
	<b>SPRINGFIELD POLICE DEPARTMENT</b> <b>POLICY MANUAL</b>	<b>POLICY</b> # 52.1.1
EFFECTIVE DATE 8/8/23	 Andrew Shearer, Chief of Police	ACCREDITATION REFERENCE 1.7.1; 1.7.2; 1.7.3

## Personnel Complaints

### 52.1.1.1 PURPOSE AND SCOPE

This policy provides procedures for the reporting, investigation, oversight, and disposition of complaints regarding the conduct of employees of the Springfield Police Department.

### 52.1.1.2 DEFINITIONS

*Allegation of misconduct* - A report alleging that an employee has violated a department policy, procedure, or rule; violated a person's civil rights; or committed a criminal offense.

*Complaint* - Any complaint made by a member of the public or SPD member of alleged misconduct by an SPD member.

*Finding* - A conclusion as to whether an employee's conduct violated Department policies.

*Inquiry* - A question regarding law, department policy, procedure or regulation, or employee conduct.

*Investigatory Interview* - An interview related to a specific incident to determine if a policy, procedure, or other violation occurred.

*Preponderance of the evidence* - A standard of proof the allegation/s more likely than not occurred.

*PSD* - Professional Standards Division

*PSD Report* - The report generated by the PSD database management program, which is used to document complaints, inquiries, and commendations.

*Respectful Place to Work Violation* - A complaint of alleged workplace discrimination, harassment, sexual harassment, disrespectful or offensive behavior, or any other violation of the City's Respectful Place to Work (#03-07.07) or No Harassment or Discrimination (#03-07.14) Administrative Regulations.

### 52.1.1.3 ACCEPTANCE OF COMPLAINTS

#### (a) Methods of filing a complaint

1. Complaints will be accepted in person, by telephone, email, or mail.
2. Complaint forms will be maintained and be readily available in the Department's public lobby.

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3. Complaints may be accepted from anonymous or third parties.
4. The Department may initiate a complaint.

### **52.1.1.4 OVERSIGHT OF COMPLAINTS**

The oversight of all complaints will be the responsibility of the Professional Standards Division. After review PSD will either assign the investigation to a Division Commander or retain for a PSD investigation.

All complaints will be reviewed and assigned or retained by PSD within 3 business days.

### **52.1.1.5 DOCUMENTATION OF COMPLAINTS**

- (a) Any member receiving a complaint will attempt to gather sufficient information to document the complaint including
  1. Name of complainant
  2. Complainant contact information
  3. Date of event (if known)
  4. Involved members (if known)
  5. Brief summary of event
- (b) This information will be sent to PSD or given to a supervisor by the end of the receiving member's shift. Any supervisor who receives a complaint will enter the information into the PSD data management system within 24 hours of receiving the complaint.
- (c) If an employee learns of a complaint or allegation involving another employee, or if an employee learns of, or observes another employee behaving in a manner that could constitute misconduct or a violation of policy they must contact a supervisor and/or PSD as soon as practicable but no longer than 72 hours.
- (d) If the complainant is a juvenile, consideration and preference should be given to contacting the guardian to apprise them of the complaint.
- (e) All complaints and inquiries will be entered into the PSD data management system. The information in the database may be shared at the designation of the Chief of Police or as required by law.
- (f) The employee receiving the complaint shall make a reasonable attempt to audio and/or video record the complaint.
- (g) In circumstances where entering the complaint into the Professional Standards database would jeopardize the integrity of the investigation, the member receiving the complaint shall document the

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information in a memo to their Division Commander, PSD, Deputy Chief, or the Chief of Police by the end of their shift.

- (h) The Department will make reasonable attempts to discover, document and close complaints filed in bad faith or under false pretenses.

#### **52.1.1.6 NOTIFICATION**

- (a) PSD will notify the complainant in writing, unless the complaint was received anonymously, or the complaint stated they did not want further contact:

1. Upon receipt of the complaint
2. Investigation extension granted
3. Upon adjudication. Complainants will receive notice of the finding however, the notification will not disclose the nature of any discipline

- (b) PSD will notify involved members in writing, unless doing so would jeopardize the investigation.

