

Police Civilian Review Board Procedure

Investigative Procedures

Requests for Investigation

1. Accepting Complaints

A. The Administrator shall accept Requests for Investigations (complaints) from any person who alleges police misconduct and who has filed or expressed intent to file a complaint about a police officer with Internal Affairs. No complaints will be refused. A complaint will be deemed to have been filed with Internal Affairs regardless of whether Internal Affairs assigns a case number.

B. Complaints against City employees other than police officers will not be accepted because the Police Civilian Review Board does not have jurisdiction.

For purposes of this policy, "complaint" shall be defined as an allegation received from a citizen alleging conduct by a Salt Lake City Police Officer which, if sustained, would constitute a violation of law or of the policies and/or procedures of the City of Salt Lake.

C. Complaints will be accepted from:

(1) Aggrieved parties

(2) Witnesses

(3) Family members of a complainant who is a minor, disabled, or otherwise legally or physically incapable of filing the complaint himself/herself.

(4) Anonymous sources professing first-hand knowledge of alleged police misconduct, when the complainant requests anonymity based upon a credible belief that he/she will face prosecution or harassment. The determination of whether the request for anonymity is based upon a credible belief of prosecution or harassment shall be within the sole discretion of the Administrator.

D. Upon receipt of a request for investigation, the Administrator will ask the complainant whether he/she has filed a complaint with the Internal Affairs unit of the Police Department. If the complainant has filed with the Internal Affairs Unit, the Administrator will determine whether the complaint has been filed with the Police Civilian Review Board within four business days of the complaint being filed with Internal Affairs. If the complaint was not filed within four business days, the Administrator will notify the complainant in writing that the Police Civilian Review Board no longer has jurisdiction. If the complainant has not filed with Internal Affairs, the Administrator will advise the complainant of that requirement and may offer any necessary assistance.

Investigative Procedures

- E. The Administrator will notify the Internal Affairs Unit via telephone within one business day of any complaints filed with the Police Civilian Review Board not involving excessive force. The Administrator will send a confirming password-protected email to Internal Affairs.
- F. The Administrator will email, within five business days of the receipt of a complaint, the following information to all Board members and the Board Police Advisor:
 - (1) A description of the incident.
 - (2) The specific allegation.
 - (3) An evaluation of the seriousness of the allegation.
 - (4) A recommendation on whether an investigation should be initiated.
- G. Board members will endeavor to respond via email within one business day stating their preference whether or not to investigate.
- H. The Administrator will initiate an investigation if at least five (5) Board members state their preference for an investigation.
- I. If fewer than five (5) Board members wish to initiate an investigation, the Administrator will inform Internal Affairs within one business day and the complainant in writing within five business days that the Board has declined to investigate.

2. Conducting an Investigation.

- A. The Administrator will conduct a simultaneous investigation with the Internal Affairs Unit.
- B. The Administrator will categorize the complaint as Category I or Category II in the same way the Police Department categorizes complaints. Complaints will be evaluated and classified, according to the seriousness of the allegations, as either a Category I or a Category II complaint—Category I being the most serious complaints.

Investigative Procedures

Category I complaints include, but are not limited to:

- (1) Improper exercise of police authority
- (2) Misconduct pertaining to:
 - a. Alcohol
 - b. Drugs
 - c. Sex
- (3) Harassment or threats
- (4) Failure to take appropriate police action
- (5) Use of force
 - a. Excessive force in arrest
 - b. Inappropriate use of force
 - c. Inappropriate use of restraints or detention
- (6) Assault by an officer or other police employee
- (7) Improper use of equipment
 - a. Service weapon
 - b. Flashlight
 - c. Impact tools or chemical weapon
 - d. Vehicle, serious violations
 - e. Other
8. Improper handling of evidence
9. Unlawful or inappropriate search or seizure
10. Unlawful or inappropriate arrest
11. Civil rights violations
12. Any criminal conduct by an officer or police employee

Category II complaints include, but are not limited to:

1. Profanity
 2. Inconsiderate contact
 3. Dispatch-related complaints
 4. Improper vehicle impound
 5. Police traffic or parking violations
- C. The Administrator will have access to all information related to the specific allegation, including but not limited to, all police reports, all written correspondence, including electronic correspondence, physical evidence, photographs, recordings, etc.
- D. Whenever feasible, the Administrator will attend all Internal Affairs interviews with the complainant, witnesses, and the officer(s) against whom the allegation has been made. The Administrator will record all interviews whenever possible.

