Commission on Police Practices Complaint Form with the advisory are available on the Resource Guide under Supervisor Forms as well as on the F drive at: F:\Templates\Patrol Based Forms\Supervisor Forms.

Department Procedure 1.10 Citizen Complaints, Officer Involved Shootings, and In-Custody Deaths: Receipt, Investigation, and Routing and the Internal Affairs Operations Manual will be updated to reflect the above changes.