



POLICE DEPARTMENT, COUNTY OF SUFFOLK, NY
 ACCREDITED LAW ENFORCEMENT AGENCY
DEPARTMENT DIRECTIVE
 PDCS-2008-1

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SUBJECT/TOPIC/TITLE CIVILIAN COMPLAINT PROCEDURE				
DISTRIBUTION ALL MEMBERS OF THE DEPARTMENT	SECTION CREATED 06/01/92	DATE EFFECTIVE 12/04/15	DATE AMENDED 12/04/15	

RULES AND PROCEDURES

CHAPTER 5: TITLE: INSPECTIONAL CONTROLS

SECTION 2: TITLE: CIVILIAN COMPLAINT PROCEDURE

I. PURPOSE

The purpose of the Civilian Complaint Procedure is to ensure all members of the Department refer alleged violations of criminal or civil law, official misconduct, unnecessary force, discriminatory policing, and violations of the Rules and Procedures or written Directives to their officer in charge without delay.

II. POLICY

A. The rights of the employee as well as those of the public must be preserved, and any investigation or hearing arising from an allegation must be conducted in an open and fair manner with the truth as its primary objective. The Department accepts allegations against its members and fully investigates them to the appropriate disposition.

B. All allegations, regardless of the source, will be documented and received, and a determination shall be made by the Department as to the nature and extent of the appropriate investigation.

C. Allegations can be made in person, through mails or private courier, telephone/TDD (telecommunications device for the deaf), Departmental E-mail or websites, or facsimile. Allegations need not be submitted by the reporting party in writing.

III. DEFINITIONS

A. Bias-based Policing - is synonymous with "discriminatory policing" and means selective enforcement or non-enforcement of the law, including the selecting or rejecting of particular policing tactics or strategies, based upon an individual's race, ethnicity, national origin, age, gender, religion, sexual orientation, or gender identity. Biased-based policing does not mean using any trustworthy information, relevant to the locality and timeframe, to identify a person of a particular race, ethnicity, national origin, age, gender, religion, sexual orientation, or gender identity in a reliable and recent suspect-specific description.

B. Civilian Complaint - An allegation made by any person reporting employee misconduct by a law enforcement officer or civilian member of a law enforcement agency. The reporting of any alleged employee misconduct is classified as either criminal: an act or omission of duty that, if substantiated, could result in a criminal conviction, or administrative: an act that, if substantiated, could result in disciplinary action up to and including dismissal.

C. Third Party Complaint - An allegation by a person acting as a representative of another (including representatives of community groups or organizations), who, although not directly involved, has witnessed misconduct or is basing the allegation on hearsay.

D. Negative Personal Contact - Allegations reported to the Department of a nature related solely to the involved member's alleged unprofessional attitude and/or language, while engaged in law enforcement or official actions.

E. Act - For the purposes of this section, act does not refer to the alleged specific act of misconduct itself, but rather the overall interaction between a complainant and the Department, such as an arrest, a verbal exchange or the use of force.

IV. REFERENCES

N/A

V. RULES AND REGULATIONS

A. Members of the Department shall not ignore, discourage, or persuade any person from filing a complaint, nor shall individuals be referred to another agency or authority as a substitute for this Department's involvement, nor shall questioning be conducted in an accusatory nature during

complaint intake. This procedure is used when an allegation is made against a member of the Department, and not for complaints of a procedural nature which are covered in Chapter 5 Section 9 of these Rules and Procedures.

1. Department members shall ensure all allegations of employee misconduct are kept confidential, and discussed only on a strictly "need-to-know" basis.

2. Whenever a member of the Department (including civilian members) becomes aware an individual wishes to report employee misconduct, including allegations regarding the receiving Department member, it shall be the responsibility of that member to immediately notify a supervisor.

- a. In the event an individual prefers to file his or her complaint or allegation without the assistance of a member of the Department, that individual may complete Department Form PDCS-1300-1, titled Compliment/Complaint Information Report. This form shall be conspicuously displayed in each precinct and headquarters lobby, and at other appropriate public facilities (such as libraries), in a manner that the form can be obtained without asking. This form must also be provided to members of the public upon request.

