



POLICE DEPARTMENT COUNTY OF SUFFOLK
 ACCREDITED LAW ENFORCEMENT AGENCY
DEPARTMENT DIRECTIVE
 PDCS-2008a

ORDER NUMBER 10-02

TYPE DEPARTMENT GENERAL ORDER		AUTHORITY RICHARD DORMER POLICE COMMISSIONER		SIGNATURE	
SUBJECT/TOPIC/TITLE CIVILIAN COMPLAINT PROCEDURE					
DISTRIBUTION ALL MEMBERS OF THE DEPARTMENT		DATE ISSUED 01/27/10	DATE EFFECTIVE 01/27/10	DATE TO BE REVIEWED N/A	

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 that all members of the Department will refer any complaints alleging official misconduct, unnecessary force and violations of the Rules and Procedures, to their officer in charge without delay.

II. POLICY

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

III. DEFINITIONS

A. Third Party Complaint - A complaint reported by a person who is acting as a legal representative complaining on behalf of another, has witnessed a misconduct although not directly involved or is basing his/her allegation on hearsay.

B. Negative Personal Contact - Civilian Complaint reported to the Department of a nature that has to do solely with the involved member's alleged unprofessional attitude and/or language, while engaged in on-duty law enforcement or official actions.

IV. REFERENCES

N/A

V. RULES AND REGULATIONS

A. No person shall be ignored or discouraged from filing a civilian complaint, nor shall they be referred to another agency or authority as a substitute for this Department's involvement. This procedure is to be used when a complaint is made against a member of the Department, not complaints of a procedural nature which are covered in Chapter 5 Section 9 of these Rules and Procedures.

1. Whenever a member of the Department becomes aware that a person wishes to file a civilian complaint, a supervisory member of the Service is to be immediately notified.

B. When a person wishes to file a civilian complaint against a member of the Department that 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 complaint 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 file a civilian complaint.

C. Once a supervisory member of the Service has been notified that a person wishes to file a civilian complaint, the supervisor will make every effort to assist the person. This shall include recording the civilian complaint 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 taking of a civilian complaint, the supervisory member will take the complaint.

D. If a person wishes to make a complaint against a law enforcement officer or civilian employee of another law enforcement agency, a police officer or civilian employee of this Department is still required to immediately notify a supervisory member of the Service.

1. When a supervisor is advised that a person wishes to make a complaint about a member of another law enforcement agency, that supervisor will 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 is authorized and required to immediately notify the associated law enforcement agency if the complaint alleges a threat to any person.

VI. PROCEDURES

A. Complaints Received - All complaints (written, verbal, anonymous or otherwise) received against members of the Department, including negative personal contact complaints, shall be recorded via the on-line Civilian Complaint Report or manually on the PDCS-1300 when the Intranet is unavailable.

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. 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.

B. Third party complaints fall into several categories; these categories and how they are handled are specified below:

1. Complaints reported by persons who are not themselves parties to the incident but are filing a complaint on behalf of another are accepted and investigated.

2. Those reported by persons who have witnessed misconduct, although not directly involved, will be accepted and investigated.

3. All other third party complaints, 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 will be notified of all civilian complaints either automatically through the online civilian complaint reporting system, or by forwarding the manually completed Civilian Complaint Report, PDCS-1300, as soon as possible via facsimile. Thereafter, the normally required form distribution process, as outlined in the Department's Forms Manual will be followed.

2. Depending on the circumstances and nature of the allegation, the Internal Affairs Bureau may either assume direct responsibility for the investigation or

refer the complaint to the appropriate Division for follow-up investigation.

3. All investigations pursuant to this order will be handled as promptly and expeditiously as possible.

D. Civilian Complaint Investigations:

1. Civilian complaints, including anonymous complaints, will be thoroughly investigated.

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

3. The investigation will be completed on an Internal Correspondence in a format designated by the Internal Affairs Bureau.

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

E. Negative Personal Contact investigations:

1. Investigations will be assigned by the Internal Affairs Bureau after the initial complaint has been submitted via the on-line Civilian Complaint Report or the PDCS-1300 and be conducted by an officer of the rank superior to that of the accused member, as designated by the Commanding Officer. 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.

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.

F. Disposition of complaints:

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

a. Substantiated (the facts support the allegations).

b. Unsubstantiated (allegations cannot be resolved by investigation because sufficient evidence is not available to conclusively prove or disprove the allegations).

c. Exonerated (act did occur, but was legal, proper, and necessary).

d. Unfounded (act did not occur).

2. Upon completion, investigating officers will forward completed 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 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.

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

a. Criminal conduct and/or corruption

b. Racial bias, racial discrimination and/or profiling.

c. Excessive force (excluding minor injury).

d. Improper drug and alcohol use.

3. The Internal Affairs Bureau, at the direction of a Commanding Officer, will also 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.

5. Immediately contact the Police Commissioner or his designee of those complaints that require 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 complaint investigations forwarded from the Divisions.

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

VII. ACCREDITATION STANDARD REFERENCES

A. CALEA

B. NYSLEAP

VIII. INDEX

N/A

END