

St. Joseph, Missouri Police Department



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I. Policy

The integrity of the Police Department and its ability to perform its obligations are determined, in large part, by public perception. A key component of a favorable public perception is its comfort in forwarding complaints of perceived member misconduct or substandard performance. All complaints generated by an involved person(s) or a direct witness against the St. Joseph Police Department or its members, will be answered and investigated. The St. Joseph Police Department maintains a system for internal investigations into such complaints, respecting the rights of the member and citizen involved. Internal Affairs investigations are not intended to be used as a judicial process for matters that should be resolved by trial. Department members are responsible for ensuring that complaints are processed in accordance with Department procedures. Anytime the Department determines that it is necessary to investigate circumstances that may lead to disciplinary action, an “Internal Affairs Investigation” may be initiated.

Disclaimer

Any provision contained in this General Order adjudged to be illegal, incorrect, or inapplicable shall not affect the validity of the remaining provisions. The failure to meet any established deadlines shall not be the sole cause for dismissing a case, or reversing/amending any disciplinary action.

II. Procedure

A. Objectives

1. To maintain the integrity of the Department by conducting thorough and impartial investigations into complaints of member misconduct;
2. To protect citizens from member misconduct; and
3. To protect members from false or malicious allegations.

B. Member Rights

1. **Definition** - “**Subject member**” is the employee on which an Internal Affairs Investigation is being conducted.
2. **Confidentiality** - Unless authorized by the Chief of Police, department members, with the exception of subject members, shall not share/discuss any information relevant to an Internal Affairs investigation with anyone except the “I.A.” investigator, or the subject member’s representative/legal counsel. Subject members will not contact the complainant or any witnesses except through their representative.
3. **Representation-** Subject Members in an I.A. investigation may seek legal counsel and/or other representation. Such counsel may be present at the subject member’s interview(s) and shall be permitted to confer with the officer but shall not unduly disrupt or interfere with the interview. The questioning shall be suspended for a period of up to twenty-four hours if the officer requests representation.
4. **Member’s Right to Waive** - A subject member has the right to waive a complete I.A. investigation, but only after being advised of the complaint. Subject Members are advised that some form of discipline (minor or serious) will result if the allegation is sustained by the Chief of Police. A subject member must be advised of their rights and responsibilities on the appropriate form.
5. **Member’s Right to Due Process** - A subject member shall be entitled to:
 - a. **An Impartial Investigation-** A member is entitled to a presumption of innocence. They will receive a fair and impartial investigation, and will be treated with respect at all times. This shall not be misconstrued to mean that the I.A. investigator will not pursue the facts of the case to their ultimate conclusion.
 - b. **Member will be Informed-** A subject member shall be informed in writing of the charge(s) that initiated the investigation within 10 business days after the complaint is made, with the exception of situations requiring that notice not be given due to the possibility of jeopardizing the investigation. This notice of complaint will state who made the complaint, and the nature of the alleged misconduct. It will also explain the nature of any forthcoming interviews, and will include a statement of prohibition against any retaliation. (See exceptions under “Complainant Requirements” in this General Order #5.7).
 - c. **Member’s Review of Evidence and Reply to Charges:**

Prior to the law enforcement officer being interviewed, the officer and his or her attorney or representative shall have the opportunity to review the complaint. The review must be made by appointment with the I.A. investigator within 10 business days after a subject member’s receipt of notice that the investigation is complete;

 - 1) The review may be made with the subject member’s representative present, but the review will not be made adversarial;

- 2) The subject member may attach any personal statements they believe should be included in the report. Such statements must be made within 10 business days of the evidence review;
 - 3) The Chief of Police shall be provided a copy of the subject member's reply for due consideration. A complete record of the administrative investigation shall be kept by the law enforcement agency conducting such investigation. Upon completion of the investigation, a copy of the entire record, including, but not limited to, audio, video, and transcribed statements, shall be provided to the officer or the officer's representative within five business days of the officer's written request. The agency may request a protective order to redact all personal identifying witness information; and
- d. **An Administrative Hearing before the Discipline is Imposed** - A subject member shall be given the opportunity to attend an "Administrative Hearing" with the Chief of Police or their designee. The subject member may be represented and may discuss evidence and provide any mitigating circumstances they believe to be appropriate (See also GO0007 II.G.).
 - e. **A Timely Decision** - A subject member shall be entitled to notification of a decision within a reasonable amount of time, usually 5 days. However, the type and complexity of an investigation may extend this notification period.
 - f. **A Right of Appeal** - A subject member shall have the right to appeal a decision involving disciplinary action in accordance with the Police Department/City Personnel Code formal grievance procedures (See also GO0007 II.G. and Section 12 of the City Personal Code).

