

# OVERLAND PARK POLICE DEPARTMENT STANDARD OPERATING PROCEDURE



**NUMBER:** 1240  
**TOPIC:** CITIZEN COMPLAINT & INTERNAL AFFAIRS INVESTIGATIONS  
**EFFECTIVE DATE:** 08/22/2018  
**SUPERCEDES:** 02/01/2018

**SIGNATURE:** /s/ Frank Donchez  
Chief of Police

/s/ Simon Happer  
Bureau Commander

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### **ATTACHMENT A**

CALEA references: See below

## I. PURPOSE

The Department promotes and expects the strongest and highest ethical standards and professional conduct by its Members when they are on and off duty. Investigations of alleged or potential Member misconduct will be conducted thoroughly, impartially and timely.

When procedural issues or misconduct are discovered, appropriate corrective action will be taken. This procedure does not preclude any supervisor from taking corrective action when appropriate. Nor does it preclude any supervisor from satisfactorily handling a complaint or inquiry at the time it is received. However, all formal complaints against Members of the Police Department are to be sent to the Internal Affairs Section for further investigation and/or final review.

## II. POLICY 26.2.1

It is the policy of the Overland Park Police Department to investigate all complaints against the agency or its employees, to include anonymous complaints.

## III. COMPLAINT TYPES

Citizen Complaint – A formal complaint originated by the public which alleges misconduct by a Member or expresses a concern about the service they were provided.

Internal Investigation – An investigation conducted at the request of the Chief of Police or designee regarding a Member's conduct. These investigations include, but are not limited to, alleged violations of the Standards of Conduct, Standard Operating Procedures, City Administrative Policies and Officer Involved Shootings.

Inquiry - A possible complaint of misconduct received from a person who, after being provided with an explanation of the Member's actions, understands the total situation and is satisfied that the officer's conduct was permissible and thus does not desire to initiate a complaint. There must be no apparent policy violations. However, if the citizen is not satisfied, a complaint will be recorded and sent to the Internal Affairs (IA) Section.

## IV. PROCEDURE

### A. ORGANIZATIONAL STRUCTURE

The Internal Affairs (IA) Section is located within the Services Bureau with direct report to Services Bureau Deputy Chief and Chief of Police. Any IA Member may assist with any investigation.

### B. INTERNAL AFFAIRS SECTION RESPONSIBILITIES

The responsibilities of Internal Affairs include, but are not limited to, the following:

- Investigate citizen complaints
- Provide the Chief of Police with an annual report
- Conduct internal investigations and inquiries as requested and directed.
- Present completed investigations regarding complaints on racial profiling or biased-based policing to the Independent Citizen Advisory Board.
- Complete statutorily required reports related to racial profiling or biased-based policing.
- Conduct investigations on firearms discharges as detailed later in this policy.
- Maintain a records system for the Response to Resistance Reports and ensure the proper paperwork is completed per [SOP 2330, Response to Resistance](#).
- Provide the Chief of Police with an annual Response to Resistance Report.
- Maintain the Administrative Investigations Management (AIM) database and provide training and technical support as needed to Members.
- Conduct other investigations as assigned by the Chief of Police or designee.
- Conduct quarterly and other audits of departmental functions as directed by the Chief of Police or designee.

### C. COMPLAINT INVESTIGATION LIMITATIONS

Investigations of a Member's misconduct will be limited to performance of official duties, fitness for duty, or off-duty behavior which reflects negatively on OPPD. Limits on complaint investigations pertain solely to those received from the public and will not affect the Chief of Police's discretion to investigate or act on his/her own initiative.

### D. RECEIPT & DISTRIBUTION OF CITIZEN COMPLAINTS [26.2.4](#), [26.3.2](#)

Information on how to file a citizen complaint or commend an officer will be made available via brochures which can be located at any OPPD police facility as well as on OPNet.

Upon becoming aware of a citizen complaint or possible violation of policy or law, Members will immediately report the information to a supervisor.