1. Upon receipt of the complaint
2. Investigation extension granted
3. Upon adjudication

#### **52.1.1.7 COMPLAINT CLASSIFICATION**

- (a) Once PSD receives a complaint, the authority for processing, investigating, or referring the complaint, unless the Chief directs otherwise in writing, is delegated by the Chief, to the PSD supervisor. No Department member has the authority to stop, intercede in, suspend, or in any way direct and/or unduly influence the substance of a PSD investigation.

- (b) PSD will conduct a review of the initial information and determine the complaint classification.

- (c) Complaints will be classified in the following categories

1. Allegation of criminal conduct (on or off duty)
2. Allegation of misconduct (to include the specific policy violation/s)
3. Respectful Work Environment violation/s

#### **52.1.1.8 HANDLING OF COMPLAINTS**

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All allegations of misconduct will be reviewed by PSD. Allegations involving criminal misconduct will be forwarded to the Chief of Police to determine the appropriate investigation assignment. All other allegations of misconduct will be sent to the appropriate Division Commander or retained in PSD for investigation.

The Chief of Police or designee may require an external investigation of any allegation of misconduct.

For RWE complaints the PSD supervisor will consult with Human Resources to determine if PSD or Human Resources will conduct the investigation. RWE investigations conducted by PSD will be reviewed by Human Resources prior to final adjudication.

Should a conflict of interest be identified the Chief of police will be notified.

#### **52.1.1.9 HANDLING OF INQUIRIES**

- (a) Inquiries shall be referred to an on-duty supervisor.
- (b) A supervisor will contact the community member within 24 hours of receiving the inquiry.
- (c) Inquiries resolved at intake will be entered into the PSD data management system by the end of shift with a summary of the inquiry and the resolution. Inquiries resolved at intake are not considered complaints.
- (d) Inquiries not resolved at intake will be entered into the PSD data management system by the end of shift for review and assignment by PSD.

#### **52.1.1.10 DISMISSAL OF, OR DECLINING INVESTIGATION OF COMPLAINTS**

Complaints may be dismissed if:

1. The person does not work for SPD. The PSD supervisor will forward the complaint to the appropriate agency if known.
2. Absent new, substantial evidence or information, the complaint was previously investigated.
3. The involved employee cannot be identified. SPD will make and document reasonable efforts to identify involved members.
4. Upon review of the facts presented or information learned during intake, the allegations are found to be baseless, harassing, or malicious.

#### **52.1.1.11 SUPERVISOR RESPONSIBILITIES**

- (a) For allegations of misconduct that require immediate attention, supervisors shall ensure either the PSD supervisor, Deputy Chief or Chief of Police is notified.
- (b) Any supervisor who receives a complaint will ensure the proper documentation of complaints outlined in section 52.1.1.5 has been completed.

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(c) PSD Supervisor responsibilities:

1. Review and assign all complaints within 3 business days
2. Notify complainant and involved member/s of
  - a. Receipt of complaint
  - b. Extensions
  - c. Findings
3. Provide status updates on current investigations as requested by Command.
4. Consult with Command regarding appropriate level of discipline of sustained complaints.

(d) Division Commander responsibilities:

1. Review complaints assigned by PSD
2. Retain or assign to a supervisor for investigation within 3 business days
3. Review supervisor recommended findings
4. Provide their recommended findings and return to PSD.

(e) Supervisor responsibilities

1. Conduct a fact-finding investigation
2. Provide recommended findings

(f) If at any time a supervisor believes an investigation cannot be completed within 30 days the supervisor will request an extension from the Chief of Police.