- (1) All completed Compliment/Complaint Information Reports received by members of the Department shall be immediately forwarded to the Internal Affairs Bureau.

B. When a person wishes to report employee misconduct against a member of the Department who is not assigned to the command receiving the complaint, the complaint is to be immediately taken by the command where the person reports the incident.

1. When a member of the Department is engaged in a police operation that makes receiving the allegation impractical (e.g., at a crime scene, directing traffic, investigating a motor vehicle crash, etc.), the person may be referred to the nearest Precinct building to make the report.

- a. The fact that a police officer or civilian member of the Department is involved in some type

of police activity (e.g., investigating a non-emergency call, etc.) does not remove the responsibility to immediately notify a supervisory member of the Service that the person wishes to report an allegation of employee misconduct.

C. Once a supervisory member of the Service has been notified that a person wishes to report employee misconduct, the supervisor will make every effort to assist the person. This shall include recording the allegation where the person is physically located, unless doing so would jeopardize officer safety, interfere with a criminal investigation, or interfere with other police activity to an unacceptable degree.

1. If it cannot be immediately determined that a member of the Department was involved in the alleged misconduct, but the person describes circumstances that would warrant the reception of a civilian complaint, the supervisory member will receive the complaint.

D. If a person alleges employee misconduct by a law enforcement officer or civilian employee of another law enforcement agency, members of the Department shall immediately notify a supervisory member of the Service.

1. When a supervisor is advised that a person alleges employee misconduct by a member of another law enforcement agency, that supervisor shall immediately contact the Internal Affairs Bureau, who will be responsible for notifying the associated agency.

- a. Notifications to the Internal Affairs Bureau will normally be made by telephone. During those hours when the Internal Affairs Bureau is not staffed, notifications shall be made via Internal Correspondence, sent by facsimile.

2. The supervisory member of the Service shall immediately notify the associated law enforcement agency if there is an allegation of a threat to any person.

E. Whenever a member of the Department reasonably suspects any member of the Department is engaged, has engaged, or may engage in employee misconduct or unlawful conduct, such member shall immediately notify a superior officer. The member will

promptly prepare any written report(s) the superior officer may deem necessary. Members are reminded that retaliation by a member whose conduct had been subject to these reporting requirements, or soliciting or obtaining the assistance of any third party to effect such retaliation, is prohibited.

F. Whenever a member of the Department becomes aware or receives allegations that a member of the Department may have engaged in conduct of a serious or sensitive nature, such as drug use, bribery, or excessive force resulting in egregious bodily injury, that Department member shall immediately notify the Internal Affairs Bureau and prepare any reports that they shall deem necessary.

G. "Whistle-blower" definitions, protection and procedure are outlined within Chapter 5, Section 8 of these Rules and Procedures.

H. The procedural requirements for "self-reporting" of the following incidents are further contained within Chapter 2, Section 2 of these Rules and Procedures:

1. A member of the Department shall immediately notify their Commanding Officer via an Internal Correspondence (PDCS-2042) of the existence of any temporary or permanent order of protection in which they are the respondent/defendant.
2. Any member of the Department that is arrested by any means shall immediately notify their Commanding Officer and provide all pertinent information and/or written reports. This reporting requirement also includes criminal offenses involving the vehicle and traffic law of any State.
3. Any member of the Department who learns that he or she is a suspect in any criminal investigation shall immediately notify their Commanding Officer and provide information regarding the nature of the investigation.
4. A member of the Department shall immediately notify his or her Commanding Officer via an Internal Correspondence if they are named as a party in a civil suit for on-duty conduct, and/or for off-duty conduct which alleges physical violence or racial bias.

VI. PROCEDURES

A. Complaints Received - All allegations (written, verbal, anonymous or otherwise) received against members of the Department, including negative personal contacts, but excluding allegations received via the Compliment/Complaint Information Report (PDCS-1300-1 and 1300-1-SP) shall be recorded via the on-line Civilian Complaint Report or manually on the PDCS-1300 when the Intranet is unavailable. Complaints prepared by the public via the Compliment/Complaint Information Report, if not forwarded directly to the Internal Affairs Bureau by the complainant, shall be forwarded directly to the Internal Affairs Bureau by the command accepting the Compliment/Complaint Information Report.

