



Clayton County Police Department

PROCEDURES

Subject INTERNAL AFFAIRS INVESTIGATIONS		Procedure # E1	
Authorizing Signature 	Effective 03-22-2018	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended (see below) <input type="checkbox"/> Rescinds	Total Pages 16

I. POLICY

It is the policy of this Department to provide citizens with a fair and effective avenue for redress of their legitimate complaints against departmental employees; to protect employees from false charges of misconduct or wrongdoing; and to provide accused employees with due process safeguards.

To maintain the integrity of this Department and its employees, this Department will not hesitate to impose disciplinary actions on employees who have violated laws, ordinances, and departmental rules and regulations; to dismiss employees who prove to be unfit for their assigned duties and to vindicate employees of unjustified allegations of misconduct or wrongdoing.

While encouraging the filing of legitimate complaints against employees as means by which they can be held accountable to the public, this Department simultaneously seeks to hold members of the public responsible for the filing of false and malicious allegations against police employees. In these latter cases, the complainants will be informed that legal actions may be taken against them.

This Department will investigate all allegations of employee misconduct, including anonymous allegations, received from any source outside or within the Department. (CALEA 26.2.1)

II. DEFINITION

For the purpose of this policy, the following definition applies:

Complaint: A complaint is an allegation of employee misconduct or wrongdoing, or failure to follow County and/or departmental policy, practice and/or law.

Internal Investigation: An internal investigation is any action taken to resolve a complaint made against an employee, policy or practice of this Department.

III. PROCEDURES

A. Office of Professional Standards (OPS)

1. The goal of OPS is to ensure that the integrity of the Department is maintained through a system of internal discipline where objectivity, fairness, and justice are assured by an intensive, impartial investigation and review process.
2. OPS is assigned to the Chief's Staff and the OPS Commander reports directly to the Chief of Police. Employees are assigned to OPS by the Chief of Police.
3. Employees assigned to OPS will follow an on-call schedule; however, employees are still subject to being called back in at any time. On-call duty begins Monday at 1600 hours, and continues to the following Monday, ending at 0800 hours. On-call personnel shall be expected to respond in a timely manner when called in. The OPS Commander will prepare an on-call schedule and will distribute the schedule to concerned personnel. No changes will be made to the on-call schedule without the approval of the OPS Commander.
4. OPS is responsible for: (CALEA 26.2.2)
 - a. Recording, registering, controlling and maintaining confidential information and records to include, but not limited to Use of Force Reports, Motor Vehicle Pursuits Reports, discharging of firearm incidents, citizen complaints against employees, internal complaints, departmental motor vehicle accidents, formal General Counseling of officers, and the Personnel Early Warning System (PEWS) as described in procedure C9, by utilizing IA Pro (IA Pro is a full-featured,

server-based application designed to meet the needs of internal affairs and professional standards investigations);

- b. Maintaining the confidentiality of internal affairs investigations and records;
 - c. Supervising the fair and impartial investigation of alleged or suspected misconduct within the Department;
 - d. Conducting other investigations assigned by the Chief of Police, or designee; and
 - e. The coordination of investigations involving the discharge of firearms as outlined by departmental policy. *See procedure A5: Use of Force.*
5. Reports shall be prepared by OPS summarizing, to the Chief of Police, the nature and disposition of all complaints received by OPS. The report will also reflect areas of concern that should be noted by the Chief of Police, or designee. (CALEA 26.3.2)
 6. OPS may refer investigations to the concerned employee's supervisor for investigation as outlined under the Internal Investigations Assignments section of this policy.
 7. OPS Investigators or officers temporarily assigned to that unit shall have the authority to interview any member of the Department and to review any record or report of the Department relative to their assignment.
 8. A record of all complaints will be kept on file by OPS utilizing IA Pro (explained in II.B.4.a.).
 9. The retention, release, and destruction of internal investigation files shall be done in accordance with the Georgia Records Retention Schedule. The records will be kept confidential and will not be stored with any personnel record or central records system.
 10. The OPS Commander is responsible for compiling an annual statistical summary report based upon records of internal affairs investigations that will be made available to the public and agency employees.

B. Internal Investigations Assignments

1. Internal Investigations may be assigned to a supervisor, a member of OPS, or anyone designated by the Chief of Police. No internal investigation will be conducted by non-supervisory employees without approval of the Chief of Police, or designee.
2. OPS is primarily responsible for investigating the following types of complaints:
 - a. Complaints of criminal activity will be forwarded to the appropriate investigative body at the direction of the Chief of Police and OPS will maintain liaison with the investigative body;
 - b. Complaints that are potential Category II or higher conduct violations alleged against personnel who are supervisors or higher in rank;
 - c. Complaints of sexual harassment;
 - d. Complaints of racial discrimination;
 - e. Shootings in accordance with departmental policy (see procedure *A5: Use of Force*);
 - f. Review and investigation of all complaints of excessive force; and
 - g. Any other investigations as directed by the Chief of Police, or designee.