### **52.1.1.12 ASSIGNMENT TO ADMINISTRATIVE LEAVE**

- (a) When the complaint of misconduct is of a serious nature or when the circumstances indicate an unreasonable risk to the department, the employee, other employees, or the community an employee may be placed on paid administrative leave pending the completion of the investigation or the filing of criminal and/or administrative charges.
- (b) A Division Commander, Deputy Chief, Chief or designee, may place an employee on paid administrative leave for the remainder of their shift. Administrative leave for a longer period must be approved by the Chief of Police or designee.

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- (c) When an employee is placed on administrative leave under this policy PSD will be notified of the date and time the employee was placed on administrative leave and the anticipated length of leave if known.
- (d) The PSD supervisor will ensure the Deputy Chief, Chief of Police, Human Resources, and the City Attorney's office are notified.

### 52.1.1.13 ADMINISTRATIVE LEAVE

- (a) An employee on paid administrative leave may be subject to the following:
  1. An employee placed on paid administrative leave will continue to receive regular pay and benefits pending the imposition of any discipline.
  2. An employee placed on paid administrative leave may be required by a supervisor to relinquish any badge, departmental identification, assigned weapon(s), and any other departmental equipment.
  3. An employee placed on paid administrative leave may be ordered to refrain from taking any action as a departmental employee or in an official capacity. The employee will be required to continue to comply with all policies and lawful orders of a supervisor.
  4. An employee placed on paid administrative leave may be temporarily reassigned to a different shift (generally normal business hours) during the pendency of the investigation and the employee will be required to remain available for contact at all times during such shift and report as ordered.
  5. At such time as any employee placed on paid administrative leave is returned to full and regular duty, the employee will generally be returned to their regularly assigned shift, and will have all of their equipment returned and authorities reinstated.
- (b) Exceptions to paid administrative leave procedures may be made by the Chief of Police.

### 52.1.1.14 ALLEGATIONS OF CRIMINAL MISCONDUCT

- (a) When an employee is accused of potential criminal conduct, the Chief or designee decides who has investigative responsibilities. The Police Chief determines whether an administrative investigation shall occur after the criminal investigation or concurrently.
- (b) The Chief of Police will be notified as soon as practical when an employee is accused of criminal conduct. In the event of criminal allegations, the Chief of Police may request a criminal investigation by an outside law enforcement agency.
- (c) The Chief of Police will determine whether an administrative investigation will be suspended to not jeopardize a pending criminal investigation or prosecution.

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- (d) An employee accused of criminal conduct will be provided with all rights and privileges afforded to a civilian and the employee may not be administratively ordered to provide any information to a criminal investigator

### **52.1.1.15 OUTSIDE INVESTIGATIONS OF CRIMINAL CONDUCT**

- (a) For a case in which a criminal investigation is being conducted by another agency, the PSD Supervisor shall:
  - 1. Notify the Deputy Chief or Chief within 24 hours.
  - 2. Act as the liaison with the other jurisdiction to monitor the progress of the investigation and court action if the alleged criminal conduct occurred outside the City of Springfield boundaries.
- (b) The role of the liaison is to:
  - 1. Offer assistance and gather information without influencing the course of the investigation.
  - 2. Coordinate investigative actions (such as interviews) with the agency conducting the investigation and/or the prosecutor to avoid jeopardizing the criminal case.
  - 3. Ensure that no information from an administrative investigation is shared with anyone involved in the criminal investigation or prosecution.

### **52.1.1.16 ADMINISTRATIVE INVESTIGATION OF COMPLAINTS**

- (a) Complaint investigations should include
  - 1. Review of reports, video, or other documentation
  - 2. Interview of complainant
  - 3. Interview of employees and witnesses
- (b) Represented employees may have additional rights under their CBA. Prior to interviewing an involved employee, the supervisor should review the appropriate CBA and ensure proper notification has been provided. Prior to interviewing an involved employee, the supervisor conducting the interview will ensure proper notification per the collective bargaining agreement has been provided. For employees without a collective bargaining agreement the supervisor will provide the employee with sufficient information about the allegation/s to reasonably apprise the employee of the allegation/s.
- (c) During the investigation, the following procedures will be followed with regard to the named employee/s