C. INTERNAL AFFAIRS UNIT:

1. The Chief of Police will appoint personnel to the Professional Standards Unit, who will usually conduct any Internal Affairs investigation. If extenuating circumstances are involved, the Chief of Police may appoint other personnel to conduct an I.A. investigation as needed. The Professional Standards Officer will report directly to the Chief of Police while conducting I.A. investigations.
2. **Internal Affairs Authority and Duties:** The Internal Affairs investigator is an extension of the Chief of Police. They act with the authority of the Chief of Police, regardless of their individual rank. All members of the Department shall respond to requests or orders from the I.A. investigator just as they would to requests and/or orders from the Chief of Police. Other duties include:
 - a. Investigates citizens' complaints at the direction of the Chief of Police;
 - b. Conducts other investigations ordered by the Chief of Police;
 - c. Conducts investigations into members discharging firearms or being shot (whether on or off duty). The authorized shooting of injured animals will not be investigated;
 - d. Briefs the Chief of Police regarding each Internal Affairs complaint;
 - e. Monitors the progress of any Detective Division investigation of a criminal charge against a member, to determine if the alleged

misconduct involved is in violation of Department Rules, Regulations, or General Orders. Lack of evidence to substantiate a criminal charge will not automatically void any disciplinary actions arising out of a subsequent I.A. investigation into the same incident;

- f. If requested, assists in preparing a defense against civil suits filed against the City as a result of any alleged acts by a department member.
- g. Conducts inquiries into use of force incidents, with or without injury, at the discretion of the Chief of Police.
- h. Conducts “Background Investigations” of police department applicants at the discretion of the Chief of Police; and
- i. Investigates any additional misconduct that may be discovered during the course of an investigation, and forwards the results with the original case.

3. Internal Affairs Interviews:

- a. **Interview questions** - Interview questions will be narrowly focused and related to: the performance of official duties; fitness for duty; or alleged violations of Department Rules, Regulations, and General Orders.
- b. **Location** - Whenever possible, interviews will be done within the Department or an area where privacy is assured.
- c. **Time of Interview/Compensation** - Interviews will be conducted at a reasonable hour and shall be conducted while the officer is on duty, unless the seriousness of the situation requires immediate action by an I.A. investigator. Any member who is interviewed while not on duty shall be compensated. Interviews will be conducted for reasonable lengths of time, and will allow for personal necessities.
- d. **Statement of Rights and Responsibilities Form** - Prior to an interview, the subject member shall be given the opportunity to read the “Statement of Rights and Responsibilities Form”, and ask any questions as to its meaning and content.
- e. **Removal from Duty** - Relief from duty may be a temporary Administrative action pertaining to a member’s physical or psychological fitness for duty, or an action pending disposition of an Internal Affairs investigation (See G.O. on Disciplinary Action). The Chief of Police has the final authority on this issue.
- f. **Documentation** - An I.A. investigator will take a report from the primary complainant using IAPro/BlueTeam. A statement will be taken on serious misconduct complaints by: written statement, video/audio recording, or transcription. The I.A. investigator will determine which method is appropriate. (Exception will be confidential informants or anonymous complaints - See Complainant Requirements in this General Order II.C.7).
 - 1) Witness interviews shall be documented in the same manner as complainants.
 - 2) Member statements shall be documented in the same manner as complainants.

- g. Option for Written Statements In Lieu of Personal Interview** - The I.A. investigator can determine that a written statement by the subject member or witness is acceptable instead of a personal interview. The I.A. investigator will ensure that a subject member is aware of this option in their interview notice.
- h. Requirement to Answer Questions** – All members are required to answer all questions relating to an I.A. investigation. Prior to an interview, members will be advised whether they are a witness or the subject member under investigation. Members shall answer all questions honestly, completely, and to the best of their knowledge and ability. Refusal to do so shall be considered refusal to obey a lawful order, and the member shall be subject to disciplinary action for insubordination.
- i. Possibility of Criminal Charges** – If activity of a criminal nature is discovered during an interview, which creates a fair likelihood that criminal charges may be filed, the interview shall be halted. The Chief of Police and the Commanding Officer of the Detective Division will be notified immediately. A subject member’s pursuant participation in such things as medical or laboratory tests, photo or “live” line-ups, or release of personal information (such as financial statements) will be strictly governed by the City Personnel Code, as well as State Statutes and Federal Law.
- j. Polygraph Exams** - A member may not be compelled to submit to a Polygraph and/or Voice Stress Analyzer examination. Refusal to submit to such examinations shall not be grounds for any disciplinary action. A member may request or voluntarily agree to take such exams, however a test will not be requested by the Department unless the complainant has agreed to the same testing. These types of I.A. exams will be conducted by an outside agency or firm. In the event that a subject member requests a second exam be given, they will be responsible for the arrangements and additional costs.
- k. Post Incident Drug and Alcohol Testing** – Members will be taken for post incident drug and alcohol testing under the following circumstances:

