

SWARTHMORE BOROUGH POLICE DEPARTMENT



Policy Directive 2.3.1 – Citizen Complaints

Chapter:	Law Enforcement Function	Directive:	2.3.1
Section:	Internal Affairs	Effective Date	3/7/2012
Title:	Citizen Complaints	Issue Date:	6/01/2020
Issued By:	Raymond C. Stufflet, Chief of Police	Reevaluation Date:	6/01/2022

Replaces:	All Previous Directives Relative To This Subject		
Distribution:	All Police Department Personnel		
Pennsylvania Accreditation References:	2.3.1		
Related Documentation:	Complaint Against Department Member Form		
	Procedure to File a Citizen's Complaint		

I. PURPOSE

The purpose of this policy directive is to describe procedures for handling complaints against department members, investigating complaints, and disposition of complaints.

II. POLICY

The integrity of the Swarthmore Borough Police Department depends on the personal integrity and discipline of all department members. The public image of this department is impacted by the professional response of the department to allegations of misconduct against it or its members. The department must thoroughly and professionally investigate all citizen complaints and allegations of misfeasance, malfeasance, and nonfeasance by department members.

In addition, the department must properly respond to the results of the investigation by providing discipline and/or additional training when complaints are founded and by clearing the involved member(s) when the complaints are determined to be unfounded. Also, the results of the investigation and the follow-up taken by the department must be communicated, at least in general terms, to the complainant and to the community at large to ensure their confidence that complaints against the police department and its members are taken seriously by the department, thoroughly investigated, and followed up with appropriate action by the department.

III. PROCEDURE

A. Professional Standards Function

1. The function of Professional Standards is to ensure that the integrity of the Swarthmore Borough Police Department is maintained through an internal system where objectivity, fairness, and justice are assured by intensive and impartial investigation to clear the innocent, establish guilt of wrongdoers, and facilitate fair, suitable, and consistent disciplinary action.
2. Professional Standards investigations are coordinated by the chief of police for all members of the police department, except when the complaint is directed at, or involves the chief of police. In this situation the mayor, or his/her designee, will assume the responsibility to coordinate the investigation.

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B. General Provisions

1. The department encourages citizens to bring forward legitimate grievances regarding misconduct by members. Department members shall receive complaints courteously and shall handle them efficiently. All members are obligated to explain to inquiring citizens the complaint procedure.
2. The department recognizes that its members are often subject to intense pressures in the discharge of their duties. The members must remain neutral under circumstances that are likely to generate tension, excitement, and emotion. In such situations, words, actions, and events frequently result in misunderstanding and confusion. It is to the advantage of all members to have a procedure for the investigation of the more serious allegations and underlying circumstances so that complaints can be resolved in light of the complicated pressures of police work.
3. A copy of "Procedure to File a Citizen's Complaint" will be posted in the public area of the police department, and will be given to any citizen requesting information on Procedure to File a Citizen's Complaint against the department or any member of the department. A copy of "Procedure to File a Citizen's Complaint" is included with this policy directive.

C. Due Process

1. The department seeks to observe due process of law in the philosophy of the 14th Amendment in any disciplinary proceeding.
2. The department recognizes that all members enjoy the rights and protections provided by laws and the Constitution of the United States, and Commonwealth of Pennsylvania, and the provisions of the Swarthmore Borough Civil Service Commission. In addition, sworn and non-sworn members may receive other rights and privileges under their labor contract or agreement.

D. Types of Complaints - A complaint is any allegation or question by an individual regarding a member's conduct, behavior, or actions toward them or any other person. Included will be illegal, immoral, or improper behavior whether verbal, in writing, or by action toward any individual. It will not include routine inquiries or questions that do not involve a member's actions. The following types of Complaints will be investigated:

1. Serious Complaint
 - a. A serious complaint will include, but not be limited to:
 - (1) allegations of gross misconduct,
 - (2) violation(s) of law and/or of brutality.
 - b. A formal investigation will be conducted for serious complaints.
 - c. The investigation of serious complaints shall be coordinated by the chief of police. The chief of police may assign the investigation to a supervisor of the department, or may ask an investigator from another agency to undertake or assist in the investigation.

