

**STOCKTON POLICE DEPARTMENT**

**GENERAL ORDER**

**PERSONNEL COMPLAINTS**  
**SUBJECT**

**DATE:** July 24, 2014

**NO:** I-1

**FROM:** CHIEF ERIC JONES

**TO:** ALL PERSONNEL

**INDEX:** Citizen Complaints  
Internal Investigations  
Professional Standards Section  
Personnel Complaints  
Complaints from Citizens  
Early Warning System

**I. POLICY**

- A. Complaints may be citizen-generated or Department-generated.

All complaints against Stockton Police Department personnel shall be accepted and investigated as prescribed by law. Citizen complaints shall be received in a courteous and impartial manner. No attempt shall be made to dissuade a citizen from making a complaint (SPD Rule and Regulation 3.28, "Citizen Complaints"). Citizen complaints will be accepted in any form. They will be taken in person, by telephone, in writing, third-party, or anonymously. The complaints will be documented, investigated, and reviewed. All complaints shall be categorized as "A", "B", "C", or "D" category complaints as outlined in Section V of this General Order.

**II. DEFINITION OF A COMPLAINT**

- A. A complaint is an allegation of circumstance(s) amounting to a specific act or omission which, if proven true, would amount to employee misconduct.

**III. DEFINITION OF MISCONDUCT**

- A. Misconduct is an act or omission by an employee which, if proven true, would normally result in some form of discipline or sanction. Misconduct would include, but is not limited to:

1. Commission of a criminal act
2. Neglect of duty
3. Violation of an agency policy, procedure, rule or regulation
4. Conduct which may tend to reflect unfavorably upon the employee or agency

**IV. EMPLOYEE RESPONSIBILITY**

- A. It shall be the duty of every employee to report instances of employee misconduct observed or brought to their attention. Such reporting shall be submitted to the employee's immediate supervisor (SPD Rule and Regulation 3.29, "Misconduct Observed by Police Personnel"), preferably in the form of a memorandum.
- B. The immediate supervisor shall then investigate the allegation of employee misconduct as set forth within this General Order (SPD Rule and Regulation 3.29, "Misconduct by Police Personnel").

**V. CATEGORIES OF COMPLAINTS**

A. Complaints made against Department personnel shall be classified into one of four categories:

Category "A" – Misconduct Complaint

Category "B" – Procedure Complaint

Category "C" – Informal Complaint

Category "D" – Policy Complaint

1. Category "A" Complaints (Misconduct Complaints): All complaints or allegations against Department members of misconduct, if proven, amounting to a violation of the law, or of the Department policies, procedures, General Orders, or Rules and Regulations. Examples include, but are not limited to:
  - a. Unnecessary or excessive force
  - b. False arrest
  - c. Discrimination
  - d. Criminal violation
  - e. Rude and discourteous conduct
  - f. Conduct unbecoming (includes criminal violations)
  
2. Category "B" Complaints (Procedure Complaints): All complaints where the supervisor/manager determines the employee(s) acted reasonably and within Department policy and procedure, given the specific circumstances and facts of the incident, and that despite the allegation of misconduct, there is no factual basis to support the allegation. Examples:
  - a. The allegation is a dispute-of-fact case wherein there is no independent information, evidence, or witnesses available to support the complaint, and there exists a judicial entity which is available to process the concern (i.e. disputes over the validity of a traffic citation).
  - b. Where the allegations are obviously frivolous or absurd, and there is no factual basis to support the allegations (i.e. complaints made by mentally disturbed, irrational persons, or persons who chronically file false complaints).
  
3. Category "C" Complaints (Divisional Complaints): An allegation involving minor transgressions on the part of an employee(s) may be handled by bringing the matter to the attention of the employee(s)' immediate supervisor. In choosing this process, the complainant makes a knowledgeable decision not to proceed with an Internal Affairs misconduct investigation. The utilization of this process does not imply that the subject employee(s) has, in fact, committed the alleged transgression.
  
4. Category "D" Complaints (Policy Complaints): A complaint which pertains to an established policy, properly employed by a Department member, which the complainant understands, but believes is inappropriate or not valid. It is an expression of dissatisfaction with the policy, practice, philosophy, service-level, or legal standard of the agency.