A citizen wishing to file a complaint should be referred to available personnel in the following preference order:

- An on-duty police supervisor
- An on-duty Internal Affairs investigator.
- Occasionally, a citizen's lack of information or a misunderstanding may result in a complaint. However, if the information or explanation provided by the OPPD Member immediately resolves the matter to the citizen's satisfaction, and there is no apparent policy or legal violation, the complaint will be re-classified as an Inquiry. If the citizen insists on filing a complaint, the receiving Member will complete an *Employee Complaint Report* [Attachment A](#).

Upon completion of an *Employee Complaint Report*, it will be routed to the PD Professional Standards e-mail group. The IA supervisor will complete the required distributions of complaint-related information to the affected Members' Bureau Commander and Division Commander and will notify the Chief of Police.

### E. ASSIGNMENT OF CITIZEN COMPLAINTS

Unless the Chief of Police or a Bureau Commander assigns the complaint to IA, the Division Commander has the discretion to assign the complaint to the Member's supervisor for investigation. To further develop the supervisor and the officer, it may be more appropriate for a Member's supervisor to investigate a complaint.

If the Division Commander does not assign the complaint it will be investigated by an IA detective. The procedure and rules outlined in this policy will be followed regardless of who is assigned to conduct the investigation.

### F. INVESTIGATION TIME LIMITS AND PROTOCOL [26.3.3](#), [26.3.5](#)

Any Member who is the subject of a citizen complaint will be notified as soon as practicable after the complaint has been assigned for investigation with the exception outlined in section H (Criminal Investigations). The Member will receive written notification, (most likely an

e-mail), regarding the complaint/allegations. The Member's rights and responsibilities relative to an investigation are referenced in this Section I of this written directive.

Affected Members will be notified of additional allegations which result from any ongoing investigation. The Chief of Police or designee can authorize a delay in any notifications which might jeopardize or hinder the investigation until it is completed or otherwise appropriate to do so. Furthermore, if it is determined an accused Member was not part of the allegation, the Member will be notified and removed from the complaint or listed as a witness, if appropriate.

All formal interviews will be recorded and persons being interviewed will be told they are being recorded if appropriate.

An *Internal Affairs Summary Report* will be completed to document investigative findings.

Complaint investigations should be finished as soon as practical. The investigator should complete his/her investigation within 30 days. Extensions may be granted at the discretion of the IA Captain, or any Bureau Commander. Extensions will be documented.

#### G. COMPLAINT RECEIPT AND CONCLUSION OF FACT

The verification, usually in the form of a receipt, furnished to persons initiating complaints alleging misconduct on the part of the agency or an agency employee may contain a description of the investigative process.

When the investigation is complete, the *Internal Affairs Summary Report* and other documentation pertinent to the investigation will be forwarded to the IA supervisor for their review. The IA supervisor will make a recommendation from the following dispositions:

- Substantiated- The allegation is found to be factual and is supported by competent evidence.
- Unsubstantiated- Insufficient evidence exists to support the allegation.
- Unfounded- The allegation was proven false or did not occur.
- Exonerated- The allegation was factual, but the Member's conduct was justified, lawful and consistent with OPPD policy.
- Dismissed- A complaint was initially filed, but the complainant either decided to withdraw the complaint or would not cooperate with the investigation and there are no apparent policy violations.

The IA supervisor will document their reason for the disposition. The investigation and disposition will then be reviewed and approved by the Services Bureau-Commander. The complainant will be notified of the final disposition either verbally, which will be documented, or by letter. The letter to the complainant will be general in nature and contain no information regarding final discipline.

The Member will be notified of the disposition by letter which will be copied to their chain-of-command. The Member's Division Commander will review the disposition and, if appropriate, recommend corrective action within 10 working days of the notification letter.

The Member's Division Commander will forward all documentation of any corrective action taken as result of the findings of the complaint to an IA supervisor and it will be made part of the case file.

