

## **Seattle Police Manual**

### **5.002 – Responsibilities of Employees Concerning Complaints of Possible Misconduct**

Effective Date: July 16, 2014

#### **5.002-POL**

This policy applies to the reporting and investigation of possible misconduct from the public, employees of the Department, or others.

The purpose of these procedures is to provide a prompt, just, and open disposition of complaints regarding the conduct of employees.

To this end, the department welcomes criticism of department procedures and complaints against its employees from members of the public. The department considers all complaints against the agency and any of its employees and fully investigates all such complaints as appropriate.

#### **1. The Department Shall Accept Complaints from Any Source and by Any Means**

The Department will accept complaints from any source including, but not limited to the following:

- The subject of a police incident
- A witness
- A third party (such as a parent or spouse of the subject)
- A legal representative
- Outside agencies
- An anonymous person
- SPD personnel
- The director of the Office of Professional Accountability (OPA)

Complaints may be verbal or in writing.

## **2. Employees Will Assist Any Person Who Wishes to File a Complaint**

In addition to other obligations that may arise under other parts of this manual (e.g., 5.140 – Bias-Free Policing #'s 6, 7) or Department policy or procedure, employees will assist the complainant by:

- Taking the complaint and passing it on to a supervisor and OPA (see also ¶ 6 below)
- Providing specific information to the complainant on where and how to file the complaint
- Immediately putting the complainant in contact with a supervisor or other individual who can assist them with filing their complaint

## **3. Employees Shall Not Discourage, Interfere With, Hinder, or Obstruct Any Person from Making a Complaint or Conducting or Cooperating with an Investigation of a Complaint**

## **4. Retaliation Is Prohibited**

No employee shall retaliate against any person who does any of the following:

- Exercises a constitutional right
- Records an incident
- Makes a public disclosure request
- Publicly criticizes an SPD employee or the Department
- Initiates litigation
- Opposes any practice that is reasonably believed to be unlawful or in a violation of Department policy
- Files a complaint or provides testimony or information related to a complaint of misconduct
- Provides testimony or information for any other administrative criminal or civil proceeding involving the Department or an officer
- Communicates and intent to engage in the above-described activities
- Otherwise engages in lawful behavior

Retaliation includes discouragement, intimidation, coercion, or adverse action against any person. This prohibition will include any interference with the conduct of an administrative, civil, or criminal investigation.

Such retaliation may be a criminal act, may give rise to personal civil liability, or constitute independent grounds for discipline, up to and including termination.

## **5. Supervisors Will Investigate and Document Certain Allegations of Misconduct**

Supervisory employees shall fully investigate and take corrective action, within the scope of their authority, when they witness or receive allegations of employee misconduct related to the following:

- Minor Rudeness (absent bias)
- Traffic and parking infractions
- Profanity not directed as an insult
- Employee tardiness
- Uniform, equipment and personal appearance
- Poor work product
- Instances where a member of the public wishes to appeal the receipt of a ticket or the outcome of an investigation or report (absent allegations of bias-based policing)

## **6. Employees Must Otherwise Report Misconduct**

Employees must report both any conduct that a reasonable officer would believe is misconduct and any allegations of misconduct brought to their attention that fall outside those areas listed in above to a supervisor or directly to OPA.

This reporting requirement also applies to allegations of uses of force that have not yet been reported.

Employees, who witness or become aware of misconduct or a complaint of misconduct, shall take action to prevent aggravation of the incident or the loss of evidence that could prove or disprove misconduct.

All employees observing dangerous or criminal misconduct or abuse shall intervene to stop it.

*See 5.001-TSK-1 Supervisor Reporting Allegation of Misconduct.*

## **7. A Supervisor May Relieve a Subordinate Employee of Duty**

If immediate relief from duty is necessary to protect the Department, the employee, or the public, a supervisor may relieve a subordinate employee from duty and place the employee on Administrative Leave for up to 24 hours (excluding weekends and holidays).

Supervisors shall notify a higher-ranking employee before going off duty in cases where immediate investigative action by the OPA may be necessary. If warranted, the higher ranking employee shall notify OPA immediately. After hours, the Communications Section will follow its callout procedure for OPA.

## **8. Employees Will Avoid Conflicts of Interest Regarding Complaints**

Employees' duty to avoid and disclose actual, potential, or apparent conflicts of interest (see 5.0001-POL) extends to the complaint process as well.

If a supervisor is the subject of a complaint, the employee receiving the complaint shall refer the complaint to the next highest level employee in the supervisor's chain of command.

If the subject of the complaint is assigned to OPA, the employee receiving the report shall forward the complaint to the OPA Director.

If the subject of the complaint is the OPA Director, the complaint is forwarded to the City Human Resources Director.

## **9. Employees Will Report Certain Events**

Employees shall report to their supervisor, in writing, as soon as practical (and before the start of their next work shift) any of the following circumstances occurring in any jurisdiction:

- They are the subject of a criminal investigation, criminal traffic citation, arrest, or conviction
- They are the respondent of an order of protection, restraining order, no contact order, anti-harassment order
- Their Washington driver license is expired, suspended, revoked, or restricted, for example, with an ignition interlock driver license

## **10. The OPA Manual Dictates OPA Procedures**

## **11. Employees Shall Cooperate with Department Internal Investigations**

Employees shall truthfully answer all questions, render complete, comprehensive statements, and provide all material related to investigations of misconduct. The statements will include all facts and circumstances surrounding the subject matter of the investigation, which are known by the employee.

Omissions of material fact shall be classified as failure to cooperate in an internal investigation. Employees must promptly and affirmatively disclose all evidence and witnesses they know or reasonably should have known were material to the investigation. Failure to do so may result in discipline.

Violation of this policy by employees may result in discipline, up to and including termination, as well as possible civil penalties, criminal prosecution and loss of Washington State law enforcement certification.

## **12. OPA Maintains a Record of all Complaints Referred**

All complaints of possible misconduct and any files related to these complaints shall be secured within OPA offices for a period of time consistent with the Department's record retention policies.

## 5.002-TSK-1 Supervisor Reporting Allegation of Misconduct to OPA

### When a supervisor is referring an allegation of misconduct to OPA, the supervisor:

1. **Gathers** all of the following information, if possible:

- Nature of the alleged incident
- Date of the alleged incident
- Place where the alleged incident occurred
- Name of employee involved or their serial number and other description
- Name, address, and telephone number of the complainant, aggrieved party, and all known witnesses
- A detailed summary of the complaint
- Information about perishable and other known evidence, including video recordings
- Whether the investigation presents any actual, potential, or apparent conflicts of interest

2. **Assembles** any supporting documentation.

3. **Documents** the complaint on Department Memorandum or email and **sends** the documentation to OPA.

**Exception:** If the employee named in the allegation is assigned to OPA, OPA Director receives the complaint directly.

4. **Forwards** a copy of the memorandum or email and related documents to the named employee's captain or civilian equivalent.