

208 Citizen Complaints Against Department Personnel (rev 3-9-09)

It is the policy of the Probation Department to accept, record, and thoroughly investigate all alleged acts of misconduct and or fraud on the part of any employee of this Department.

Who Receives Complaints

Complaint Against	Submit to
Chief Probation Officer	See Mendocino County Policy 16
Probation Division Manager	Chief Probation Officer
Juvenile Probation Officers	Juvenile Division Manager
Adult Probation Officers	Adult Division Manager
Clerical / Accounting staff	Administrative Services Manager

How Complaints are Received

Initial complaints may be received by telephone, in person, or in writing with stipulation that there must be follow up by a signed Complaint of Misconduct form in order to take action. The form is included in this policy.

Complainants under the age of 18 must give the report in the presence of a parent or guardian.

Procedure for Registering Misconduct Complaints

All complaints of alleged acts of misconduct will require:

1. Personal contact with the complainant by the appropriate manager as detailed above.
2. Receipt of a signed Complaint of Misconduct form from the complainant describing the misconduct.
3. Admonitions are to be read orally to the complainant relative to Civil Code and Penal Code Sections prior to accepting the formal written complaint.
4. A copy of this complaint procedure shall be given to the complainant.

Disposition:

Upon completion of the investigation, the complainant will be notified as to the findings and disposition of the complaint.

Frivolous, unfounded or exonerated complaints shall be maintained in a separate confidential file marked "Citizen's Complaints" and retained for at least five (5) years.

False Allegations

The complainant must be aware that if the investigation discloses the complainant knowingly made false allegations, he or she may be held criminally and/or civilly liable.

1. Penal Code Section 148.5(b) states that every person who reports to any peace officer defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 (Probation Officers and Juvenile Hall Counselors) that a felony or misdemeanor has been committed, knowing each report to be false, is guilty of a misdemeanor if, (1) the false information is given while the peace officer is engaged in the performance of his or her duties as a peace officer, and (2) the person providing the false information knows or should have known that the person receiving the information is a peace officer. Punishable by imprisonment in the County Jail not exceeding one year.
2. Civil Code Section 45 states that “Libel is a false and unprivileged publication by writing, printing, picture, effigy, or other fixed representation to the eye, which exposes any person to hatred, contempt, ridicule, or obloquy, or which causes him to be shunned or avoided, or which has a tendency to injure him in his occupation.”
3. Civil Code Section 47.5 “Notwithstanding Section 47, a peace officer may bring an action of defamation against an individual who has filed a complaint with the officer’s employing agency alleging misconduct, criminal conduct, or incompetence, if that complaint is false, the complaint was made with the knowledge that it was false and was made with spite, hatred, or ill will. Knowledge that the complaint was false may be proved by showing that the complainant had no reasonable ground to believe the statement was true and that the complainant exhibited a reckless disregard for ascertaining the truth.”

The following statement shall be read to the complainant

Penal Code 148.6(2)

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 CITIZEN’S 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 PROPERLY INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN 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.

**Mendocino County Probation Department
Complaint of Misconduct**

Complaining Party

Name _____
Address _____
City _____ State _____ Zip Code _____
Residence Phone _____ Business Phone _____

Name of Employee(s) Subject to Complaint _____

Case Name (if applicable): _____

Occurrence _____
Date _____ Time _____ Location _____

Witness Information

Name _____ Age _____
Address _____
Phone Number _____
Name _____ Age _____
Address _____
Phone Number _____

Actions complained of (attached additional sheets if necessary): _____

Complainant's Injury or Loss: _____

The above statements are true and correct to the best of my knowledge and belief and I am fully aware of the penalties for filing a false report or accusation. (CC45; CC47.5; PC148.5; PC148.6)

Complainant Signature (Parent Signature if complainant is _____ Date _____
Under 18 years of age)

Department Use Only
Received By: _____ Date & Time Complaint Received: _____
Original complaint received in writing <input type="checkbox"/> by phone <input type="checkbox"/> in person <input type="checkbox"/> # of attached pages _____

