



Sioux Falls Police Department

Partnering with the community to serve, protect, and promote quality of life!

Policy: Internal Investigations / Complaints Against Department Personnel	Related Policies:	Section #: 100 Standards / Conditions of Employment
		Policy #: 105
		Effective: 1/2021
		Page 1 of 4
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can be used as basis of a complaint by this department for nonjudicial administrative action in accordance with the laws governing employee discipline.</i>		
Policy Owner: ASD		
Reference:		
Sensitivity Level: <input checked="" type="checkbox"/> Public <input type="checkbox"/> Law Enforcement Eyes Only		

1. Purpose:

1.1. This policy is created to describe the process in which complaints against department personnel and internal investigations are to be conducted.

2. Policy:

2.1. The Sioux Falls Police Department regards the investigation of all complaints made against its employees as important to its overall mission of providing dependable, quality services to the citizens of Sioux Falls. All complaints against Sioux Falls Police Department employees will be investigated.

3. Procedure:

3.1. Receiving and Processing Citizen Complaints

3.1.1. All citizen complaints against department personnel will be referred to an on-duty Shift or Section Supervisor. The supervisor will make every effort to take the complaint in person. If that is not possible, the complaint can originate from any of the following sources:

- a. Individual aggrieved person,

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- b. Third party,
- c. Anonymous,
- d. Agency employee,
- e. News media,
- f. Governmental agency,
- g. Notice of civil claim,
- h. Complaints can be made by members of the public,
- i. City website,
- j. By letter,
- k. Email.

- 3.1.2. The supervisor will get all available details from the complainant, including full names, addresses, and telephone numbers of the complainant(s) and all persons present at the time of the alleged offense.
- 3.1.3. If the complainant is intoxicated when the initial complaint is taken, a follow-up interview will be conducted when the complainant is sober.
- 3.1.4. If a preliminary investigation of the complaint by a Shift/Section Supervisor indicates that there is a factual basis for the complaint and that the complaint may result in criminal charges and/or departmental disciplinary action, the facts of the complaint will be documented on the department's administrative reporting software program and forwarded through the Chain of Command to the Assistant Chief of Police.
- 3.1.5. In most cases, the immediate supervisor of the employee who is the subject of the complaint will obtain a written response to the complaint from the employee(s) who are the subject of the complaint, giving all details of their involvement in the incident, to be forwarded to the Assistant Chief of Police. All employees involved in the incident will be required to submit a written response.
- 3.1.6. If warranted, and at the discretion of the department, the following Administrative Warning may be read to the employee(s) prior to securing a written or verbal response to the complaint:

“You are being questioned pursuant to an order from a superior officer for use in a police internal investigation. The investigation is specifically

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directed and narrowly related to the performance of your official duties and/or fitness for office. If you refuse to answer, or give a false or intentionally incomplete statement, you will be subject to disciplinary action up to and including termination.

Neither your statements nor any information or evidence that is gained by reason of your statements may be used against you in any criminal proceeding pertaining to this investigation. However, your statements may be used against you in subsequent departmental and civil service proceedings.”

- 3.1.7. Requests for the presence of a union steward by an employee during the written or verbal response will be accommodated.

3.2. Complaint Investigation

3.2.1. Shift / Section Level Investigation

- 3.2.1.1. Many complaints against department personnel may be investigated by Shift/Section Supervisors, while others will be forwarded to the Office of Professional Standards for a more in-depth investigation at the discretion of the Assistant Chief of Police.

3.2.2. Investigation by Professional Standards – Internal Investigation

3.2.2.1. All internal investigations:

- 3.2.2.1.1. Will be documented in writing,
- 3.2.2.1.2. Will be reviewed by the Chief of Police once they are completed.
- 3.2.2.1.3. Reports will be retained in the secure, confidential files of the Office of Professional Standards' administrative reporting software.

3.2.3. If at any time during an internal investigation it is suspected that a department employee may have committed a criminal violation that information will be turned over to the South Dakota Division of Criminal Investigation, or other appropriate outside law enforcement agency, for their independent investigation and action.

- 3.2.3.1. Once an incident has been turned over to the Office of Professional Standards for investigation and initial inquiries determine that an investigation is warranted, the subject(s) of the complaint will be notified of the investigation in writing.
- 3.2.3.2. The notification will include the Incident # of the call (if applicable), the allegation, and the name of the complainant (if known).

3.2.4. When the subject(s) of an investigation is interviewed by the Office of Professional Standards investigators:

- 3.2.4.1. Requests for the presence of a union steward during the interview will be accommodated.
- 3.2.4.2. The union steward will be allowed to participate in the interview process as long as their participation does not interfere with or disrupt the interview process.
- 3.2.4.3. The Administrative Warning may be read to subjects of routine internal investigations prior to their being interviewed. However, the department reserves the right to exercise discretion in administering this warning.

3.2.5. Once an internal investigation is completed and has been reviewed by the Chief of Police, the subject(s) of the investigation will be notified in writing as to the findings of the investigation.

3.2.6. In the event that a departmental investigation leads to a disciplinary action against an employee, that employee may appeal the action through grievance procedures established by the current labor agreement.

3.2.7. The findings of a complaint shall be categorized from one of the following:

- 3.2.7.1. **Exonerated** – The allegation in fact did occur, but the actions of the employee were legal, justified, proper, and in accordance with the law and the department’s policy and procedure.
- 3.2.7.2. **Not Sustained** – The investigation failed to produce a preponderance of evidence to either prove or disprove the allegation.
- 3.2.7.3. **Sustained** – The investigation produced a preponderance of evidence to prove the allegation did in fact occur and the action of the employee was improper.
- 3.2.7.4. **Unfounded** – The allegation in fact did not occur, based on the evidence.