

5.002 – ~~Public and Internal Complaint Process~~ Responsibilities of Employees Concerning Alleged Policy Violations

Effective Date: DRAFT

5.002-POL

This policy applies to the reporting and investigation of alleged policy violations ~~allegations of misconduct from identified by both citizen~~ the public, and employees of the Department or others.

1. **The Department Accepts Complaints From Any Source and by Any Means**

The Department will accept complaints from any source including, but not limited to, the subject of a police incident, a witness, or other ~~a~~ third party ies (such as a parent or spouse of the subject), a legal representative, outside agencies, and an anonymous person, SPD personnel, and the OPA Director sources.

Complaints will be accepted by whatever means they are communicated, including but not limited to, complaints may be made in person, by phone, mail, or email, in writing or by phone through the OPA website, or via letter or internal memo to any Department employee or directly to the Office of Professional Accountability (OPA).

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

Employees will assist the complainant by:

Comment [GB1]: This language should be consistent with the language in the OPA Operations Manual. These revisions in both paragraphs reflect the language in the 1/03/14 OPA manual and if changes are made to that draft, those revisions should be inserted here.

Comment [GB2]: Add bias policy cross reference that cites obligation of employees to call supervisor to scene in cases involving bias complaints.

- Taking the complaint and passing it on to a supervisor and OPA,
- Providing specific information to the complainant on where and how to file the complaint, or
- Immediately putting the complainant in contact with a supervisor or other individual who can assist them with filing their complaint.

Comment [GB3]: This suggests the employee is to both tell the supervisor and OPA. Is the intent that the employee may tell the supervisor and ask the supervisor to report it to OPA OR tell OPA directly as noted further below – see #6.

3. Employees Shall Not Interfere With, Hinder, Or Obstruct Any Person From Making a Complaint

4. Retaliation is Prohibited

No employee shall retaliate against any person who exercises a constitutional right, records an incident, makes public disclosure requests, publicly criticizes an SPD employee or the Department, initiates litigation, provides information for a criminal or civil proceeding involving the Department or an officer, or otherwise engages in lawful behavior ~~reports misconduct, conducts an investigation of misconduct, initiates or provides information or testimony pursuant to any complaint of SPD employee misconduct, regardless of the context in which the complaint is made, because of such person's participation in the complaint process.~~

Comment [GB4]: This language should be consistent with the anti-retaliation language in SPD Policy 5.001 – these changes reflect the language in the current 5.001 draft. If changes are made to that draft, they should be inserted here.

Question: Should 5.001 and this language explicitly reference someone who files a complaint?

Retaliation includes discouragement, intimidation, coercion, or adverse action against any person.

5. Supervisors Investigate and Document Certain Allegations-Alleged Policy Violation 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 policy violations related to the following:

- Minor Rrudeness (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 citizen-member of the public wishes to appeal the receipt of a ticket or the outcome of an investigation or report (absent bias)
- ~~Any misconduct that a reasonable officer would believe is an obvious training issue~~

Supervisors shall document instances of such policy violations in the Department's performance management systems in order to ensure data collection and provide a means to identify repeated violations that could indicate more serious issues of employee misconduct.

6. Employees Must Report Misconduct Policy Violations

Employees must report any first-hand knowledge they have of misconduct policy violations and any allegations of misconduct policy violations brought to their attention that fall outside those areas listed above to a supervisor or directly to OPA.

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

Employees, who witness or become aware of misconduct policy violations or a complaint of misconduct policy violations, shall take action to

prevent aggravation of the incident or the loss of evidence that could prove or disprove ~~misconduct~~the policy violation.

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 should be contacted which will follow its ~~has an~~ OPA callout procedure.

8. Employees Avoid Conflicts of Interest Regarding Complaints

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

If the subject of the complaint is assigned to OPA, the employee receiving the report shall ~~forward~~refer the complaint to the ~~Chief of Police~~OPA Director who will appoint an investigator from

another section within the Department. If the subject of the complaint is the OPA Director, the complaint shall be referred to the Chief of Police.

Comment [GB5]: A separate CPC recommendation states that an entire protocol for handling these cases should be developed.

9. Employees 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. OPA Classifies All New Complaints Received~~

Comment [GB6]: This is within the domain of the OPA so it doesn't belong in this policy.

~~The categories for classification include the following:~~

- ~~• Complaints involving less serious issues that would not likely result in discipline will be classified for **Supervisor Action** and referred to the named employee's supervisor for OPA directed follow up, such as problem-solving or employee coaching.~~
- ~~• All allegations that are more complex, involve more serious misconduct, or involve an employee with similar prior complaints will be classified as **Investigation**.~~

~~11. The OPA Maintains a Record of all Complaints Against the Department or any of Its Employees~~

Comment [GB7]: This is within the domain of the OPA so it doesn't belong in this policy.

~~This record, and any investigative files related to these complaints, shall be secured within the OPA Investigation Section offices.~~

12. Employees **Shall** Cooperate with Department Internal Investigations

Employees shall truthfully answer all questions, ~~and~~ render complete, comprehensive material and relevant statements and provide all relevant material related to investigations of misconduct.

The statements will include all facts and circumstances surrounding the subject matter of the investigation, which ~~may be~~ known by the employee.

Omissions of material fact shall be classified as failure to cooperate in an internal investigation. If named or witness employees are aware of other relevant information or witnesses, they shall disclose it during the investigative process and not for the first time during a Loudermill or appellate hearing.

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.

Whenever employees submit a verbal or written statement as required by this manual section, they will preface the statement with the following sentence:

“This is a true and involuntary statement given by me in accordance with Section 5.002 of the Seattle Police Department Manual.”

Comment [GB8]: This is from the OPA manual. However, the term “violation of this policy” replaces “dishonesty” from the manual.

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-

2. **Assembles** any supporting documentation.

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

Exception: If the employee named in the allegation is assigned to OPA, the OPA Director Chief of Police should receives the complaint directly.

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