



GENERAL ORDER

OAK BROOK POLICE DEPARTMENT

OAK BROOK, ILLINOIS

Title: INTERNAL AFFAIRS	Number: ADM-111
Author: Deputy Chief Jason Cates	Page: 1 of 8
Effective Date: 09-19-1996	Revised Date: 06-27-2021

111.1 Policy

It is the policy of the Oak Police Department to investigate all complaints against members of the department regardless of the source of such complaints. Investigation of these complaints through standardized procedures demonstrates the department's desire to provide honest, efficient police service and inspire public confidence in its personnel as well as protecting officers against any false allegations. A regulated program of complaint review also ensures the fair and impartial treatment of all department members who become subject to the administrative investigation procedure.

111.2 Purpose

The purpose of this policy is to define the manner in which complaints will be received, documented and investigated.

111.3 Complaints Against Employees

26.2.1

All alleged or suspected violations of laws, ordinances, department policies or orders shall be investigated. This includes:

- a. Alleged violations reported to department supervisors by members of the department either verbally or in writing.
- b. Alleged violations reported to department supervisors by citizens, including prisoners, in person, by telephone, or by correspondence either signed or anonymous.
- c. Violations observed or suspected by supervisory personnel.
- d. All special occurrences deemed necessary by the Chief of Police.

111.4 Authority and Responsibility

Each supervising or commanding employee shall assume the duties and obligations of their rank during the investigation of a complaint against a department employee.

Each supervising or commanding employee shall continually examine all areas of police

action under their purview in an effort to discover misconduct at its earliest stages.

A supervisor shall not look to a higher authority to initiate an investigation when the complaint is within the scope of their own authority and responsibility, except when complex investigations deem such assistance necessary.

26.3.7 A supervisor shall have the authority to temporarily relieve any employee from duty , pending the outcome of an investigation, without the approval of a higher authority if that supervisor believes the employee is unfit for duty or would pose a safety hazard if not immediately relieved.

- a. Such relief will occur without loss of pay or benefits.
- b. The supervisor shall ensure prompt notification of the Chief of Police through the chain of command.
- c. The Supervisor shall initiate the appropriate complaint procedure.

26.1.3 A supervisor conducting an investigation has the authority to report directly to the Chief of Police all pertinent information regarding the investigation.

111.5 Complaint Register

The Complaint Register (Attachment A) is a ledger designed to provide the department with a mechanism to track complaints.

The Patrol Division Commander will maintain the Complaint Register. Entries in the register shall contain sufficient information to provide an accurate record of both the allegation and the results of the investigation.

26.1.5 The Patrol Division Commander shall complete an annual review of the Complaint Register and submit a statistical summary to the Chief of Police. The statistical information shall be made available to department employees and the public through the Village of Oak Brook Website.

111.6 Receiving Citizen Complaints

26.1.4 A citizen complaint is a complaint filed by someone other than a member of the department regarding the violation of a law, ordinance, department policy or order by an employee. An information brochure is made available to the public detailing the procedures to be followed in registering complaints against the department or its employees.

26.3.1a Citizen complaints should be taken, whenever possible, by an on-duty supervisor and appropriate action on the complaint should be initiated promptly. In the case of a complaint against a supervisor, the most available supervisor of equal or higher rank will take the complaint.

Citizens wishing to file a complaint against an officer shall be asked to complete a Complaint Form (Attachment B) citing the incident. Should a citizen refuse or be unable to complete the form but still wish to file a complaint, the supervisor taking the complaint will read the opening paragraph of the Complaint Form to the complainant, complete “nature of complaint” and sign the complaint form on the “Supervisor’s Signature” line. If a complaint is received other than by in person, the supervisor taking the complaint shall record the information on the Complaint Form and indicate on the form how the complaint was

received.

A disagreement regarding the validity of a local ordinance or traffic citation shall not be grounds for the initiation of a Citizen Complaint. The complainant shall be referred to the appropriate judiciary venue.

If a supervisor receives a complaint regarding an employee that is not under that supervisor's authority, the supervisor shall take the initial complaint and forward it to the supervisor that had responsibility for the employee at the time of the complaint. If the complaint involves a situation requiring immediate investigation, the supervisor taking the complaint shall initiate an investigation into the incident.