 - 1) Post-Accident Testing as set forth in the City Personnel Manual.
 - 2) Following the use of deadly force that results in death or serious bodily harm.
- l. Types of Conduct to be Investigated** - Member misconduct may be either minor or serious depending on the allegations involved, and the potential range of disciplinary action which could result:

 - 1) **Minor misconduct** - Allegations which would result in relatively light discipline (Counseling and Training, Verbal Warning, or Written Warning). Examples include discourtesy or other lesser violations of Department Rules, Regulations, or General Orders. Minor misconduct shall be referred back to the

member's Supervisor/Shift Commander for consideration of investigation and/or disciplinary action.

- 2) **Serious misconduct** - Allegations that charge criminal misconduct or serious deviation from Dept. Rules, Regulations, or General Orders, and involve the likely consequences of suspension without pay, termination, or the filing of criminal charges. A member's Division Commander will be notified of the allegations. Examples include, but are not limited to:
 - a) Intoxication while on duty;
 - b) Acceptance of a bribe, soliciting or accepting gratuities;
 - c) Unauthorized release of confidential information;
 - d) Insubordination; and
 - e) Similar conduct described under "Criminal Misconduct".
- 3) **Criminal Misconduct** - Any violation of law which would impair an individual's ability to fulfill their responsibility as a member of the Department, or jeopardize public safety. A member's Division Commander will be notified of the allegations. Criminal Misconduct will be:
 - a) **Felony**- The commission of a felony;
 - b) **Controlled Substances**- Any violation governing controlled substances or any use of controlled substances other than prescribed medication; and
 - c) **Negative Impact Offenses**- The commission of a crime with negative consequences to persons or property, or which reflects unfavorably on the Department, due to the subject member's status as an employee of the St. Joseph Police Department.
4. **Complaints Referred to Internal Affairs:** All supervisors have the authority to investigate complaints that are clear, minor in nature, and undisputed. Whenever a supervisor believes that an in-depth investigation is necessary to determine if serious misconduct has occurred, they shall confer with their Commanding Officer and/or Division Commander to determine the scope of any necessary investigation. If it is believed that an Internal Affairs Investigation is warranted, the Division Commander will contact the Chief of Police. The Chief will initiate an Internal Affairs Investigation (See also Disciplinary Action General Order).
5. **Other Complaints Not Referred to Internal Affairs:**
 - a. **Mistaken complaints** - Complaints about another agency's actions that were mistakenly believed to have been committed by the St. Joseph Police Department.
 - b. **Complaints About Written Directives** - All supervisors are encouraged to answer any complaint concerning Department operations. If it is apparent that the complaint stems from a member's conduct that was a result of following department procedure, any supervisor can handle the complaint and explain the member's actions.

Documentation is discretionary and should only be forwarded to that particular member's supervisor. The record of such a complaint should not be forwarded to Internal Affairs. If the complainant demands to discuss their complaint about department procedure, they should be referred to the office of the Chief of Police.