**VI. PROCEDURE OF ACCEPTING COMPLAINTS**

A. All Department members will refer complaints from any source, whether made in person, by mail, by telephone, or anonymously, to the division to which the subject employee(s) is assigned. In the case of Field Services personnel, or if after hours, the complainant will be referred to the on-duty Watch Commander.

Persons will not be referred to the Professional Standards Section to make initial complaints, unless directed by the Office of the Chief of Police.

- B. Under normal circumstances, it shall be a Watch Commander or Division/Section Commander who shall accept the complaint. It is essential that complete and accurate information regarding the complainant's allegations be obtained and documented.

The Department member receiving the complaint from a citizen will utilize the following guidelines when taking the initial complaint:

1. A detailed, recorded statement will be obtained from the complainant. This recorded statement shall include the complainant's specific allegations and pertinent information for the investigation.

If the complaint is received over the telephone, the complainant's allegations shall be obtained on a recorded line. Every attempt shall be made to interview the complainant in person.

2. The citizen will be provided with a Citizen Complaint Form (PD-1232) and given whatever assistance necessary to complete the form.

If the complainant is unable to read or sign the PD-1232 form for some reason, the Department member receiving the complaint will make the appropriate notation on the signature line of the PD-1232 form.

If the complaint is received anonymously and meets the criteria of a Category "A" Complaint, a PD-1232 form is not necessary; a PD-1129 (Complaint Control Form) will suffice in such case.

3. Color photographs of any alleged injury shall be taken. These photographs should include areas of claimed injury, even where there are no visible signs.
4. If applicable, the complainant shall be requested to sign a medical release form for each doctor, nurse, or medical facility visited in regard to the alleged injury.
5. All Category "A," "B," "C," and "D" complaints shall be entered on the Complaint Number Log, which is located in a shared folder in Groupwise. The corresponding IA number will be placed on the Complaint Control Form (PD-1129).
6. All Category "A," "B," and "C" complaints, and in some instances "D" complaints, shall be documented. This documentation shall be accomplished utilizing the PD-1129 Form, completing all applicable boxes and narrative portions. The person completing this form shall choose the appropriate complaint category. Regarding Category "D" complaints, if the complainant is still dissatisfied after clarification or explanation, a brief synopsis narrative will be documented on the PD-1129 form.

The name(s) of any employees accused of misconduct will be listed in the 'employee involved' boxes. Other employees who were present, but not accused, will be listed in the narrative portion of the Complaint Control Form (PD-1129).

The narrative portion of the complaint shall include witnesses, a synopsis of the specific allegation(s), and any action taken at that point regarding the complaint. Category "B" and "C" complaints will also include opinions and conclusions regarding the complaint resolution.

7. In all cases, the Department member receiving the complaint will then forward the entire complaint package (Complaint Control Form (PD-1129), Citizen Complaint Form (PD-1232), Medical Release Forms, memorandum detailing the complaint / investigation, recorded interview(s), and other materials gathered) to their immediate Division Captain/Commander for review. The Captain/Commander will ensure the necessary forms with signatures, and all necessary information, is included. The package will then be forwarded to the Professional Standards Section in a timely manner.