Investigative Procedures

- E. The Administrator may consider hearsay testimony if it is the type of evidence that reasonable persons are accustomed to rely on in the conduct of their serious affairs.
- F. The Administrator will gather, and objectively consider, all information related to the specific complaint.
- G. If necessary, the Administrator may consult with the Board's Police Advisor during the investigatory process.
- H. The Investigator will conduct thorough and unbiased investigations and will attempt to minimize recommendations of "no determination possible." Complaint case files will contain all relevant information gathered during the investigation.
- I. At the conclusion of the investigation the Administrator will prepare a recommendation to a Board panel categorizing the Administrator's evaluation of the complaint as: unfounded, exonerated, no determination possible, or sustained.
 - (1) Unfounded: The incident complained of did not happen.
 - (2) Exonerated: The incident did occur, but the officer acted within Police Department and/or City policies and procedures.
 - (3) No determination is possible: There is insufficient evidence to prove whether the alleged incident happened.
 - (4) Sustained: The incident did occur and there was a violation of Police Department and/or City policy and procedure.
- J. When the Administrator has concluded the investigation and has prepared a recommended finding of unfounded, exonerated, no determination is possible, or sustained, the Administrator will request a meeting with the Board panel, which will make the final determination.

3. Access to Complaint History.

- A. Complaints alleging excessive force. When the Administrator is recommending a finding of sustained or no determination is possible, the Administrator **will** submit a written request to the City Attorney to review the officer's electronic file for any information that is considered confidential by law. If no information considered confidential by law is in the officer's file, the Administrator will be provided with the complaint history of all of the officer's previous sustained complaints. The

Investigative Procedures

Administrator will also receive the no determination is possible complaint history, if there have been three similar complaints alleging violation of the same policy within the previous three years.

- B. Complaints not alleging excessive force. When the Administrator is recommending a finding of sustained or no determination is possible, the Administrator **may** submit a written request to the City Attorney to review the officer's electronic file for any information that is considered confidential by law. If no information considered confidential by law is in the officer's file, the Administrator will be provided with the complaint history of all of the officer's previous sustained complaints. The Administrator will also receive the no determination is possible complaint history, if there have been three similar complaints alleging violation of the same policy within the previous three years.
- C. The City Attorney's Office will be responsible for determining whether the requested file contains information considered confidential by law. If it does contain such confidential information, the complaint history for all sustained complaints will be provided to the Administrator. When the recommendation is that a complaint be sustained, the Administrator will also be provided the no determination is possible complaint history, if there have been three similar allegations of violation of the same policy within the previous three years.
- D. The Administrator will only have access to the complaint history of the officer(s) against whom the allegation(s) has been made if:
 - (1) The Administrator has finalized a recommendation on a case; and
 - (2) The recommendation is either sustained or no determination is possible.

4. Reviewing the Complaint History of Officers.

- A. When Internal Affairs has concerns that the Administrator may misinterpret a complaint history, Internal Affairs may request a meeting with the Administrator and the City Attorney's Office to review the history.
- B. Any complaints contained in the history for which there is no documentation shall not be provided to a Board panel.

Investigative Procedures

C. If the Administrator is recommending a finding of sustained or no determination possible, and the Board panel concurs, the Administrator may provide the complaint history of the officer(s) to the Board panel consistent with the procedure identified in 3(A) above. If no pattern specific to the officer is apparent after a review of the history by the Administrator, the Administrator will include that conclusion in the report of the complaint history to the Board panel.

5. Providing a Complaint History to a Board Panel.

A. No complaint history will be provided to the Board panel prior to that panel reaching a decision regarding whether the complaint is sustained, no determination is possible, unfounded, or exonerated.

B. If the panel concludes that the complaint is unfounded or the officer is exonerated, no complaint history will be provided to the panel.

C. If the complaint is one of excessive force and the panel has determined that it should be sustained or no determination is possible, the Administrator will provide the complaint history to the panel.

D. If the Administrator did not ask for a complaint history in a case not alleging excessive force and the Board panel determines that a complaint history is necessary, the Administrator shall request a complaint history following the procedure outlined above.

E. If the panel concludes on a case not involving excessive force that no determination is possible or the complaint is sustained, the Administrator will provide the complaint history to the panel if he/she had previously determined that the complaint was serious enough to have warranted a request for the history, and, in the judgment of the Administrator the complaint is part of a pattern.

F. If the Administrator had not asked for a complaint history on a case not involving excessive force, and the Board panel determines that a history is necessary, the Administrator will request a complaint history and provide it to the panel following the procedure outlined above.

G. The Board panel will not use a complaint history to change its conclusion regarding whether the complaint is no determination is possible or sustained. The complaint history will only be used in formulating a recommendation to the Police Chief regarding discipline, training or other recommendations.



Chair

1-12-04

Date