- c. **Performance Issues** - These are minor complaints in reference to job performance, rather than intentional misconduct (i.e. "the officer was not friendly" or "I didn't like their attitude"). These can be referred to any member's supervisor for disposition, and any documentation will be done using IAPro/BlueTeam. However, if similar subsequent complaints regarding the same member should be substantiated after other progressive discipline measures have failed (such as a verbal warning or written warning), a supervisor may then bring the matter to the attention of their Superior Officer for Internal Affairs consideration.
- d. **Complaints of Harassment or Discrimination** – Supervisors who receive either information or a complaint alleging any form of sexual harassment or discrimination, shall notify their Commanding Officer promptly. All such complaints shall be promptly conveyed to the Human Resources Director for investigation. (See Personnel Code Section 13 reference Sexual Harassment/Discrimination)

6. Acceptance and Initial Processing of Complaints into Internal Affairs:

- a. **Relay of serious complaints through Chain of Command:** Unless extenuating circumstances prevail, all complaints that may require Internal Affairs involvement shall go through the Chain of Command. After a Division Commander has obtained the approval of an I.A. investigation from the Chief of Police, the complainant will be referred to the Internal Affairs investigator during normal business hours. The Division Commander shall document receipt of the complaint on the appropriate form, and relay it to the Internal Affairs investigator. This directive shall not affect an I.A. investigator's authority to report directly to the Chief of Police, when appropriate.
- b. **When immediate I.A. Involvement is required:** The Chief of Police may order immediate involvement by Internal Affairs if the incident is serious enough that it requires I.A. attention (such as officer involved shootings). The Commanding Officer at the time of the incident will ensure that members do not sever contact with potential complainants/witnesses before an attempt is made to contact the Chief of Police and/or the Internal Affairs investigator. The Division Commander or Commanding Officer shall have the authority to order Internal Affairs involvement if the Chief of Police cannot be located for notification.

7. Complainant Requirements:

- a. **Sources** - The Department will accept complaints in person, in writing, or via telephone. If a signed, written complaint is taken, the person making the statement will be afforded the opportunity to review the

statement. The parent of a legally recognized juvenile may initiate a complaint and be present during subsequent interviews of their child. However, any adult citizen who is the primary complainant shall initiate their own complaint, unless extenuating circumstances prevent them from doing so. Primary complainants may advise members of any witnesses relevant to their present complaint. If any primary complainant refuses to be interviewed, the Internal Affairs investigator may close the case.

b. Confidential Informants and Anonymous Complaints - The Chief of Police or designee may direct that a primary complainant be treated as a confidential informant, and accept an anonymous complaint. If such complainants appear to be credible, the subject member shall be advised of the circumstances of the complaint. However, the identity of the complainant shall not be divulged, subject to administrative review by the Chief of Police.

8. Statute of Limitations/Time Limits on I.A. Investigations:

- a.** All I.A. investigations shall be started within 10 business days of knowledge of the incident.
- b.** All I.A. investigations shall be conducted in a timely fashion and, as a general rule, shall be completed within 30 days after receipt of the complaint.
- c.** Extension(s) of 30 day periods may be granted by the Chief of Police, as deemed appropriate but shall be limited to no more 4 extensions except in the case of a criminal investigation, than there shall be no limit on the number of extensions.

9. General Internal Affairs Procedures:

a. Documentation/Files-

The Professional Standards Officer will maintain a file on each Department member. These files will contain all complaints, founded and unfounded, and all disciplinary measures. They will also contain any Internal Affairs investigations on a Department member. The Professional Standards Unit shall also maintain a log of all incoming complaints/inquiries received by the Department using IAPro. Direct access to these files is maintained only by the Professional Standards Officer. All hard copy files are secured in the office of Professional Standards. Electronic files shall be maintained in IAPro. These files are considered closed.

- 1)** All records authorized to be closed are hereby closed to the public by this department and no disclosure shall be made by any person employed by or associated with this department shall make such records available.
- 2)** All closed records of this department shall be maintained in a secured location within the department with access limited to the chief law enforcement executive or other person authorized access by the chief law enforcement executive of this department.