#### H. OTHER INVESTIGATIONS

##### **Biased-Policing or Racial-Profilng Complaints**

When a person contacts the Department to file a complaint related to biased-based policing or racial-profilng, the information will be received, recorded, communicated and investigated as outlined in this policy for other citizen complaints. However, upon receipt of such complaints an IA investigator will explain to the complainant(s) in writing and, when possible, verbally of their statutory right to also file their complaint with the Kansas Attorney General (AG). The IA investigator will provide the complainant(s) with all appropriate AG contact information.

When a Member learns a biased-based policing or racial profilng complaint has been reported to, or is being investigated by, the AG, he/she will forward all related information and copies of any correspondence or documents they received to the Chief of Police and the Police Legal Advisor (PLA). The Chief of Police or designee will decide whether IA will conduct a follow-up investigation.

Upon completion of the investigation, the complete case file will be sent to the Chief of Police or designee and the PLA. The Chief of Police or designee will review the investigative findings and coordinate any follow-up reviews by the Independent Citizen Advisory Board and other reviews as deemed appropriate. The Chief of Police or designee will render a final decision regarding the complaint and any required disciplinary follow-up. See also [SOP 1170, Non-Biased Policing](#).

##### **Internal Investigation**

At the direction of the Chief of Police or designee, an internal investigation may be initiated regarding a Member's conduct, procedural compliance or any other issue.

All findings will be thoroughly documented and forwarded to the Chief of Police and/or designee for review and determination of any disciplinary actions, if warranted. Documentation of disciplinary action taken will be sent to the IA supervisor and made part of the file.

##### **Criminal Investigations**

When criminal activity is alleged against a Member, the Chief of Police may designate an outside law enforcement agency to conduct the criminal investigation. He will appoint an OPPD liaison to the investigating agency. If the criminal investigation might be jeopardized, he/she will suspend Member's notifications.

The Chief of Police or designee may order an investigation into alleged criminal conduct by Members. The Chief of Police may order an internal investigation for administrative

purposes. Criminal investigations will be completely and distinctly separate from any Internal Investigation.

Findings will be documented and sent to the Chief of Police and/or designee for review and to determine disciplinary actions, if warranted. Documentation of disciplinary action taken will be forwarded to the IA supervisor and made part of the file.

### **Firearm Discharges**

An internal investigation will be conducted on all intentional firearm discharges with the exception of the euthanasia of an animal per [SOP 2020, Animal Control Procedures](#) or appropriate range training. Any unintentional discharges occurring on duty which do not result in injury or property damage will be investigated by IA.

An internal investigation will be conducted on any unintentional discharge which results in an injury, unintended property damage or while a Member is off duty. When a firearm discharge occurs that meets the criteria for an internal investigation the Member will immediately notify a supervisor. The supervisor will notify the IA Captain or Services Bureau Commander as soon as practicable.

During the investigation, the IA investigators will coordinate evidence identification, collection, and preservation with Evidence Technicians and other OPPD resources. They will ensure any involved weapons are collected, mechanically inspected and, if necessary, test fired and field tested under similar conditions.

All findings will be documented and forwarded to the Chief of Police and/or designee for review and to determine disciplinary actions, if warranted. Documentation of any disciplinary action taken will be forwarded to an IA supervisor and made part of the file.

#### **I. REQUIRED COMPLIANCE BY ALL MEMBERS**

All Members will comply with IA investigator's official directions. Failure to do so will constitute insubordination. During an investigation, all Members of the Department will fully and truthfully answer all questions asked of them. Refusal to answer those questions may result in disciplinary action up to and including termination.

Any Member found to have knowingly given false information, or to have concealed information during any internal or criminal investigation, will be subject to disciplinary action up to and including termination.