**VII. PROCEDURE FOR INVESTIGATION OF COMPLAINTS**

- A. The Professional Standards Section shall have primary responsibility for the investigation of Category “A” Complaints.
- B. Category “B,” “C,” and “D” complaints will normally be investigated by the person accepting the complaint and closing out the case on the PD-1129 Form. The nature of the complaint and the complexity of the investigation will be taken into consideration when deciding if the Professional Standards Section or the division involved conducts the investigation.
  - 1. Investigation of some Category “A” complaints may be routed from the Professional Standards Section to the division involved. It shall become the division’s responsibility to conduct the investigation and route the completed report back to the Professional Standards Section for further processing.
  - 2. The investigation will be completed in memorandum form as prescribed by the Chief of Police.
  - 3. Investigations which are routed to a division will be conducted promptly and shall be completed within thirty (30) calendar days from the date the complaint was assigned. If more time is needed to complete the investigation, a memorandum will be submitted via the Division Captain/Commander to the Professional Standards Section detailing the time needed to complete the investigation and the reason for the extension.
- C. Once an employee(s) has been identified as the subject of a complaint and an administrative personnel investigation has begun, the person assigned the investigation and their commanding officer will follow the investigation through to a logical conclusion. This is true even if the employee or the person assigned the investigation is transferred to another division.
- D. All appropriate investigative methods for determining the facts surrounding the complaint shall be utilized. Interviews shall be conducted with the complainant and witnesses. Department members shall be interviewed, and written reports obtained when necessary.
- E. All interviews are to be recorded unless not possible. The recording will be properly marked with the name of the person interviewed, interviewer, date, and IA case number.
- F. The commanding officer, from the determination of the facts, will recommend the complaint be classified as one of the following:
  - 1. UNFOUNDED: The investigation clearly established the act(s) or omission(s) alleged did not occur or, the employee(s) named was/were not involved in the act(s) or omission(s) which may have occurred.
  - 2. EXONERATED: The act(s) or omission(s) which provided the basis for the allegation occurred; however, the investigation revealed the action taken was justified, lawful, and proper.
  - 3. NOT SUSTAINED: The investigation failed to disclose sufficient evidence to prove or disprove the allegation(s).
  - 4. SUSTAINED: The investigation disclosed sufficient evidence to prove the allegation(s) made in the complaint.

**VIII. ROUTING / REVIEW**

- A. Once a Category “A” Professional Standards investigation is complete, and after the Professional Standards Section Commander (or other Division/Section Commander if investigated at the Divisional level) documents the determination of findings (VII F), the investigation will enter the routing and review stage.
  - 1. A Departmental Review Committee (Round Table) will review the investigation.

- a. The review committee involved in the routing process will consist of the following:
  - Legal Advisor
  - Captain or Commander of the involved employee's division/section
  - Deputy Chief over the involved employee's division/section
2. Each member of the Review Committee will receive a copy of the entire investigation. The Professional Standards Section will coordinate and schedule the committee meeting.
3. The first portion of the meeting will include the investigator who was assigned to investigate the case, as well as the investigator's commander. Facts of the case will be discussed. The second portion of the meeting will exclude the investigator and his/her commander, and will involve the committee members' concurrence and/or opinion as to their finding(s) of the investigation.
  - a. The Captain or Commander of the involved employee(s) will complete the Round Table Statement of Findings form. Once completed, the form will be turned into the Professional Standards Section for routing to the Chief of Police.
  - b. If the determination results in a finding of Exonerated, Unfounded, or Not Sustained, no recommendation is necessary.
- B. If the determination results in a finding of Sustained, a recommendation for disciplinary action is also required. If the recommendation is for a Memorandum of Correction or a Written Reprimand, this document will be prepared and submitted after the complete routing process. If the recommendation is for a suspension, demotion, or termination, this will be included in the Recommendation.
- C. If the Review Committee is unable to reach consensus either on the Complaint Determination or on the level of disciplinary action, the Review Committee will document that in a memorandum to the Police Chief.
- D. The Professional Standards Section will then forward the investigation and the Roundtable Statement of Findings Form to the Chief of Police who will consider the Complaint Determinations and the recommendations, if any, of the Review Committee and make his/her own independent Complaint Determination and level of discipline, if any, to be imposed.

#### **IX. COMPLETED INVESTIGATION AND ROUTING**

- A. Following the Police Chief's Complaint Determination and level of discipline, if any, to be imposed, the following will occur:
  1. If the findings were Exonerated, Unfounded, or Not Sustained, the employee will receive notice of such from the Professional Standards Section.
  2. In every case, the employee will be sent a letter requesting him/her to respond to the Professional Standards Section within thirty (30) days to review the report and sign a form acknowledging its existence.
  3. If there is a Sustained finding with discipline or recommendation for a suspension, demotion, or termination, the Chief's Office will notify the employee of the Notice of Intent to discipline. Thereafter, the employee will be entitled to contest the recommended disciplinary action as provided by law.
  4. The Professional Standards Section will maintain all completed investigations approved by the Chief of Police.