1. The On-Line Civilian Complaint Report will be completed on the SCPD Intranet by following the instructions provided under the "Programs menu". The completed on-line Civilian Complaint Report will be forwarded electronically via the Intranet to the Internal Affairs Bureau.

2. A copy of either a printed on-line Civilian Complaint Report or the manually completed PDCS-1300 shall be given to the complainant upon initial completion. When the on-line report is utilized, the complainant shall also be given the "Record ID#". This number is automatically generated when the civilian complaint is entered on-line and the complainants can utilize the number to identify their complaint. The "Record ID#" is indicated on the Citizen Complaint Summary. Copies should also be forwarded to the Commanding Officer of the reporting Command. The person making the civilian complaint shall then be informed that the complaint will be investigated.

a. If any statements (written, recorded or otherwise) are taken from the complainant, or any other evidence is gathered by the supervisor taking the complaint, the existence of the evidence shall be noted in the complaint report summary and forwarded immediately to the Internal Affairs Bureau.

3. When an allegation of employee misconduct is received by the Communications Section via phone, the Communications Section supervisor shall immediately contact the Internal Affairs Bureau. During the hours when the Internal Affairs Bureau is not staffed, the Communications Section supervisor shall:

- a. Record the complainant's information.
- b. Immediately contact the Officer in Charge at the precinct of occurrence. The Officer in Charge will immediately contact the complainant, following the procedures otherwise set forth in this Section of the Rules and Procedures.

(1) Complainants who prefer to remain anonymous will be provided the phone number of the Officer in Charge of the appropriate Precinct.

(2) In instances where the Precinct of occurrence cannot be determined, the Fifth Precinct has been tasked with the responsibility of processing the complaint.

B. Third party Complaints fall into several categories, as specified below:

1. Allegations reported by persons who are not themselves parties to the incident but are acting on behalf of another are accepted and investigated. This includes representatives of community groups and organizations.
2. Those reported by persons who have witnessed misconduct, although not directly involved, will be accepted and investigated.
3. All other allegations received from third parties, including but not limited to those based on hearsay, will be recorded in the same manner as a non-third party Civilian Complaint and will be investigated.

C. Civilian Complaint Report Routing:

1. The Internal Affairs Bureau (IAB) will be notified of all allegations of employee misconduct, either automatically through the online civilian complaint reporting system, or by the reporting member forwarding the manually completed Civilian Complaint Report, PDCS-1300, or by the citizen-completed Compliment/Complaint Information Report, PDCS-1300-1 or 1300-1-SP, or by any other report, as soon as possible via facsimile. Thereafter, the normally required form distribution process shall be followed. NOTE: All allegations of officer misconduct relating

to illegal profiling, bias-based policing or discriminatory policing, regardless of the manner in which reported, shall be forwarded to Internal Affairs Bureau no later than 48 hours from receipt. The Commanding Officer of Internal Affairs Bureau, or designee, shall ensure that this deadline is met by comparing the "report date" with the date of receipt in IAB.

2. The Internal Affairs Bureau shall accept and review all allegations to determine if an investigation is warranted and the nature and extent of the investigation to be conducted. Internal Affairs Bureau shall classify, process and disseminate all complaints against Department members. All Internal Affairs Bureau complaints shall be maintained on a strictly need-to-know basis and access to such complaints shall be restricted to Internal Affairs personnel whenever possible.

3. Even if the complainant wishes to withdraw his or her allegation, an investigation shall continue to resolution.

4. Incidents that are determined to be performance issues shall be returned to the member's command through the proper chain-of-command for disposition, with a copy of the final resolution to be submitted to Internal Affairs.

5. Depending on the circumstances and nature of the conduct alleged, the Internal Affairs Bureau may either assume direct responsibility for the investigation or refer the complaint to the appropriate Division for follow-up investigation. Internal Affairs Bureau personnel shall be alert to investigations that might involve a conflict-of-interest between the investigator, supervisory reviewer and the accused Department member, and shall take steps to ensure said conflict does not occur.