Note: The OPS Commander is responsible for notifying the Chief of Police, or designee, of any complaints against the agency or its employees. The OPS Commander will notify the Chief in person, by telephone, or electronically during both business and non-business hours.

3. The following types of complaints will normally be investigated by a higher ranking supervisor within the concerned employee's Division of assignment:
 - a. Complaints that are potential Category I conduct violations alleged against personnel who are supervisors or higher in rank;
 - b. Violations of departmental policies, procedures, rules or regulations not specifically assigned to OPS. However, if it appears that an investigation may cause a conflict of interest within the Division, an OPS Investigator may be assigned to an investigation of the above types at the discretion of the Chief of Police, or designee.

C. Acceptance of Complaints

1. All employees of the Department shall courteously and willingly receive any complaint that may be lodged against the Department or any employee, to include complaints made over the telephone or received by mail.
2. Citizen complaints may be lodged at police headquarters located at 7911 North McDonough Street, Jonesboro, Georgia 30236.
3. Complaints lodged against the Department or its employees will be accepted as follows:
 - a. On all complaints, the complainant will be encouraged to file legitimate complaints against officers in person. Complainants will be reminded that they will be held responsible for filing false and malicious allegations and that appropriate legal proceedings could be instituted by the involved officer(s).
 - b. When a complaint is lodged in person during normal administrative working hours, 8:00 a.m. to 4:00 p.m., Monday through Friday, the complaint shall be accepted by a member of OPS. If an OPS Investigator is not available at that time, a supervisor shall be contacted to accept the complaint. The complaint being received should be taken on a standard *Clayton County Police Statement Form*. In the event that a supervisor is not immediately available, a non-supervisory employee shall accept the complaint.
 - c. Phone calls concerning complaints received during normal administrative working hours, 8:00 a.m. to 4:00 p.m., Monday through Friday, will be transferred directly to OPS.
 - d. In the event that a call is received when an OPS Investigator is not available, or during a time other than normal administrative working hours, the employee who received the call shall obtain the complainant's full name and contact phone number. The complainant's information shall immediately be provided to an available supervisor who will contact the complainant and accept the complaint.
 - e. Supervisors and/or non-supervisory employees who accept a complaint shall type a memorandum containing pertinent details relative to the complaint. Non-supervisory employees shall

immediately forward the memorandum and statement to an available supervisor.

- f. Complaints received by mail and/or email will be forwarded to the OPS Commander.
- 4. The *Acknowledgement of Complaint Form* shall be utilized by any supervisor, any officer when a supervisor is not immediately available, and/or OPS personnel to notify complainants that their complaint has been received.

See Appendix A of this procedure for the Acknowledgement of Complaint Form.

- 5. If the severity of the complaint, based on the departmental Discipline Guide, may result in adverse disciplinary action taken against the accused employee, the receiving or generating supervisor shall request and obtain an Internal Affairs case number immediately upon initial generation or receipt of the complaint.

Refer to procedure *B11: Disciplinary Procedures* for the definition of adverse of discipline. Refer to procedure *B11: Disciplinary Procedures, Appendix A*, for the departmental *Discipline Guide*.

- a. The generating or receiving supervisor shall perform the following:
 - 1) Notify the OPS Commander and supervisors of the complaint and request an IA case number via County email; and
 - 2) Access the Blue Team Field Entry Support application maintained on the departmental intranet to "Add New Incident." The supervisor will select the appropriate incident type ("citizen complaint" or "internal complaint") and enter the basic information in the required fields. After entering the information, the supervisor will select the "Mark Incident Complete" tab/link; the information will be accessed by OPS, indicating that a complaint has been entered at the shift and/or unit level and that an IA case number is needed.
- b. This procedure applies to the generating or receiving supervisor, regardless of what personnel is/are assigned to investigate the complaint.

6. Anytime a member of OPS generates or receives a complaint, an IA case number will be assigned to the complaint immediately.
7. OPS will immediately notify the Chief of Police, upon the receipt of a complaint of the type contained in subsection II.C.2 of this procedure. OPS will notify the Chief of Police of all other complaints upon the completion of the investigations unless the nature of a complaint (e.g. resultant publicity, etc.) dictates that the Chief of Police should be notified immediately.
8. The Clayton County Staff Attorney shall be notified of all investigations that may result in civil action against an employee, the County and/or the Department; and copies of such investigations shall be forwarded to the County Staff Attorney and Clayton County Department of Risk Management by the Chief of Police, or designee.

