



Edmond Police Department Policy and Procedures Manual

Policy and Procedure # 14-02

Title: Complaints and Administrative Reviews	
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This policy statement and any procedures, rules and regulations hereunder are intended for Police Department use only. The policies, procedures and regulations are for internal Police Department administrative purposes and are not intended to create any higher legal standard of care or liability in an evidentiary sense, than is created by law. Violations of internal Police Department policies, procedures, regulations or rules form the basis for disciplinary action by the Police Department. Violations of law form the basis for civil and/or criminal sanctions to be determined in a proper judicial setting, not through the administrative procedures of the Police Department.

SUBJECT: This policy outlines agency procedures for addressing allegations of misconduct by Department employees and conducting administrative reviews.

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I. POLICY

It is the policy of the Edmond Police Department to investigate all complaints against the agency, or of alleged employee misconduct, to equitably determine whether the allegations are valid or invalid and take appropriate action. The Department will conduct administrative reviews of employee's actions during certain incidents to ensure compliance with policies and procedures.

By thorough investigation and proper adjudication of any reported or known misconduct by Department personnel, the Department seeks the following objectives:

- A. Protection of the public
- B. Protection of the agency
- C. Protection of the employee
- D. Adherence to policies and procedures
- E. Modification of Policies and Procedures
- F. Identification of training issues

II. DEFINITIONS

- A. **Administrative Review** - the process used by the department to examine an employee's actions during an incident or situation to ensure compliance with department policies and procedures.
- B. **Complaint** - any allegation of misconduct against an employee, whether it involves a violation of a local, state, or Federal law as codified or interpreted by courts of competent jurisdiction, any violation of a person's civil or constitutional rights, or any violation of Edmond Police Department policies or procedures. This may include an act or omission of an act. Complaints may originate from people outside or inside the department.
- C. **Employee** - all employees of the agency assigned to any division or position within the agency.
- D. **Major Complaint** –Any complaint, which if sustained, would result in the issuance of major discipline. These will generally be investigated by an investigator from the Professional Responsibility Division but may be assigned to any supervisor holding the rank of Captain or above.
- E. **Minor Complaint** –Any complaint, which if sustained, would result in the issuance of minor discipline. Examples of minor complaints are traffic violations; rudeness; or other minor allegations. Any supervisor can investigate these complaints.
- F. **Professional Responsibility Division** – Division responsible for oversight of all complaints and administrative reviews for the Edmond Police Department.
- G. **Professional Responsibility Investigation** - the process used by the department to examine complaints to determine if an employee's actions were in compliance with department policies and procedures.
- H. **Professional Responsibility Investigation Control Number** – control number assigned to any complaint after it is entered into the professional responsibility software.
- I. **Professional Responsibility Investigator** - The designated employee(s) assigned to conduct an investigation concerning a complaint or administrative review.
- J. **Special Examinations** - Any necessary special examinations will be administered in compliance with EPD Policy 11-07 - Rules of Conduct.
- K. **Subject Employee** - The employee alleged to have committed the violation in question or whose actions are under review.

III. PROCEDURE

A. Administrative Reviews

1. Administrative reviews are initiated at the direction of the Chief of Police or their designee.
2. Administrative reviews may be used to examine an employee's actions during incidents or situations. These can be discharge of a firearm – except where the discharge placed no human life in jeopardy and was for the purpose of training, hunting, recreation, ballistic examination, or authorized destruction of an animal; use of force where serious bodily damage or death results; or to clarify the circumstances of any incident or situation.
3. Subject employee will be given written notice and the incident number of the incident under review if available.

B. Complaints

1. When a person indicates they desire to make a complaint that meets the definition of this policy, that complaint will be taken. No employee shall attempt to discourage, interfere with or delay any individual from making a complaint.
2. Complaints shall be accepted from any rational person by any supervisor of the Department. Complaints may be received in writing, verbally over the telephone, or in person.
3. Complaints will not be accepted from juveniles; without the juvenile's parent(s) or guardian(s) being present unless approved by the Office of the Chief of Police.
4. If a complainant approaches a non-supervisory employee, the complainant shall be immediately referred to an available supervisor.
5. Specific types of complaints covered by separate City of Edmond Policies (i.e. sexual harassment or other types of discriminatory conduct) may be made in accordance with those policies.