All Members may be required to provide written or recorded statements, testify at administrative hearings, submit to tests and administrative examinations and cooperate with investigative techniques specifically related to investigations which include, but are not limited to:

- Scientific, lab, and medical examinations in compliance with [City Operations Procedure 227](#)
- Being photographed
- Participating in a line-up or various other identification procedures.

- Provide financial disclosure statements if it is material to a particular internal affairs investigation being conducted by the agency.
- Instruments for the detection of deception
- Review of in-car or other video files
- Review of any audio recordings
- Collection of statements or evidence at incident scenes, including but not limited to diagrams and photographs
- Review of related reports
- Review/download of personal cell phone if it was used for official business or is believed to contain content relevant to the investigation.

Members will not be openly critical or make derogatory comments concerning the investigation or participants.

J. CONFIDENTIALITY

In order to ensure the integrity of the investigation and to protect the involved Member's privacy and reputation, investigations are not to be discussed openly. Members are not allowed to discuss investigations with any other Members with the exception of their chain-of-command and IA investigators, unless otherwise directed.

K. MAINTENANCE OF INTERNAL AFFAIRS RECORDS [26.2.2](#)

The IA Captain is responsible for the safekeeping, confidentiality, security and maintenance of all IA investigative files and records. IA files are maintained for OPPD's internal administrative purposes on a permanent retention basis. Unless supervisory review is required for disciplinary purposes, access to IA files must be approved by the Chief of Police or designee. IA files will not be released or maintained outside the IA Section except as required by court order.

L. RELIEVED FROM DUTY [4.2.3](#)

The Chief of Police or his/her designee will remove from normal duty, any Member(s) (Commissioned and Non-Commissioned), who is involved in a critical or traumatic incident pending an administrative review. These incidents are not just limited to shootings, and may include incidents such as a fatal motor vehicle collision involving the Member. During the period of administrative leave or reassignment, it may be appropriate for the involved Member(s) to attend post-incident debriefing or counseling. Some critical incidents may require the Member's family to receive assistance.

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 Revision Date: 05/09/2008  
 Revision Date: 08/05/2008  
 Revision Date: 01/06/2015  
 Revision Date: 09/26/2016  
 Revision Date: 02/01/2018  
 Revision Date: 08/22/2018

CALEA references:

4.2.3

26.2.1

26.2.2

26.2.4

26.3.2

26.3.3

26.3.5



Office of Professional Standards

**Employee Complaint Report**

COMPLAINT RECEIPT & INCIDENT INFORMATION				
REPORTING SUPERVISOR			DATE REPORTED	TIME REPORTED
DATE OF INCIDENT	TIME OF INCIDENT	LOCATION	REPORT / CITATION / EVENT #	

COMPLAINANT # _____				
NAME (Last, First MI)	DOB	RACE	SEX	ADDRESS
PHONE (HOME)	PHONE (WORK)	PHONE (CELL)	E-MAIL ADDRESS	

EMPLOYEE # _____				
NAME (Last, First MI)	DIVISION	SHIFT	SUPERVISOR	LIEUTENANT / SECTION MGR

WITNESS (Non-employee) # _____				
NAME (Last, First MI)	DOB	RACE	SEX	ADDRESS
PHONE (HOME)	PHONE (WORK)	PHONE (CELL)	E-MAIL ADDRESS	

WITNESS (Employee NOT named in complaint) # _____				
NAME (Last, First MI)	DIVISION	SHIFT	SUPERVISOR	LIEUTENANT / SECTION MGR

SUMMARY OF ALLEGATION(S)	
CATEGORY	COMMENTS
<input type="checkbox"/> Poor service	
<input type="checkbox"/> Unprofessional conduct	
<input type="checkbox"/> Bias	
<input type="checkbox"/> Criminal	
<input type="checkbox"/> Procedural	
<input type="checkbox"/> Improper driving	

REPORTING SUPERVISOR'S SUMMARY / ADDITIONAL DETAILS

Origin: 01/1999  
Revised: 10/10/2007

**CONFIDENTIAL PER KSA 45-221**

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