6. All investigations conducted pursuant to this Order shall be completed as expeditiously as possible, without sacrificing accuracy, thoroughness and completeness. All investigations shall be completed within sixty days, notwithstanding the fact specific circumstances of each investigation may result in a longer investigation.

a. All investigations not completed within 60 days shall be immediately brought to the attention of the Police Commissioner, or designee, in writing.

D. Civilian Complaint Investigations:

1. Allegations by civilians, including those which are anonymous, will be thoroughly investigated. Form PDCS-1300-3, Acknowledgement of Complaint, shall be utilized by the receiving command to acknowledge receipt of an allegation either reporting a civilian complaint or negative personal contact. If a complaint is received over the telephone, the receiving supervisor shall immediately mail an Acknowledgement of Complaint.

2. When a complaint is received by the command tasked with the investigation, including Internal Affairs Bureau, that command shall send a letter on Department letterhead to the complainant, thanking them for bringing this matter to our attention and include the following:

- a. Internal Affairs Case Number.
- b. Name of the Investigator.
- c. Contact information for the investigator.
- d. Notification that the complaint will be thoroughly and impartially investigated.
- e. A request that the complainant contact the investigator with any additional witnesses, documentation or information regarding the allegation.

3. Contact with the complainant shall be in their primary language in adherence with the Department's Limited English Proficiency policy.

4. Investigations not conducted by the Internal Affairs Bureau will be conducted by an officer of a rank superior to that of the accused member, as designated by the commanding officer of the investigating Command. This requirement shall not apply to investigations conducted by the Internal Affairs Bureau.

5. Investigating supervisors shall immediately report any additional misconduct that is discovered or the involvement of other Department members.

6. The investigation will be completed in a format designated by the Internal Affairs Bureau.

7. All relevant evidentiary information will be obtained and reviewed, including related Departmental records, complainant and witness statements and any other evidence necessary to formulate a conclusion.

a. The taking of written statements from a complainant or witness in an active civilian complaint who is currently in police custody at the command responsible to investigate the civilian complaint, is prohibited.

8. At the conclusion of the investigation, all relevant parties, including the complainant, will be notified of the disposition.

E. Negative Personal Contact Investigations:

1. Investigations will be assigned by the Internal Affairs Bureau after the initial allegation has been submitted via the on-line Civilian Complaint Report, the PDCS-1300, or the citizen-completed Compliment/Complaint Information Report, PDCS-1300-1. The investigation will be conducted by an officer of the accused member's command, as designated by the Commanding Officer of said command. The investigating officer shall hold a rank superior to that of the accused member. In all cases, an officer of the rank of Lieutenant or above shall interview the accused member of the Department.

2. Investigations will be conducted in a more expeditious manner as compared to other civilian complaints. The Negative Personal Contact-Supervisor's Investigation Report, PDCS-1299, requires only a summary of statements from the accused officer, the complainant, and any witnesses. Other evidence may be included if deemed necessary.

a. The taking of written statements from a complainant or witness in an active civilian complaint who is currently in police custody at the command responsible to investigate the civilian complaint, is prohibited.

3. The investigation will be completed on a Negative Personal Contact-Supervisor's Investigation Report (PDCS-1299, available on-line) or an Internal Correspondence in the format designated by the Internal Affairs Bureau (see the Programs menu of the SCPD Intranet).

4. Upon completion of the investigation, the investigating supervisor will document the supervisory action taken. The supervisor will also notify the complainant of the disposition either by telephone or letter and document the notification on the PDCS-1299. Contact with the complainant shall be in their primary language in adherence with the Department's Limited English Proficiency policy.

F. Disposition of complaints:

1. Conclusions reached as a result of investigations will be reported as follows:

a. Substantiated - The facts clearly support the allegations.

b. Unsubstantiated - Allegation cannot be resolved by investigation because sufficient evidence is not available to conclusively prove or disprove the conduct alleged.

c. Exonerated - The alleged act did occur but was legal, proper, and necessary. The following are examples of Exonerated:

(1) Allegations of false arrest wherein a legal, proper and necessary arrest did occur.

(2) Allegations of excessive force wherein legal, proper and necessary force was used.