C. Complaints Involving Serious Criminal Allegations

1. When criminal allegations involving an employee of the Edmond Police Department are received, the Chief of Police or their designee shall be notified. If the complaint is received after normal duty hours, the Division Commander shall be notified who will then make notification to the Chief of Police or their designee.
2. If the alleged criminal misconduct occurred within the jurisdiction of the Edmond Police Department, the criminal investigation will be assigned to the Major of the Edmond Police Department Criminal Investigations Division or their designee. The Professional Responsibility investigation may follow or be conducted concurrently with any criminal investigation.

D. Process for Handling Complaints

1. Receiving supervisor will enter complaint information in BlueTeam software.
2. Receiving supervisor will evaluate the complaint and estimate the maximum punishment that would be given if allegation were sustained.
3. If the punishment is estimated to be minor discipline and the subject employee is in their chain of command, the receiving supervisor will follow steps for Minor Complaint Investigation.
4. If the punishment is estimated to be minor discipline and the subject employee is not in their chain of command, the receiving supervisor will forward to the Division Commander over the subject employee.
5. The Division Commander receiving a minor complaint from another supervisor can investigate the complaint themselves or assign to a supervisor within their command. The Division Commander will forward the complaint to the assigned supervisor in BlueTeam.
6. If the punishment is estimated to be major discipline the complaint will be forwarded through the chain of command in BlueTeam. Professional Responsibility will review and determine who should investigate the complaint.

E. Minor Complaint Investigation Steps

1. Prior to any investigation, interview or special examination, the subject employee will receive verbal notification of the complaint or reason for the investigation. If there is a complaint, this notification will include a copy of the complaint as it was received (verbal, written, or email).
2. Supervisor will investigate the complaint by interviewing those involved, viewing available digital media or any other means available.
3. Upon completion of their investigation, the supervisor will determine whether the allegation should be:
 - a. Sustained - Evidence sufficient to prove allegations.
 - b. Non-Sustained - Insufficient evidence to either prove or disprove allegations.
 - c. Exonerated - Incident occurred but was lawful and/or proper.
 - d. Unfounded - Allegation is false or not factual or the employee was not involved.
4. If the allegation is sustained, the supervisor will issue appropriate discipline.

5. Supervisor will document their investigation and the discipline issued in BlueTeam and forward through their chain of command for review. Any recordings or other supporting documents should be attached to the report in BlueTeam.

F. Major Complaint Investigation Steps

1. Prior to any investigation, interview or special examination, the employee under investigation will receive confidential written notification of the complaint or reason for the investigation. If there is a complaint, this notification will include a copy of the original complaint. This can be in printed or email form.
2. Professional Responsibility Investigator will investigate the complaint by interviewing those involved, viewing available digital media or any other means available.
3. Professional Responsibility Investigator will document their investigation in Blue Team and forward to the Chief's office for review.

IV. RULES AND REGULATIONS

A. Investigation

1. The review and oversight of all complaints of misconduct against employees and administrative reviews is the responsibility of the Professional Responsibility Division.
2. While a professional responsibility investigation is active, the assigned investigator is delegated the authority of the Chief of Police for directing the investigation.
3. Supervisors may review digital media, call records or other data prior to notification of the subject employee only to determine the employee involved. Once the subject employee is identified, no further review may take place until notice is given. This applies to Professional Responsibility investigations only. Periodic review of media and data by supervisors is still approved.
4. At the direction of the Chief, a supervisor's minor complaint investigation may be stopped at any time and full investigative authority assigned to the Professional Responsibility Division.
5. If, while conducting a minor complaint investigation, it is determined to be more serious than initially estimated and could result in major discipline if sustained, the supervisor shall stop their minor complaint investigation. The supervisor shall document all activities of the minor complaint investigation and forward through BlueTeam for review and assignment.
6. If, during the initial investigation, it is disclosed that other misconduct not originally alleged may have occurred, the additional misconduct shall also be investigated, reported and adjudicated. The employee shall be notified of the additional allegation prior to being interviewed.

