

TOPEKA POLICE DEPARTMENT POLICY AND PROCEDURE MANUAL
3.15 PROFESSIONAL STANDARDS UNIT

Standard Operating Procedure: Professional Standards Unit		
3.15	EFFECTIVE: 10-08-2018	<i>William Cochran</i> William Cochran, Chief of Police
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3.15.1 PURPOSE

To outline procedures to be followed by the Department's Professional Standards Unit (PSU).

3.15.2 POLICY

To maintain public trust and the integrity of the Department, it is imperative that all Department employees be held to high standards and they conduct themselves in a professional manner at all times. To ensure these standards are upheld, all complaints, including anonymous complaints, against the agency or its employees will be investigated.

The PSU Commander, under the direction of the Chief of Police (Chief) may assign any generated internal or external investigations or inquiries to the appropriate supervisor according to the allegation severity for review and investigation.

3.15.3 PROCEDURE

A. Authority

1. Members of this unit are vested with the authority of the Chief to ensure investigative compliance with agency General Orders, written directives, City ordinances, state statutes, and accreditation standards.
2. PSU will ensure investigations of allegations of misconduct by employees of the Department are conducted.
3. PSU will investigate complaints that constitute negligent patterns of practice and bias based policing to include:
 - a. Defensive actions;
 - b. Bias-based policing;
 - c. Abuse of authority and dereliction of duty; and
 - d. Substance abuse. (Accusations of substance abuse by an employee while on duty must be dealt with immediately).
4. PSU receives assignments directly from the Chief and has authority to report directly back to the Chief on those investigations. The Chief has the discretion

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to request the Department's Legal Advisor to conduct or assist in an investigation.

5. PSU shall investigate or complete any other assignment from the Chief. Assignments may include staff level inspections and compliance audits throughout the Department.

B. Complaint/Administrative Investigations

1. Differences of opinion regarding the guilt or innocence of an accused/arrested and/or cited by an officer are matters for the courts and will not be investigated.

C. Investigation Time Limit and Extensions

1. Investigations will normally be completed within 90 days of the complaint or within 90 days of the date that an internal administrative investigation is authorized by the Chief.
2. The Chief may authorize an investigation to exceed the 90 day requirement.
3. PSU shall maintain a secure log of complaints for control and statistical purposes by using IAPro software. The assignment of complaint numbers will be administered by PSU.
4. Complaints alleging criminal misconduct by an employee may be forwarded to another law enforcement agency for investigation at the direction of the Chief.

D. Complaint Process

1. The Department shall make the complaint process available to both the public and employees. All complaints against the agency or its employees will be investigated.
2. PSU shall accept all complaints regarding the Department or its employees from any source including telephone calls and anonymous tips.
 - a. Anonymous complaints shall be evaluated by the PSU Commander to determine the extent they should be investigated. The following criteria may be considered:
 - 1) Seriousness of the allegation;
 - 2) Specificity of the complaint;
 - 3) Any history of similar incidents or allegations against the named employee, including PSU records;
 - 4) Documentation of the incident;
 - 5) Cooperation of the individual filing the complaint or individuals who have knowledge of the allegations;
 - 6) Ability to verify allegations; and
 - 7) Any other information or material that is available.

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- b. City employees may report sexual harassment, threatening/violent behavior, or use of alcohol/drugs as provided in this General Order to any supervisory employee or as outlined in City policies.
3. Requests by the complainant that no further action be taken should be documented and may be considered in determining follow-up investigation or action.

E. Complaint Process

1. Walk-in complaints will be sent to PSU personnel when possible. If unable or the citizen wishes to make complaint immediately then:
 - a. The front desk officer shall make readily available to the citizen a Complaint Form;
 - b. The complainant shall be advised to complete and sign the Complaint Form;
 - c. The citizen shall be provided a copy of the complaint; and
 - d. The completed form shall be placed in a sealed envelope and sent to PSU.
2. Telephone: If the initial complaint is received by telephone, the complaint will be documented and forwarded to PSU.
3. Complaints received in the form of a letter will be accepted in lieu of a complaint form.
4. Complaints will be accepted through e-mail, on-line forms, and the complaint hotline.
5. Any complaint that is reported more than 30 days after the incident should be taken and reviewed with the Chief for determination of further investigation.
6. Immediate resolution
 - a. Information and explanation to the complainant may resolve the inquiry immediately.
 - b. If the complainant is not satisfied with the verbal explanation he/she will be afforded the opportunity to submit a formal complaint.
 - c. Inquiries where resolution is achieved will be documented by PSU in IAPro software.
7. Complaint investigation may be conducted at the direction of the Chief or Deputy Chief immediately and without benefit of a Citizen Complaint Form when exigent circumstances exist.
8. Complaint Handling:
 - a. Complaints of a serious nature, which, if sustained, will have a high probability of resulting in suspension, demotion or dismissal, will require

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direct notification to the Chief or in his or her absence the Deputy Chief:
and

- b. The employee's Bureau Commander may be notified with the approval of the Chief.

F. Notification

1. Complainant notification

- a. Once a complaint is received, a PSU member or designee shall contact the complainant by phone or email as soon as practical;
- b. The complainant will be provided a brief outline of the complaint process along with the name and telephone number of a person to contact should they have questions or need additional information; and.
- c. A PSU member shall notify the complainant of the results of the investigation in writing as soon as practical.

2. Employee notification

- a. The involved employee shall be notified of the nature of the investigation in accordance with the current union contract.
- b. Employee statements will be made part of the complaint case file.