It is the responsibility of the supervisor receiving a complaint to obtain a complaint register number from the Patrol Division Commander as soon as practical and complete the Complaint Register Form.

If the Supervisor receiving the complaint is able to resolve the issue (disciplinary action up to and including a documented verbal reprimand), the recommended resolution will be documented in the narrative section of the Complaint Register Form (page 2 of Attachment A). The completed form will then be forwarded to the Chief of Police through the Chain of Command for approval.

26.3.1b If the issue cannot be resolved or the disposition of which requires authorization from a higher authority, the complaint shall be recorded on the Internal Investigation Form (Attachment C) and an internal investigation into the matter shall be initiated.

When an employee is the subject of a citizen complaint that is resolved at the immediate supervisory level, said employee shall be notified of the complaint and disposition by providing the employee with a copy of the completed complaint form. For citizen complaints that are not resolved at the immediate supervisory level, notification will be made to the employee as provided under the internal investigation procedures.

26.3.2 All citizen complaints involving an allegation of a criminal law violation, or when the allegation states the Officer placed another department employee or citizen in unreasonable risk of harm, the investigating supervisor will immediately notify the appropriate Division Commander. The Division Commander shall then notify the Chief of Police through the Chain of Command.

Citizen complaints of a minor nature shall be reported to the appropriate Division Commander the next business day by the investigating supervisor.

With the exception of anonymous complaints and those of a minor nature that are resolved at the time of filing, every person making a complaint shall receive:

26.3.4a a. Verification that their complaint is being processed by the department (Attachment D).

26.3.4b b. If the investigation is extended beyond thirty (30) days, a status report of the progress; and

26.3.4c c. Notification of the investigation's final disposition (Attachments E and F)

Anonymous complaints should not be dismissed automatically. The supervisor receiving the complaint should attempt to discover the identity of the person giving the information, but reason should govern the amount of time and manpower expended on such complaints. An anonymous complaint may be the only clue to the discovery of employee misconduct. The

degree of investigative response to anonymous complaints should be the responsibility of the person in charge of the investigation process.

It is mandatory that on all complaints of excessive force or misuse of force photographs be taken of the alleged injury by an evidence technician. A body chart shall also be used to document the area of injury. Refusal to submit to the photographs shall be noted in the report. The time, date, and place of the photograph and the relationship to the incident shall also be included in the report.

Police employees must be protected from malicious and false complaints. If a police employee is falsely accused of misconduct in a concerted, malicious effort, the police department's best defense is to disclose the investigative results publicly. If deemed appropriate by the Chief of Police, criminal charges may be pursued against a person filing a false complaint against an employee.

111.7 Receiving Internal Complaints

26.3.1a All complaints against an employee by another employee will be made to the complaining employee's immediate supervisor. In cases where the complaint involves the employee's immediate supervisor, the employee will report the complaint to the next supervisor in the complaining employee's chain of command.

Supervisors receiving complaints shall do one the following:

- a. If the complaint involves an employee under that supervisor's direct supervision, the supervisor will determine if the complaint will be handled at that level.
- b. If the complaint is resolved at the immediate supervisor level no further action will be taken.
- 26.3.1b c. If the complaint cannot be resolved at the immediate supervisory level, the supervisor will obtain a complaint register number from the Patrol Division Commander, fill out the Complaint Form/Sworn Affidavit, document the complaint using the Complaint Register Form (Attachment A) and follow the procedures as outlined under conducting an internal investigation.
- d. If a supervisor receives a complaint regarding an employee that is not under that supervisor's authority, the complaint will be referred to the supervisor that had responsibility for the employee at the time the incident occurred. That supervisor will handle the complaint as outlined above.
- e. If the complaint requires more immediate attention, the supervisor shall contact the appropriate Division Commander to determine a course of action.

111.8 Internal Investigation Procedures

Internal investigations shall be performed with the greatest possible skill. Officers conducting such investigations shall use all available procedures to determine the facts and secure necessary evidence.

The Deputy Chief shall assign all Internal Investigations.