7. During a complaint investigation, the complainant may indicate a desire to withdraw the complaint. If the complaint is withdrawn by the complainant, the policy of the Edmond Police Department is to continue the investigation as far as possible without the cooperation of the complainant. The investigation may be stopped at the direction of the Chief of Police.
8. Other than exceptional circumstances, interviews pertaining to the investigation of major complaints should be electronically recorded. Under certain circumstances, the investigator may require a written and signed statement in addition to, or in lieu of, an interview. Interviews pertaining to the investigation of minor complaints do not have to be recorded, but may at the discretion of the investigating supervisor. The investigator will summarize the interview(s) and may have them transcribed.
9. The investigation may include the inspection of any and all property belonging to the Department.
10. The investigator will complete the investigation and submit the entire case in the approved format to the Chief's Office within ninety (90) days. If the investigation is not completed during this period, a written status report and request for extension shall be filed with the Chief's Office every thirty (30) days until the completion of the investigation. The status report can be waived by the Chief of Police or their designee. When involving sworn personnel any extensions must be agreed upon by the Fraternal Order of Police and the Chief of Police. The subject employee and/or their designee shall also be notified, in writing, of investigation extensions. These reports may be in electronic format.
11. The investigator shall not recommend disciplinary action in the investigative report for major complaint investigations.

B. Representative During Professional Responsibility Investigations

1. Union members are permitted to have a Fraternal Order of Police representative or other personal representative with them during any interview concerning allegations of misconduct by the employee.
2. The employee's representative is limited to acting as an observer of the interview. If the interview focuses on, or leads to, evidence of potential criminal activity by the employee, the employee's representative may advise and confer with the employee during the interview.

C. Employee Rights During a Professional Responsibility Investigation

1. Prior to the commencement of a major complaint investigation or administrative review the subject employee will receive confidential written notification of the complaint or reason for the investigation. If there is a complaint, this notification will include a copy of the original complaint. If it is an administrative review, this notification will include the incident/case number of the incident under review if applicable. This can be in printed or email form.
2. During professional responsibility interviews there will be one (1) investigator designated as the interviewer and only the interviewer will ask questions of the employee.
3. Employees under professional responsibility investigation shall not be subjected to offensive language nor threatened with transfer, dismissal, or disciplinary action during an interview.
4. Subject employees or their designees may contact the investigator to ascertain the status of the investigation of a complaint filed against them.

D. Chief's Action

1. Upon review of the investigation, the Chief of Police may exercise one (1) or more of the following options:
 - a. Determine that further investigation is required and order such investigation;
 - b. **Assign a disposition as follows:**
 - i. Sustained - Evidence sufficient to prove allegations.
 - ii. Non-Sustained - Insufficient evidence to either prove or disprove allegations.
 - iii. Exonerated - Incident occurred but was lawful and/or proper.
 - iv. Unfounded - Allegation is false or not factual or the employee was not involved.
 - c. If the Chief of Police decides to take disciplinary action, the disciplinary procedure as established in Edmond Police Department Policy #2-04; Disciplinary Process, will be followed.
 - d. Upon completion of any professional responsibility investigation, the Chief of Police or their designee shall notify the subject employee of the final disposition of the complaint in writing.

E. Employee's duties during a Professional Responsibility Investigation

1. Before any interviews the investigator will present the Garrity Admonition to the employee. The Garrity Admonition will be read to and/or read by the employee then signed by the employee for acknowledgement. Garrity requires employees to answer questions specifically, narrowly and directly related to the performance of their official duties or those of another employee.
(See attached Garrity Form)

F. Statement of Security and Confidentiality

1. Completed professional responsibility investigation files, whether hard copy or electronic, are protected by the Oklahoma Open Records Act and will be maintained in a secure area. Any file or portion of any file copied will be stamped or otherwise indicated as "Confidential".
2. To ensure confidentiality, any hard copy of an investigative case file will be submitted through the normal chain of command in a file folder or envelope marked only with the administrative investigation control number; or it may be submitted electronically through the professional responsibility software.
3. Following final disposition of the investigation, all original material to include reports, documentation, video, audio or other electronic recordings and any other evidence that is part of the case file will be forwarded to the Professional Responsibility Division. The investigator will not maintain any copies or duplicates of these items.
4. All correspondence pertaining to the investigation to and from the Chief's Office, the case investigator and to the employee will be sent or hand delivered in sealed folders, files, envelopes, via email or the professional responsibility software.
5. The investigator may discuss the investigation with the subject employee(s) and/or their representative(s), professional responsibility personnel, and the Chief or their designee.
6. Only the Chief of Police or their designees and professional responsibility staff shall have access to the completed professional responsibility investigative case files.
7. Requests to view individual professional responsibility files will be made through the Professional Responsibility Division and will be authorized by the Chief of Police or their designee.
8. All completed case files will be retained in the employee's Professional Responsibility Investigation file only while the employee is employed by the Edmond Police Department. Cases under litigation will be retained in the employee's Professional Responsibility Investigation file until final disposition of the litigation.

This order cancels and supersedes any previously issued directive that is in conflict with it.