D. Assignment and Investigation of Complaints (CALEA 26.2.1)

The following procedures will be used by employees of this Department when conducting an internal investigation of a citizen complaint or other allegation that an employee of this Department has violated any state or federal law, municipal or county ordinance, departmental policy or procedure, lawful order, or Civil Service Rule; acted in a manner that is conduct unbecoming an officer or employee; or is negligent or incompetent in performance of official duties.

1. Depending on the nature of the complaint, OPS shall conduct the investigation. If the complaint is not in accordance with subsection III.B.2. of this procedure, it will be forwarded to the concerned Division Commander for investigation. The Division Commander may assign the complaint investigation to a supervisor. The investigating supervisor, immediately upon being assigned the investigation, shall make contact with the complainant.
2. Depending on the nature of the complaint, the concerned shift and/or unit supervisor shall conduct the investigation. The receiving supervisor may contact the OPS Commander to inform him of the nature of the complaint and the officer(s) involved. Upon completion, the complaint file shall be forwarded to OPS through the chain of command. If the complaint is not in accordance with subsection III.B.3. of this procedure, it shall be forwarded through chain of command to OPS for investigation. The OPS Investigator, immediately upon being assigned the investigation, shall make contact with the complainant.

3. Internal investigations shall not be conducted by persons involved with, or implicated by, the complaint.
4. Complaints about departmental policy can often be resolved during the initial contact with the complainant. Clarification of a policy or an explanation of departmental authority is sometimes all the complainant needs to understand an employee's actions.
5. In the preliminary stages of an internal investigation, the decision will be made as to whether or not the complaint will be investigated under administrative procedures, the criminal process, or separate administrative and criminal investigations. All criminal investigations will be conducted by the Criminal Investigations Division (CID) or other law enforcement agency having proper jurisdiction.
6. The OPS Investigator assigned to a complaint may notify the accused employee and the concerned Division Commander that a complaint has been received, and of any follow-up action to be taken. However, this procedure will not be followed if, in the opinion of the OPS Commander and the Chief of Police, a confidential and undercover investigation should be conducted to ascertain all or part of the evidence of the complaint. If an undercover operation is conducted, the accused employee and the concerned Division Commander will be notified as soon as practical.
7. Upon being notified that they have become the subject of an OPS Investigation, the employee will be provided a written explanation of the allegation(s) and the employee's rights and responsibilities relative to the investigation using a *Notification of Complaint/Allegations Form*. (CALEA 26.3.5)

See Appendix B of this procedure for the Notification of Complaint/Allegations Form.

8. Copies of OPS investigative files shall not be sent to criminal prosecutors.
9. Generally, all internal investigations must be completed within four (4) to six (6) months of initiation; this includes administrative review boards, administrative reviews and final disposition from the Chief of Police, or designee. Investigators will inform complainants of any delays in closing a case, and of the possible completion date, every thirty (30) days if the investigation is not completed within the six (6) month period.

Regarding internal investigations turned over to the concerned Division Commander for assignment at the unit and/or shift level, the investigation will be completed and returned to OPS within forty-five (45) days. (CALEA 26.3.3)

10. Upon completion of an internal investigation conducted by the concerned unit and/or shift supervisor, which included interviewing all witnesses, complainants and the accused employee(s), and obtaining any pertinent documents, a report must be prepared by the supervisor summarizing the investigation. The report will include the reporting supervisor's summary, any written statements or responses submitted, concerning or in response to, the complaint and any supporting documentation and/or evidence compiled during the investigation. The report shall be forwarded to OPS through the chain of command. The concerned Division Commander will also prepare a memorandum addressed to the concerned Deputy Chief of Police, recommending that the case be placed in one of the categories in Section II.J. of this policy and may also recommend that sustained complaints be forwarded to the departmental Conduct Review Board for further evaluation. All investigations conducted by a shift and/or unit supervisor will be forwarded to OPS for maintenance, review, and, if necessary, follow up.
11. After the accused employee(s) have been notified of the complaint, each affected employee will be given an opportunity to give the investigating supervisor or OPS investigator the names of any witnesses to the incident.
12. Under no circumstances will an investigation be conducted that employs unlawful methods, coercion or devices that would not be upheld in a court of law.
13. Each complaint shall be investigated to its logical conclusion, and the investigation results will be properly placed into the appropriate category of completed cases.
14. The investigative file and/or records pertaining to a complaint investigation will be kept confidential by the investigating supervisor and/or OPS Investigator. During a complaint investigation, the investigative file and/or records will be maintained in a manner that will prevent access by other personnel.