26.3.5 Whenever practical, department employees shall receive notification either verbally or in writing when they become the subject of an internal investigation. In cases where verbal

notice is given, such notice shall be followed up with a written notice at the earliest convenience using the Internal Investigation Notification Form (Attachment G). The notice shall include the nature and the date of the allegation(s) made against them and sufficient detail of the accusation in order for the officer to properly respond. The employee shall also be provided written notice of the employee's rights and responsibilities relative to the investigation. This may be accomplished by giving the employee a copy of this directive.

26.3.3

All internal investigations should be concluded no more than thirty (30) days from the date the complaint is made unless an extension is granted by the Chief of Police. The accused employee shall be notified of any delay in the investigation.

Investigations of a complaint against a department member should be conducted in a manner that best reveals the facts while preserving the rights and dignity of all persons involved and maintaining the confidential nature of the investigation.

It is the responsibility of all department members involved in an internal investigation to assure that such investigation is conducted fairly and impartially. It is the responsibility of all members to assist and expedite such investigations and, when requested by investigating employees, furnish information or give statements as witnesses. It is the responsibility of any member who is the subject of the investigation to give a responsive accounting of their public trust.

At an early stage of any internal investigation, it is necessary to decide whether the evidence and the allegation warrant criminal prosecution of the employee. If it appears that a criminal charge may be brought, the investigation must adhere to all of the restrictions of a normal criminal investigation. Search and seizure restrictions apply, and Miranda warnings must be given. An employee may face both criminal and internal charges, but evidence gathered for internal discipline that violates criminal investigative standards may not be used in the criminal prosecution. Therefore, careful consideration must be given to the method by which the department will proceed against the employee.

One of the most efficient methods of investigating a complaint against an employee is to question the employee. The questions asked of employees must be narrowly and directly related to the performance of their duties and the ongoing investigation. In other words, employees may not be forced to answer questions having little to do with their performance as police employees or unrelated to the matter under investigation. Police employees do not have the right to refuse to answer questions that are directly and narrowly related to their official duties. An employee who refuses to answer such questions may be ordered to do so. If an employee refuses to answer questions after being ordered to do so, the employee will be advised that failure to answer said questions may be the basis for the filing of charges against the employee and disciplinary action, including discharge, may result. If the employee still refuses to answer questions, the investigating officer shall read the Oak Brook Police Department Administrative Warning (Attachment H) to the employee and proceed with a "Formal Investigation."

When an employee is being questioned about conduct that is, or could be criminal, they should be advised of their Miranda Rights prior to the interview. Any incriminating statements by an employee obtained under direct order will not be admissible in a criminal prosecution unless the employee has been advised of their Miranda Rights and has voluntarily waived them. Incriminating statements obtained under direct order will, however, be admissible in an administrative hearing arising out of the alleged misconduct. Employees may not be forced to waive their privilege against self-incrimination under threat

of losing their job. Such coercion makes the waiver involuntary.

When questioning sworn employees, all investigating personnel shall follow the provisions of the Illinois Compiled Statutes 50 ILCS 725/1, et. seq. known as the “Uniform Peace Officers Disciplinary Act” which is detailed in Attachment I of this directive for reference. The provisions of this act are not applicable to ordinary supervisory inquires into the official duties and responsibilities of the department employee.

In the course of a member’s duties, occasions will arise when there is need for an “Informal Inquiry” into a member’s official actions or activities, either as a principal or as a witness, so that there is a recording of facts for the protection of the member of the department. This inquiry is to refute, explain, or clarify any allegations or complaints made against a member of the department. Under such circumstances, employees may be requested and are expected to properly respond and, if requested, submit a written memorandum detailing all necessary facts. See Attachment I for the definition of “informal inquiry.”

When a “Formal Investigation” has been initiated the following provisions shall apply. See Attachment I for the definition of “formal investigation” and the statutory requirements for the questioning of Officers.