- 3) An index of closed records identifying why each record is closed pursuant to state law shall be created and maintained in the sole possession of the chief law enforcement executive or their designee of this department for identification of the records that have been closed.
 - 4) Any person seeking access to any closed record maintained by this department shall submit a written request for access to the record before any record shall be produced. Such request shall be filed with the chief law enforcement executive or a designated official and shall state with specificity the record sought, the reason for access to the record and to whom the record is to be presented if the request for access is permitted.
 - 5) Only the chief law enforcement executive or a designated official shall authorize release of any closed record and such authorization shall only be valid if made in writing after the written request has been reviewed. Any request for access shall be responded to within two (2) business days of the request being received.
 - 6) No closed record shall be released without compliance with this policy or "Pursuant to Section 610.021 (3) and (13), RSMo, all personnel records are closed to the extent permitted by Missouri law."
 - 7) Any employee who violates this policy shall be subject to disciplinary action up to and including immediate termination of employment.
- b. When the Initial Complaint is not Substantiated** - If the initial complaint is not substantiated, the I.A. investigator shall go no further with any part of the investigation (statements, etc.). There shall be no other record of any such complaint made in a member's file, other than the fact that the complaint was unsubstantiated.
 - c. Complainant Notification** - The I.A. investigator will notify the complainant when an Internal Affairs investigation has been initiated. The I.A. investigator will also provide periodic status reports when appropriate. The complainant will be notified of a final disposition of the case pursuant to the requirements listed under departmental "Disciplinary Action" procedures.
- 10. Final Disposition Review by Supervisors** - Upon completion of the I.A. investigation, the I.A. investigator shall make arrangements for the subject member's Division and Shift Commander (at the time of the incident) to review the report. They shall make a finding as to whether any violations of Department Rules, Regulations, or General Orders took place, and make a recommendation of appropriate discipline. If in the course of their review, they determine that additional violations took place, they shall also make recommendations as to the additional violations.
- a. Review of Member History** - If needed for purposes of progressive discipline, the reviewing personnel may request to see the subject

member's I.A. file for any existing disciplinary action. The reviewing personnel may also review the Shift Commander's files for any disciplinary action.

- b. Mitigating Circumstances** - If the reviewing personnel determine the existence of any mitigating circumstances, those circumstances will be documented in detail.
- c. Recommended Changes in Department Directives** - If the case being reviewed reveals a possible need for changes in Departmental Directives/Orders, the reviewing personnel shall provide a detailed justification for the changes.
- d. When the Subject Member has been Transferred** - If a subject member had been transferred before the disposition of the case, said member's Division and/or Shift Commander at the time of the incident shall review the file and prepare a response.
- e. Final Review by Chief of Police** - The reviewing personnel shall return the completed disposition to the Internal Affairs investigator within 10 business days after receiving all requested disciplinary action documentation from the Professional Standards Unit. The I.A. investigator will forward all documentation on the I.A. investigation to the Chief of Police for review. The Chief of Police shall consider all input, and make the final disposition decision on the case:
 - 1) Exonerated** - The incident occurred, but the subject member's actions were justified and/or a lawful and proper departure from Department Rules, Regulations, or General Orders.
 - 2) Exonerated with Commendation** - The incident occurred, but the subject member's actions were justified, lawful and proper, under cases of exceptional circumstances.
 - 3) Unfounded** – The complainant admits to a false allegation, the allegation is found to be false, the subject member was not involved in the incident, or the complainant has voluntarily withdrawn the complaint prior to the conclusion of the investigation and/or the Department elects not to continue any further.
 - 4) Not Sustained** - The allegations were not supported by a preponderance of the evidence.
 - 5) Sustained** - The allegations were supported by a preponderance of the evidence.
 - 6) No Findings** - Used in cases of a subject member's resignation and the Department elects not to continue the investigation.

11. Final Discipline Administered – The Chief of Police will order that the appropriate discipline be administered after their review of the Internal Affairs investigation. Although it is Department policy that progressive discipline will be utilized in order to be corrective rather than punitive, the Chief of Police has the authority to impose discipline pursuant to the I.A. investigation as they elects. (See also GO0007 II.G.)

- 12. Statistical Records of Internal Affairs** – The Chief of Police has the authority to release any annual statistical summaries based upon Internal Affairs investigations. Upon request, this information may be made available to members of the Department and/or the general public. This information will not contain specific information such as an individual’s name, address, place of employment (etc.). Any Supervisor may inform a complainant of Department procedure(s) to be followed to register a complaint against the Department or one of its members.
- 13. Employers responsibilities** - Employers shall defend and indemnify law enforcement officers from and against civil claims made against them in their official and individual capacities if the alleged conduct arose in the course and scope of their obligations and duties as law enforcement officers. This includes any actions taken off duty if such actions were taken under color of law. In the event the law enforcement officer is convicted of, or pleads guilty to, criminal charges arising out of the same conduct, the employer shall no longer be obligated to defend and indemnify the officer in connection with related civil claims.
- 14. Employers obligation** - Law enforcement officers shall have the right to compensation for any economic loss incurred during an investigation if the officer is found to have committed no misconduct.
- 15.** All records compiled as a result of any investigation shall be held confidential and shall not be subject to disclosure under chapter 610, except by lawful subpoena or court order, by release approved by the officer, or as provided in section 590.070.

Chris Connally, Chief of Police

Date