(3) Allegations of an improper verbal exchange (rudeness, cursing etc.), wherein a proper verbal exchange did occur, consistent with Department guidelines, but the alleged misconduct did not.

d. Unfounded - The alleged act did not occur and the complaint is false. Any information that could lead one to believe that the act took place

would require a conclusion other than Unfounded. The following are examples of Unfounded:

(1) Allegation of false arrest wherein no arrest occurred.

(2) Allegation of excessive force wherein no force was used.

(3) Allegation of an improper verbal exchange (rudeness, cursing etc.) and there was no contact between the complainant and the alleged officer(s) involved.

2. Upon completion, investigating officers will forward complete reports, including all attachments, to their Commanding Officers.

G. Responsibilities of Commanding Officers:

1. Commanding Officers of investigating commands will be held accountable for all civilian complaint investigations within their commands, assigned by the appropriate Division Chief.

2. Commanding Officers shall review all completed investigations for concurrence and if disciplinary action against the involved member is warranted, prepare a written report to the appropriate Division Chief including the findings and any action taken or recommended.

3. If the Commanding Officer believes the investigation should be conducted by another Command, that recommendation should be noted in a report to the appropriate Division Chief. If the Division Chief concurs with the recommendation, the Commanding Officer will notify the complainant advising of such action, giving the name, business phone number, and Command of the person who has been assigned to investigate the complaint.

4. Upon completion of the investigation and prior to sending any correspondence to the complainant detailing the results of the investigation, the Commanding Officer will contact a member of the legal staff of the Office of the Commissioner to ascertain whether or not a Notice of Claim has been received regarding the complaint. If a Notice of Claim has not

been received, the Commanding Officer shall notify the complainant of the outcome of the investigation, or in the case of a Negative Personal Contact, ensure notification has been made. If a Notice of Claim has been received, the Commanding Officer will contact the Internal Affairs Bureau.

5. Commanding Officers will submit all civilian complaint investigations to their appropriate Division Chief and retain and file a copy of the Civilian Complaint Report for their files.

H. Responsibility of the Division Chief:

1. The appropriate Division Chief shall review all civilian complaints to ensure that a thorough and complete investigation has been conducted and that any recommendations, actions taken, or findings are supported by the facts of the investigation. Division Chiefs, after review and approval, will forward all complaint investigations to the Internal Affairs Bureau and retain a copy of the Civilian Complaint Report for their files.

I. The Internal Affairs Bureau is responsible for:

1. Conducting investigations as directed by the Police Commissioner, including those involving allegations against members of the Department emanating from legal action and those received from the Suffolk County Human Rights Commission. These investigations shall be conducted timely and, absent any unforeseen circumstances, shall be completed within sixty (60) days. The Police Commissioner, or designee, shall be notified, in writing, of all instances where investigations exceed 60 days.

2. Conducting investigations when the following specific misconduct is alleged, against members of the service:

a. Criminal conduct and/or corruption, (with appropriate consultation with the District Attorney's Office.)

b. Biased/discriminatory policing and/or illegal profiling.

c. Excessive force (excluding minor injury).

d. Improper drug and alcohol use.

3. The Internal Affairs Bureau will investigate those complaints which, by their nature, sensitivity or circumstances, are not appropriate for referral to a Division for investigation.

4. Notify the Police Commissioner and appropriate Division Chiefs of the outcome of all civilian complaints or investigations conducted within the Command. All completed cases involving allegations of biased/discriminatory policing and/or illegal profiling shall be forwarded to the Police Commissioner immediately upon completion for review.

5. Immediately contact the Police Commissioner or his designee of alleged misconduct requiring timely notifications.

6. Retain written records of disciplinary actions of Department members. Records shall be kept on file in perpetuity, unless otherwise ordered by the Police Commissioner.

7. Review, for approval, all completed civilian complaint investigations forwarded from the Divisions.

8. Maintain records of civilian complaint and investigations and report statistics as directed by the Police Commissioner.

9. Conduct routine audits to ensure Departmental compliance with the intake process for civilian complaints.

VII. ACCREDITATION

A. NYSLEAP 25.1

VIII. INDEX

N/A

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