#### **X. PROFESSIONAL STANDARDS SECTION**

- A. The **Professional Standards** Section shall investigate and/or provide staff supervision for the investigation of all personnel complaints.
1. Professional Standards Section personnel will be directly responsible to the Chief of Police.
  2. Professional Standards Section personnel will normally investigate Category "A" complaints.
  3. Professional Standards Section personnel shall review each complaint and determine if the complaint shall be returned to the Department member's division/section for investigation or reclassification, or will be assigned to a Professional Standards Section investigator.
- B. Central Complaint Index
1. The Professional Standards Section will be responsible for maintaining a comprehensive central index of all personnel complaints received by the Department for the following:
    - a. A file of all personnel complaints.
    - b. Statistical analysis of complaints and issues to identify trends or patterns developing within the Department or with individual officers, which may require additional training or corrective action (i.e., Early Warning System).
    - c. Sending notification letters to complainants and employees upon receipt of the complaint and when the complaint is resolved.
- C. Supervisor Notification of Complaint
1. Professional Standards investigations are confidential matters. At times, an employee's Captain, Lieutenant, and/or immediate supervisor should be made aware of a pending or completed investigation involving their subordinate to provide better management and supervision for that employee.
    - a. At the discretion of the Professional Standards Section Commander, notification may be made to the involved employee's chain-of-command of a pending or completed Professional Standards investigation in order to provide better management, supervision, and guidance to the employee.
    - b. The supervisor or manager reviewing the information will maintain confidentiality. The information will not be discussed with other supervisors or managers not having direct assigned responsibility of the involved employee. Additionally, the supervisor will not discuss the particulars of the investigation with the involved employee, but will only use the information as knowledge to enhance the supervision of that employee. Persons violating this confidentiality will be subject to discipline.
- D. Early Warning System
1. The Professional Standards Section is required to be aware of, identify, and respond to trends and patterns of Department members. The Early Warning System is an intervention counseling program to be utilized as a management tool to address Department members with lengthy complaint histories by examining such histories to consider informal counseling or other administrative action. This process is important in that individual complaints need to be reviewed in the context of a member's entire career history.
- It shall be the policy of the Stockton Police Department to identify Department members who have shown a tendency to acquire personnel complaints, regardless of the final determination, and to provide intervention counseling in order to curtail this proclivity.
- Intervention counseling should consist of a combination of deterrence, education, and self-assessment.

2. Personnel complaints, discipline history, driving records, officer-involved-shooting records, use-of-force incidents, etc., may be examined to determine potential patterns.
  3. If a potential pattern has surfaced, the Department member will meet with the Division or Section Commander, Lieutenant, and/or first line supervisor for informal counseling. The informal counseling sessions will involve a review of the issues with the Department member in a positive attempt to assist the employee. No formal record will be made of the substance of the intervention counseling session.
  4. Command staff should factor an officer's work assignment and level of proactive policing as part of the discussion held during the intervention counseling session.
  5. The Professional Standards Section will be notified when the counseling session has been completed.
- E. Retention of Personnel Complaints.
1. Penal Code Section 832.5 mandates the complaint investigations against peace officers be retained for a period of five (5) years, regardless of the determination/finding. The Department will retain all personnel complaints (both sworn and non-sworn) other than those noted below, for (5) years before purging. The (5) year retention period starts on the date the Department receives the complaint.
  2. Professional Standards investigations resulting in termination; or where the employee severs employment with the Department prior to a final determination being made; and the nature of the complaint would have likely resulted in termination, will remain permanently on file.
  3. Complaints involving pending litigation or that have court ordered retention will not be purged until such time as the litigation has been resolved or the court removes the retention order.

## **XI. EMPLOYEE RIGHTS**

- A. Employee's rights to appeal any disciplinary action as a result of a Professional Standards investigation are specified under Civil Service Rules or Grievance Procedures, as provided in the Memorandum of Understanding.
- B. Criminal Procedures:
  1. If the employee is suspected of engaging in criminal conduct, the employee shall be afforded all Constitutional rights as any citizen would receive.
  2. The employee will be informed they have Constitutional rights not to incriminate themselves, but can be ordered to answer questions for administrative purposes.
- C. Additional rights concerning sworn employees:
  1. California Government Code 3300 specifies certain rights for sworn peace officers, and is referred to as the Peace Officer Bill of Rights. These rights will be afforded to all accused peace officers during administrative personnel investigations.

## **XII. EMPLOYEE REQUIREMENTS**

- A. When ordered by a competent authority, employee(s) subject to a complaint or involved as a witness in a complaint shall be required to complete a recorded interview.
- B. During an administrative investigation, a Department member suspected of being under the influence of alcohol or drugs may be ordered by the investigating supervisor to submit to a blood, breath, urine,

or combination of these tests. This section applies even if there is, or might be, a concurrent criminal investigation.