15. Written statements taken from witnesses during an internal investigation will be placed on a current/standard *Clayton County Police Department Statement Form*.
16. Final determination of case disposition shall be the responsibility of the Chief of Police, or designee.
17. The complainant will be notified of the case disposition by the Chief of Police, or designee.

E. Investigative Tools

1. Departmental Questioning

- a. During an administrative investigation employees may be compelled to answer questions that are related to their duties or fitness. Failure to answer such questions will form the basis for disciplinary action and may result in dismissal from the Department.
- b. The answers given by any employee(s) during the investigation of an administrative matter will not be used against the employee(s) in any criminal proceeding.
- c. The answers given during an administrative investigation do not constitute a waiver of the privilege against self-incrimination, as in criminal matters.
- d. Employees will not be permitted to have an attorney or other representative present during an administrative investigation, except with the approval of the Chief of Police, or designee.
- e. Employees of this Department who have been accused of committing a criminal offense, and who are being interviewed as part of a criminal investigation, will be granted all constitutional rights.
- f. The following procedures shall be followed during departmental questioning:
 - 1) Any employee reporting to the Office of Professional Standards (OPS) or the Chief's Office, who is the focus of any investigation or Loudermill Hearing, may be ordered to report without any weapons on his/her person, at the discretion of the Chief of Police, OPS Commander, or designee.

- 2) The interview of the employee shall be conducted at a reasonable hour.
- 3) If an employee is directed to leave his assigned position or duties for an interview, the concerned Shift and/or Unit Commander, or Division Commander, will be notified immediately.
- 4) The employee being interviewed shall be informed of the name and rank of all persons present.
- 5) The employee being interviewed shall be informed verbally of the nature of the investigation and the names of all complaining parties before the interview commences.
- 6) The employee being interviewed is permitted to make notes during the interview, but is prohibited from recording the interview.
- 7) The interview shall be for a reasonable period, depending upon the seriousness of the investigation.
- 8) Reasonable rest periods shall be allowed during the interview, and time shall be provided for personal necessities, meals, etc.
- 9) The employee being interviewed shall not be subjected to threats or offensive or abusive language. However, this does not prohibit the interviewing officer from informing the employee that the employee's conduct can be subject to disciplinary action should the employee refuse to obey a lawful order from the interviewing officer.

2. Medical, Psychological & Laboratory Examination

- a. A supervising officer may require a departmental employee to submit to a test for alcohol and/or drug use while on duty if there is reasonable belief of impairment. The results of the test may be used in a disciplinary hearing against the employee. For drug and alcohol procedures, see procedure *C7: Drug and Alcohol Policy*.
- b. If during an internal investigation it is determined that there is competent evidence that an employee is physically, mentally, or emotionally unable to perform assigned duties, the Chief of Police, or

designee, may order the employee to undergo a physical and/or psychological examination to determine the employee's ability to perform assigned duties.

3. Photograph & Lineup Identification Procedures

- a. Officers may be required to stand in a lineup for viewing by citizens for the purpose of identifying an employee accused of misconduct. Refusal to stand in a properly conducted lineup is grounds for disciplinary action and could result in dismissal.
- b. Photographs of all departmental employees will be maintained for the purpose of citizens identifying employees accused of misconduct. Photographs of employees are required by the Department and they will be used as it narrowly relates to the employee's job.
- c. Photographs or video recordings of employees, whether made knowingly or unknowingly of the employee, may be taken for the purpose of internal investigations when it relates to the employee's job and the employee is suspected of misconduct.

4. Financial Disclosure Statements

An employee may be compelled to make financial disclosure statements, when it is directly and narrowly related to allegations of misconduct involving any unlawful financial gain.

5. Polygraph Examinations During Internal Investigations

All polygraph examinations shall be in accordance with standard operating procedure *E2: Polygraph Examinations*.

F. Liaison with Prosecutors

The Criminal Investigation Division (CID) Commander, or designee, will serve as the liaison with the Clayton County District Attorney's Office, Clayton County Solicitor General's Office or any other prosecutor(s) regarding investigations involving alleged criminal conduct by an employee of this Department. The liaison will include requesting legal advice and updates on the status of the case from the prosecutor and offering assistance in the prosecution of the case.