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1. Once notified of an investigation, a named or witness employee may not become involved in the investigation except as directed by the assigned investigator or appropriate authority.
2. The employee will normally be provided with 24-hour notice prior to any investigatory interview.
3. Interviews of named employees will be conducted during reasonable hours and, if the employee is off duty, the employee will be compensated. If practical, the interview will be conducted during the employee's normal working hours and at the facility where they employee is normally assigned.
4. All interviews will be for a reasonable period and the employee's personal needs will be accommodated.
5. Under State law, members may not be compelled to submit to a polygraph examination. However, member may be required to submit to medical or laboratory examinations; have photographs taken of themselves; participate in a line-up; or submit financial disclosure statements when there are reasonable grounds to believe such procedures are necessary to completion of the investigation.
6. No employee will be subjected to offensive or threatening language, nor will any promises, reward, or other inducements be used to obtain answers. Any employee refusing to answer questions directly related to the investigation is subject to discipline for insubordination up to and including termination.
7. The interviewer should record all interviews of employee and witnesses.
8. All employees subjected to interviews that could result in disciplinary action will have the right to have an uninvolved representative present during the interview; however, the interview will not be unnecessarily delayed waiting for the representative's arrival. The representative may counsel the employee but may not be disruptive or unreasonably interfere with the interview. At the conclusion of the interview, the representative will be given the reasonable opportunity to ask clarifying questions pertinent to the investigation; however, the representative may not present evidence during the interview.
9. All employees must provide complete and truthful responses to questions asked during interview.
10. The investigation and related documents are to be treated as confidential and may be discussed only with the appropriate personnel.
11. If, during the investigation, evidence of misconduct or another policy violation is discovered that is not documented in the original report, the investigator will discuss the issue with the PSD supervisor. The PSD supervisor may include the new allegation in the current investigation. The investigator shall notify the employee of the new allegation and include in in the investigation and resulting report. The employee shall be given the opportunity to be re-interviewed and/or provide any desired input regarding the new allegation/s.



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#### **52.1.1.17 ADMINISTRATIVE SEARCHES**

- (a) An employee of this department may be administratively ordered to submit to a blood, breath, or urine test for alcohol and/or drugs when reasonable suspicion exists that the employee has violated department policy by using or being under the influence of drugs or alcohol. The test will be for the drug(s) for which reasonable suspicion exists. The use of compelled testing results will be restricted to the administrative investigation. All searches will be conducted in accordance with City/SPD drug/alcohol policies.
- (b) Employees shall have no expectation of privacy in, or when using, offices, desks, lockers, vehicles, telephones, computers, radios, or other communication devices provided by SPD.
- (c) Assigned lockers, offices, desks, vehicles, and storage spaces are the property of the City and may be administratively searched by a supervisor for work-related purposes (e.g., obtaining a needed report or radio).
- (d) Other areas that are not assigned to a specific person (e.g., shared desks, common office space, shared vehicles) may be administratively searched by a supervisor for non-investigative purposes.
- (e) Personal locks that have been applied to lockers, desks, filing cabinets, etc. do not establish an expectation of privacy for the purposes of this policy. The employee will be given a reasonable opportunity to remove the lock before a search, however, the lock may be bypassed if the employee cannot or will not remove it.
- (f) An investigative search of such areas will only be conducted with the approval of the Chief of Police or designee upon a reasonable suspicion that misconduct is involved.
- (g) Items such as purses and bags in lockers, offices, desks, vehicles, and storage spaces may not be subject to search in accordance with law. Administrative searches will not be a substitute for proper criminal procedures.
- (h) Unless notification would jeopardize the investigation, the Department will make reasonable efforts to notify the affected employees before conducting searches under this Section.