- C. If a Department member refuses to answer questions posed by an investigator during an administrative investigation, or to submit to the chemical test indicated in XII B, or disobeys a direct order to answer questions, the member may be charged with insubordination under Departmental Rules and Regulations (SPD Rule and Regulation 3.9, "Insubordination").
- D. When an employee is placed on administrative leave for alleged misconduct, all Department-issued firearms (including SWAT service weapons, and off-duty firearms), identification card, badge, parking sticker, Sonitrol card, Department issued cell phones/pagers and Department keys shall be obtained by Professional Standards personnel or the relieving command officer/supervisor. These items shall be retained by the employee's Division Commander until the employee is returned to duty.

### **XIII. PROFESSIONAL STANDARDS SECTION CALL-OUT NOTIFICATION**

- A. It will be at the discretion of the Watch Commander or Acting Watch Commander to determine if Professional Standards Section personnel need to be notified of any particular incident. Professional Standards Section personnel will respond to an incident at the direction of the Professional Standards Section Commander or at the direction of the Chief's Office.

### **XIV. INVESTIGATIVE RESPONSIBILITIES**

- A. Detention for an alleged criminal offense occurring in the city limits:

When a Department member is detained for actions equivalent to a Misdemeanor or Felony offense within the city limits, the below listed procedure shall be followed:

1. The on-duty Watch Commander will respond to the scene and supervise the preliminary investigation.
2. The Department member's Division Captain/Commander shall be notified.
3. The Division Captain/Commander will notify the appropriate Deputy Chief of Police. The Deputy Chief of Police will decide if the Chief of Police and/or the Department Legal Advisor need to be notified.
4. Professional Standards Section personnel will be notified.
5. If the alleged offense is a felony, Investigations Division personnel shall be notified and respond to the scene to conduct the criminal investigation.
6. If the alleged offense is a Felony traffic charge, Traffic Section personnel shall be notified and respond to the scene to conduct the investigation.
7. A supervisor or commanding officer will handle matters involving Misdemeanor follow-up investigations. The investigation shall be completed the same as for any other citizen. The Division Commander of the appropriate investigative unit will be contacted during normal working hours.
8. Department members will be advised of their Constitutional rights, and allowed to exercise the same rights afforded any other person under similar circumstances.
9. The Watch Commander shall witness the administration of any appropriate tests required for the criminal investigation of the offense (i.e. breath test, urine test, etc.)
10. The Department member's Division Commander shall be notified.

- B. Detention for alleged offenses occurring outside the city limits:

When the Department is officially advised a Department member is being or has been detained for a criminal offense outside the city limits, the following procedure will be followed:

1. The on-duty Watch Commander shall be immediately notified.
2. The on-duty Watch Commander shall immediately advise the Division Captain/Commander, and the Professional Standards Section. The Division Captain/Commander will notify the appropriate Deputy Chief of Police. The Deputy Chief of Police will decide if the Chief of Police and/or the Department Legal Advisor need to be notified.

**XV. COMPLAINTS INVOLVING HIGH-RANKING OFFICERS**

- A. In the event a personnel complaint is lodged against the Chief of Police or the Deputy Chief of Police, the City Manager will review the allegation(s). The City Manager will determine whether the allegations give rise to a misconduct complaint, and is ultimately responsible for determining the appropriate person(s) to investigate any allegations of misconduct against the Chief Officers of the Stockton Police Department (i.e. whether it will be investigated by personnel outside the Stockton Police Department).

**XVI. COMPLAINTS INVOLVING RESERVE OFFICERS**

- A. Primary responsibility for investigation of complaints involving Reserve personnel shall be assigned to the Police Officer Reserve Program Manager. Reserve Police Officer complaints will be processed in the same manner as for any member of the Department.
- B. The Reserve Officer Program Manager shall report directly to the Captain of the Field Operations Division during the investigation.

**XVI. COMPLAINTS AGAINST CIVILIAN PERSONNEL**

- A. The Professional Standards Section maintains responsibility for administrative investigations involving both sworn and civilian personnel employed by the Stockton Police Department. This includes employees of Animal Control and Neighborhood Services.