G. Investigations

1. In General

- a. Allegations filed against Department employees shall be considered not sustained until an investigation of the facts and competent evidence indicates otherwise.
- b. Complaints alleging possible criminal conduct by an employee may be referred to another law enforcement agency for investigation at the discretion of the Chief.
- c. Employees that are the subject of a criminal investigation are entitled to all the rights and privileges guaranteed by law, including the Constitution of the State of Kansas and the Constitution of the United States.
- d. The Chief or designee may place an employee on administrative leave pending investigation results.
- e. Investigation of employee conduct complaints will be related to the performance of the employee's official duties or fitness for duty.
- f. Complaint files, investigative files, or copies thereof, will be regarded as confidential and shall not be released without authorization of the Chief, or designee.
- g. The Chief, Deputy Chief or PSU Commander shall have the authority to terminate an investigation when circumstances warrant such termination.

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Examples of justifiable reasons for closing a complaint investigation include, but are not limited to:

- 1) Complainant requests termination of the investigation or withdraws their complaint;
- 2) The complainant is uncooperative or cannot be contacted after reasonable attempts to do so have failed; or
- 3) It is unlikely that any additional information can be obtained to prove or disprove the allegation.

h. A "closed" investigation may be reopened if additional information is received which could resolve the complaint.

2. Employee Rights and Responsibilities During Investigations

Subject to contract and legal restrictions, employees who are involved in a PSU investigation may be required to file statements, testify at administrative hearings and/or submit to tests and examinations which are vital and specifically related to the investigation, including, but not limited to the following:

- a. Medical or laboratory examinations;
- b. Being photographed;
- c. Participating in a lineup;
- d. Submitting financial disclosure statements;
- e. Polygraph examinations -- The results of polygraph examinations or other deception detection devices will not be used as the single determinant during an investigation. Polygraph examinations will be narrow and specific in scope. Polygraph examinations must be approved by the Chief and administered under the direction of PSU;
- f. Blood, breath or urine tests; and
- g. Psychological examinations.

3. An employee's failure to comply with and complete any of the above requirements may constitute insubordination.

4. Employee Interviews:

- a. Should be conducted while the employee is on duty during normal work hours, when possible;
- b. The interview should be in private;
- c. No more than two investigators will interview the employee at any one time; and
- d. Interview sessions:

- 1) Shall comply with existing contract requirements;

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- 2) Shall afford the employee periodic break times during the interview;
- 3) Questioning in the interview should be specifically directed and narrowly related to the employee's:
 - i. Performance of his or her official duties;
 - ii. Fitness for duty; and
 - iii. The complainant's allegations.
- 4) Investigators shall conduct themselves in a professional manner at all times.
- 5) Audio/video recording of investigation interviews must comply with contract and legal requirements.

5. The PSU Case File

- a. A PSU investigator is responsible for overseeing the completion of an investigation case file.
- b. Upon completion, the case file may be forwarded to the appropriate supervisor electronically by PSU.
- c. The complaint file may consist of the following but is not limited to:
 - 1) Citizen Complaint Form;
 - 2) Complainant's letter of complaint;
 - 3) Summary of complaint;
 - 4) Investigation chronology;
 - 5) Letter of notification of investigation for both the complainant and involved employee;
 - 6) Related interviews and recordings of interviews;
 - 7) Witness statements;
 - 8) Photographs and digital media;
 - 9) Test and examination results;
 - 10) Any other materials or evidence;
 - 11) Investigative conclusion of facts; and
 - 12) Disposition.

6. Command Staff Review

- a. The employee's Bureau Commander may review the case file; and
- b. The case file will be reviewed and a final disposition determined by the Chief or in his or her absence, the Deputy Chief.
- c. Upon final disposition PSU will:
 - 1) Make written notification of the results of the investigation to the citizen and the employee;

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- 2) Any notification letter to the citizen complainant should be general in nature and not contain specific information about any proposed disciplinary action.
- 3) A copy of the notification letter will be made part of the investigative file.
- 4) If any complaint allegation is sustained the respective command staff member should refer to Performance Management Procedure.

d. Disposition

- 1) **SUSTAINED:** The allegation is found to be factual and is substantiated by competent evidence.
- 2) **NOT SUSTAINED:** Insufficient evidence exists to prove or disprove the allegation.
- 3) **UNFOUNDED:** The allegation is not supported by the facts or is a false allegation.
- 4) **EXONERATED:** The allegation is factual and did occur; however the involved employee acted lawfully and properly within policy and acceptable conduct.
- 5) **MISCONDUCT NOT ALLEGED IN COMPLAINT:** Violations were discovered and confirmed that were not included in the original complaint, but occurred during the incident being investigated.
- 6) **POLICY FAILURE:** The allegation is factual and appears improper; however it does not violate departmental policy because no such policy exists. Department policy may have to be addressed regarding the allegation.
- 7) **CLOSED:** Investigation of the allegation was terminated. The reason for closing the case file shall be stated therein. This disposition shall also be assigned to any anonymous complaint, which, after investigation, lacks corroborative information or evidence to exonerate the employee.

7. When the Chief or Deputy Chief is finished with the investigative file, it shall be returned to PSU electronically using IPro/Blue Team software.

H. Records Retention

1. The confidentiality of all internal files and all Complaint Forms shall be maintained by storing them electronically using IPro software.
 - a. Investigative files resulting in a disposition of sustained, not-sustained, or misconduct not alleged in complaint will be retained indefinitely.
 - b. Investigative files for all other dispositions, along with all inquiries/service reviews, can be destroyed following statutory expiration.
2. A copy of an annual statistical complaint summary is available to the public, subject to fees designated by City Code. Complainant and employee names

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will not be included in this summary. These annual statistical complaint summaries are also available to Department employees upon request.