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- d. All complaints will require a report or statement from the member(s) who are subject to the complaint or who may have information that is pertinent to the complaint.
2. Less Serious Complaints
 - a. A less serious complaint may include, but not be limited to:
 - (1) allegations of no response to calls for service,
 - (2) failure to take proper action,
 - (3) poor demeanor,
 - (4) failure to follow procedures that do not rise to the level of a serious complaint.
 - b. An informal investigation may be conducted for less serious complaints.
 - (1) During an informal investigation the supervisor responsible has the option to obtain statements or reports from involved member(s) or personally interview the member(s) accused regarding the allegation(s).
 - (2) Informal investigations will be investigated and handled by a supervisor or the chief of police. All complaints will be documented as per this policy directive.
 - (3) Documentation should be completed using the "Complaint Against Department Member" form. This form may be completed by the investigating supervisor and may not require a written statement from the complainant, at the supervisor's discretion.
 - c. There is nothing to prevent an informal investigation from becoming a formal investigation, should information warrant it.
 3. Inquiries - routine inquiries or questions that do not involve a member's actions are not covered by this policy directive.
- E. Receipt of complaints
1. Complaints, serious and less serious, can be logged in person, by mail, or by phone at any time. As part of the follow-up investigative activity, persons making complaints by mail or phone normally shall be interviewed and if possible, a written, signed "Complaint Against Department Member" form will be prepared. A copy of the "Complaint Against Department Member" form is found in the appendix to this order. Anonymous complaints shall be followed up to the extent possible.

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2. Every effort shall be made to facilitate the convenient, courteous, and prompt receipt and processing of citizen complaints. A member of the department who interferes with, discourages or delays the making of such complaints shall be subject to disciplinary action.
 3. Normally, a citizen with a complaint will be referred to a police supervisor or the chief of police who shall assist the citizen in recording pertinent information on a "Complaint Against Department Member" form. The supervisor will document all complaints on a "Complaint Against Department Member" form, and when appropriate, conduct a preliminary investigation. In the event a supervisor or chief of police is not available a patrol officer will receive the complaint and forward it to the chief of police.
 4. A supervisor will complete an investigative memorandum with any additional information such as, investigative notes, observations, and conclusions. The memorandum will be forwarded with the "Complaint Against Department Member" form to the office of the chief of police.
 5. If the supervisor or other investigators determine that the complainant is apparently under the influence of an intoxicant or drug, or apparently suffers from a mental disorder, or displays any other trait or condition bearing on his or her credibility, the supervisor or investigator shall note such conditions in the investigative memorandum. However, the supervisor will document and attempt to investigate the complaint regardless of the complainant's condition. Any visible marks or injuries relative to the allegation shall be noted and photographed.
 6. Prisoners or arrestees may also file complaints, although circumstances may require a department representative to meet the complainant at a jail or prison for an interview. If appropriate, the police representative will have photographs taken of prisoner's injuries.
 7. Any department member receiving a citizen complaint through the U.S. mail shall place the correspondence and envelope in a sealed envelope and forward it to the chief of police, who will determine investigative responsibility.
 8. Complaints received by telephone will be courteously and promptly referred to a supervisor or chief of police. If a supervisor is not immediately available, the receiving member shall record the name and telephone number of the complainant and state that a supervisor will call back as soon as possible. The receiving member will then notify a supervisor.
- F. Use of "Complaint Against Department Member" Form
1. Upon receipt of a complaint, a supervisor will document the complaint on the "Complaint Against Department Member" form. The supervisor will include as much information as possible. The supervisor will also complete an investigative memorandum with any additional information such as, investigative notes, observations, and conclusions.
 2. The supervisor will forward the original copy of the form, in a sealed envelope, to the chief of police. The supervisor will also make a verbal report to the chief of police if possible. When the complaint is of an urgent or serious nature the supervisor will contact the chief of police immediately.
 3. The "Complaint Against Department Member" form and investigative memorandum must be forwarded to the Chief of Police on the day that the complaint is received even if it is a less serious complaint.

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G. Complaint Investigation

1. Upon receipt of a supervisor's report concerning a serious or less serious complaint, the chief of police will assign an investigator or assume the investigation. Under certain circumstances the chief of police may ask an investigator from another agency to undertake or assist in the investigation.
2. Where the chief of police has requested an investigator from another agency the responsibility for an investigation, he/she may direct suspension of a supervisor's investigation.
3. After completion of all investigations, the assigned investigator shall forward to the chief of police a full report stating recommendations for disposition of the case, along with the supporting evidence for such recommendations.

H. Complaint Disposition - Chief of Police Review

1. The chief of police shall make the disposition of serious or less serious complaints as follows:
 - a. Sustained: Evidence sufficient to prove allegations.
 - b. Not sustained: Insufficient evidence to either prove or disprove allegations. This will include incidents where the complaint was not sustained, but the member's conduct fell short of the prescribed norm.
 - c. Exonerated: Incident occurred but was lawful or proper.
 - d. Unfounded: Allegation is false or not factual.
 - e. Policy failure: Flaw in policy or training caused incident.
2. When the investigation shows that a member has violated the Code of Conduct or department policy, the chief of police will determine the appropriate corrective action.