G. Relieving an Employee from Duty

1. Any supervisors of the rank of sergeant and above have the authority to relieve any employee, under their command, from duty until the next day when it appears that such action is in the best interest of the Department.
2. OPS Investigators have the authority to relieve any employee of this Department from duty until the next day when it appears that such action is in the best interest of the Department.
3. The employee being relieved from duty will be notified of the specific reason for being relieved.
4. The individual being relieved from duty will be required to report to the concerned Division Commander the next day at 8:00 a.m. unless directed to do otherwise by the relieving supervising officer or OPS investigator.
5. The supervisor relieving an employee from duty shall immediately notify the concerned Division Commander, who will in turn notify the concerned Deputy Chief and the Chief of Police. The relieving supervisor shall complete a written report and immediately forward it to the Chief of Police through chain of command.
6. If the Chief of Police determines that it would be in the best interest of the Department to relieve the accused employee from duty during an investigation, the employee will be placed on unpaid administrative leave as provided for in the *Clayton County Civil Service Rules*.
7. If the Chief of Police determines that the accused officer should be assigned to a non-law enforcement or non-line position during the investigative period, the officer will be assigned an appropriate position.

H. Official Status While Suspended

1. During the period of suspension or administrative leave, the concerned officer shall neither be authorized to exercise law enforcement powers as a Clayton County Police Officer nor be assigned any law enforcement related duties by any member of this Department.
2. From the time of official notification of suspension or unpaid administrative leave, until expiration or revocation of same by competent authority, the employee suspended shall not be granted access to County-owned and/or

operated buildings in any manner or for any reason not normally afforded to all members of the general public.

I. Restriction While on Administrative Duties, Administrative Leave and Suspension

1. When officers are on administrative duties, administrative leave, or suspension, the authority to carry a firearm as a member of the Clayton County Police Department is suspended. During this period the employee is prohibited from carrying any firearm, while on duty. Additionally, the employee is prohibited from carrying any firearm off duty under the authority of this Department.
2. While on administrative duties, administrative leave, or suspension officers are prohibited from working any law enforcement-related, off-duty employment.
3. While on administrative duties, administrative leave, or suspension personnel are prohibited from operating any County and Departmental vehicles.

J. Case Closure Procedures

1. Upon completion of an internal investigation, the assigned investigator will recommend a disposition using one of the following six (6) categories:

Case Disposition Categories & Definitions:

Not Involved: Not involved means that the accused employee was not a participant in the alleged misconduct. If the accused employee was determined to be a witness, this disposition will be used.

Unfounded: Unfounded means that the allegations are false and not factual.

Not Sustained: Not sustained means that there is insufficient evidence to either prove or disprove the allegation.

Exonerated: Exonerated means that the incident occurred, but was lawful and proper. This disposition includes justified use of force incidents and motor vehicle pursuits that were in compliance with policy.

Policy Failure: Policy failure means that the allegation is true, and the officer's action was consistent with departmental policy. However, the policy should be reviewed for changes or modifications, if needed.

Sustained: Sustained means that the allegations are supported by sufficient evidence to justify a reasonable conclusion that the allegation is factual. This disposition includes non-justified use of force incidents and motor vehicle pursuits that were not in compliance with policy.

2. OPS shall maintain a central complaint file where final disposition of all complaints will be stored.
3. If the final disposition is sustained a list of violations shall be included. If it is found to be a policy failure, the specific failure shall be noted.
4. Only the Chief of Police, or designee, may close an internal investigation with a final disposition.
5. The Chief of Police, or designee, after reviewing a case, may reclassify the recommended disposition and then take action as outlined in this procedure and policy.
6. Complaints determined to be sustained by the Chief of Police, or designee, shall require a record of the complaint and final disposition entered in the concerned employee's personnel file.

K. Disciplinary Actions

See procedure B11: Disciplinary Procedures.

L. Confidentiality of Investigations

1. The progress of OPS investigations and all supporting materials are considered confidential information. This confidentiality serves the need to protect both the accused employee and the complainant.
2. Only the Chief of Police, or designee, has the authority to release the details of an internal investigation to the public or the media.

3. This confidentiality rule in no way precludes reporting to the public statistical information regarding complaints and internal investigations that were received and processed by OPS.
4. The contents of completed OPS case files will be maintained by the Unit in accordance with the Georgia Records Retention Schedule, and are subject to public inspection pursuant to Georgia's Open Records Act.

M. Dissemination of Complaint Procedures (26.2.4)

A copy of this policy pertaining to the departmental complaint procedure will be available to members of the public and media, upon request, and will be available to all personnel on the departmental intranet website.

VI. CANCELLATIONS

- A. This procedure amends the following standard operating procedure:

E1: Internal Affairs Investigations, dated September 2, 2016.