#### **52.1.1.18 ADMINISTRATIVE INVESTIGATION REPORTS**

Investigations of complaints will follow the approved investigative report format outlined below and will include the following (attachment A for example report)

Identity of the employee/s

Identity of the assigned investigator/s

Initial date and source of the complaint

Summary of the event

List of allegations (including applicable policies)

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Evidence relied upon to determine the finding as to each allegation

### 52.1.1.19 ADJUDICATION OF COMPLAINTS

- (a) After the investigation is complete, the supervisor assigned to review the allegation/s, shall develop a recommended finding.
- (b) If the recommended findings are being written for multiple employees one or more are non-represented, a separate recommended findings memo will be made for each group, represented and non-represented.
- (c) Each allegation will receive one of the following findings (the standard of proof is preponderance of the evidence)
  - 1. Sustained: The allegation was determined to be a violation of SPD policies, procedures, and/or laws, and the involved employee/s committed the violation as alleged.
  - 2. Not sustained: There was insufficient evidence to determine whether a violation of SPD policies, procedures, and/or laws occurred.
  - 3. Unfounded: The complaint is unsubstantiated. It was determined that the employee did not engage in the behavior alleged by the complainant.
  - 4. Exonerated: Investigation revealed the behavior did occur, but the named employee/s acted lawfully and within policy.
- (d) The named employee/s will be notified of the formal adjudication decision. If a notification cannot be delivered within five (5) days, the PSDD supervisor will be notified and ensure the reason for the delay is documented.
- (e) If the allegation/s are sustained the member will be notified of what misconduct occurred and which policies were violated.

### 52.1.1.20 FILE CLOSURE

- (a) The investigating supervisor and the chain of command will review the case for any issues that may indicate a need for modification or training and/or policy. Any such issues will be identified in a memo or email forwarded to the PSD supervisor.
- (b) PSD will maintain internal investigation files, including those pertaining to mediation. Prior to filing, each case should be reviewed to ensure only relevant information is included.
- (c) Investigations resulting in disciplinary action or exoneration shall be retained for three years after resolution and in accordance with the Department's established records retention schedule (OAR 166-200-0350).

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- (d) Investigations resulting in termination shall be retained for 10 years after the member separation and in accordance with the Department's established records retention schedule (OAR 166-200-0350).
- (e) Unfounded investigation records and all related files not resulting in disciplinary action shall be retained for three years and in accordance with the Department's established records retention schedule (OAR 166-200-0350).
- (f) Except for disciplinary memos resulting from investigation of an allegation, no investigative reports will be filed in an employee's personnel file.
- (g) In accordance with Oregon law, SPD will retain the personnel records of a police officer or reserve officer employed by the agency for at least 10 years after the officer leaves employment with SPD.

### **52.1.1.21 CONFIDENTIALITY**

All investigations of complaints will be considered confidential, and the contents will only be shared with authorized personnel or as required by law.

### **52.1.1.22 ANNUAL REVIEW**

The PSD supervisor will conduct an annual review of complaints received. The review will summarize the types of complaints received, identify trends, and determine whether any policy or training changes are needed. The review will be completed, and a written report submitted to the chief of Police.

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**POLICY 52.1.1**

**ATTACHMENT A**

**Administrative Investigation Report**

Date: *(Date report written)*

To: *(Supervisor)*

From: *(Author of report)*

Subject *(case number, involved member/s name and employee number)*

Intro paragraph (will include the date the complaint was received and the source of complaint)

*On September 15, 2023, I received a complaint from Ms. Smith that Officer Green was rude during a traffic stop that occurred on September 14, 2023, at 1900 near 18<sup>th</sup> and Main St.*

Summary (summary of the event/s surrounding the complaint)

*Summary should include the details provided by the complainant*

List of allegation/s with applicable policy

*Allegation 1, Officer Green was discourteous to Ms. Smith during a traffic stop – Policy 26.1.1 (Code of Conduct)*

Evidence as to each allegation (to include employee and witness statements)

*This section should include the work you did to investigate the allegation (review of BWC/ICV, spoke to witnesses, read reports etc.) your recommended finding and reasoning for your recommendation.*

*Allegation 1 – Exonerated*

*I read all the reports, reviewed all the videos and found Officer Green was calm and courteous during the entire interaction with Ms. Green.*