- a. If an employee is under arrest or is likely to be (i.e., if they are a suspect or the target of a criminal investigation), they shall be advised of their constitutional rights.
- b. The refusal by an employee to answer pertinent questions concerning any non-criminal matter may result in disciplinary action.
- c. The officer under investigation shall be informed in writing of the name, rank and unit or command of the officer in charge of the investigation, the interrogators, and all persons who will be present on the behalf of the employer during any interrogation except at a public administrative proceeding. The officer under investigation shall inform the employer of any person who will be present on their behalf during any interrogation except at a public administrative hearing (Attachment J).
- d. No employee shall be ordered or asked to submit to a polygraph (lie detector) test. Such test may be given if requested by the member.
- e. Photographs shall be taken by an Evidence Technician or other qualified person to document injuries. A body chart shall also be completed to document the area of injury.
- f. Audio and/or video recordings may be used during the investigation at the discretion of the investigator and within applicable law.
- g. Employees may be directed to participate in a physical line-up when the identification of the employee accused of misconduct cannot be determined through other investigative means.
- h. Employees shall not be directed to submit any financial disclosure statements unless the investigating employee has served the employee with a valid court order directing them to do so. An employee may voluntarily submit financial disclosure statements.
- i. Any other conditions that may be required as a result of a collective bargaining agreement.

When, based on a reasonable suspicion, an on duty employee is believed to be under the

influence of alcohol and/or drugs the supervisor shall direct the employee to submit to a breath, or blood, or urine test (or any combination thereof) for the detection of any alcohol or drugs. All relevant times, indicia of intoxication and the results of all tests shall be documented, in writing by the supervisor. A formal investigation will be conducted regardless of the result of any administered test(s).

111.9 Disposition

26.3.8

Investigations of an employee accused of misconduct will conclude with one (1) of the following findings:

- a. Exonerated: The act did occur but was justified, lawful, and proper
- b. Unfounded: The investigation indicated that the act(s) complained of did not occur or failed to involve police personnel
- c. Not Sustained: The investigation failed to discover sufficient evidence to clearly prove or disprove the allegations made in the complaint
- d. Misconduct Not Based on Original Complaint: The investigation revealed acts of misconduct that were not alleged in the original complaint.
- e. Policy Failure: The investigation revealed that the alleged act(s) did occur, however the conduct was in accordance with department policy.
- f. Sustained: The investigation disclosed sufficient evidence to clearly prove the allegations made in the complaint

In sustained or misconduct not based on the original complaint cases, the investigating supervisor, when directed to do so, will make a recommendation of disciplinary action to be taken in accordance with department policy PER-204, Disciplinary Procedures.

The entire investigative report, along with the recommendation, will be forwarded to the employee's Division Commander. The Commander will review the file, along with any prior disciplinary action and outstanding performance on the part of the employee and either concur with the recommended discipline or recommend other action. The completed file will then be forwarded to the Chief of Police for review and final disposition.

The accused employee will review the Internal Investigation Report (Attachment K) and the Internal Investigation Form (Attachment C). The employee will sign the Internal Investigation Form as a record of them reviewing the Internal Investigation Report and disposition. After signing, the employee will be given a copy of the last page of the Internal Investigation Form as receipt of the final disposition.

When applicable, the final disposition will also be recorded on the appropriate register form and in the employee's personnel and/or disciplinary file.

When applicable, the employee may file a written appeal of the finding through the chain of command to the Board of Fire and Police Commission or other higher authority as may be provided by law.

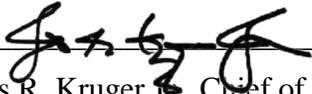
26.2.2

All internal investigation files will be maintained by the Chief of Police in a secure area.

111.10 Issuing Authority

This General Order will supersede any directives or understandings in conflict.

By order of:



James R. Kruger Jr., Chief of Police

Revisions		
09-16-2019	All Sections	Grammar and punctuation throughout.
09-16-2019	111.5	D.C. changed to Patrol Division Commander (complaint reg. & report)
09-16-2019	111.6	D.C. changed to Patrol Division Commander (register number).
09-16-2019	111.6	D.C. changed to Chief of Police (completed form).
09-16-2019	111.7	D.C. changed to Patrol Division Commander (register number).
09-16-2019	111.8	Amended Drug/Alcohol Procedures
10-28-2019	111.5	Changed "annual report" to statistical summary.
06-27-2021	111.6	SAFE-T Act change removing sworn affidavit language and change to Att. B.
06-27-2021	All	Changes to numbering for compliance with CALEA 6 th Edition changes.