

City of Johns Creek Police Department

<i>Subject:</i> Internal Affairs/Complaints Against Officers	<i>Number:</i> 01-12
<i>Reference:</i>	<i>Amends:</i>
<i>Effective:</i> 04/08,10/09 <i>Revised:</i> 01/10 01/12 11/14 07/17	<i>Review Date:</i> Annually <i># of Pages:</i> 9

PURPOSE:

Establish policy and procedures whereby an effective evaluation of alleged misconduct may be assessed and judged fairly and impartially. In conjunction with the rules and regulations and other policies that govern our behavior, to establish a process for a review and investigation of all complaints against the Department, its officers, members and employees that ensures the process is consistent and equitably applied, and all complaints and allegations are resolved.

POLICY: (01-12)

The Department is always evaluated and judged by the conduct of individual members. It is imperative the entire organization not be subject to public censure because of the misconduct of one or more of its personnel. When an informed public knows its Police Department honestly and objectively investigates and adjudicates allegations of misconduct, the public is less likely to become indignant over incidents of misconduct.

It shall be the policy of the Johns Creek Police Department to implement an internal system of inspection having the authority and responsibility, at the direction of the Chief of Police, for the investigation of all complaints and allegations of misdeeds, misconduct, and illegalities assuring the professional integrity of the Department and its employees. The department will investigate all complaints against its employees or agency, to include anonymous complaints.

Further, when complaints are received by any officer, member or employee regarding any misconduct or violation of law, it shall be his/her responsibility to document and report the allegation or complaint to the next level of supervision that is not a subject of or involved in the complaint.

Upon inquiry, or when practical and appropriate, the Department shall advise the public through the media and/or other sources the procedures through which complaints may be filed regarding the Department or its employees and officers.

Scope:

This policy is applicable to all Department officers, members and employees.

PROCEDURES:

Definitions (01-12-01)

Complaint: Action taken by a citizen or employee to focus administrative attention toward any action or inaction by an officer or employee which the complainant considers to be illegal, contrary to proper procedure or conduct, or is in any manner prejudicial to that citizen/employee, the department, or community as a whole. Complaints may be initiated only by the affected party in written form through the completion of the departmental Standardized Complaint Form (SCF). Complaints concerning juveniles may be initiated by a parent or guardian, but the juvenile must be available for interview. In the case of incapacitated individuals, a complaint may be initiated by a third party on the behalf of the complainant until such time as the complainant may be interviewed. All complaints will be given full attention.

Posting Procedures: The procedures to be followed in registering complaints against this agency or its employees will be posted on the department's website and on the information computer which is located in the lobby of the police headquarters building, which is available to the public. Complaint forms are also available to the public in the lobby of police headquarters and can be requested from any supervisor and/or employee.

Organization and Responsibility (01-12-02)

The Office of Professional Standards shall consist of a Captain, as officer in charge, and such personnel as is necessary to carry out assigned responsibilities and functions. This unit shall come under direct supervision of the Chief of Police. One of the primary responsibilities of the Office of Professional Standards shall be to investigate all allegations of misconduct against the department or any other complaint as may be assigned by the Chief of Police.

Complaint Classification (01-12-03)

Complaint Classification: All complaints received by the department will be classified according to the nature of the complaint by the Office of Professional Standards. The classification will be either a **Level 1** or a **Level 2** complaint. This classification will be utilized for the appropriate assignment of investigative responsibility.

1. **Level 1:** Complaints which indicate minor infractions of any rules or regulations, procedural infractions, or acts such as rude or discourteous conduct shall be included in the classification. This list is a basic guide but is not all-inclusive. Any complaint may be placed in this classification upon the direction of the Chief of Police.
2. **Level 2:** Any complaint which alleges the misuse of force, deadly force, serious misconduct, criminal conduct, or driving while intoxicated. Brutality, corruption and breach of civil rights shall also be included in this classification. This list is a basic guide and should not be considered all-inclusive. Any complaint may be placed in this classification upon the direction of the Chief of Police.

Investigative Responsibility (01-12-04)

Level 1 Complaints

1. Investigated by the officer/employee's immediate or designated supervisor.
2. May be assigned to any appropriate personnel within the department by direction of the Office of Professional Standards.
3. Results of investigation delivered to OPS for review, approval, and necessary administrative action.

Upon completion of the investigation and administrative action, the documentation is forwarded to the Chief of Police for review and approval and then to the Office of Professional Standards (OPS) for secure filing.

Level 2 Complaints and Type III Use of Force Investigations

1. Investigated by Office of Professional Standards personnel.
2. Investigative procedures to be utilized in investigations of alleged criminal activity shall be established by the Chief of Police prior to the start of the OPS investigation. The procedures will be consistent with departmental procedure and will protect the rights of the persons involved.
3. The OPS will forward the results of the investigation to the Chief of Police for review, approval, and administrative action. The OPS Investigator will report directly to the Chief of Police on such matters and investigations.

Alternative Assignment

1. The Chief of Police shall have the authority to assign an investigation outside the previously stated guidelines should he/she determines a need to do so.

General Information (01-12-05)

All complaints are to be taken by a supervisor or designee if a Supervisor is not available.

Once a complaint is received, no member of the department will contact the complainant unless specifically assigned to the investigation. Any attempt to make unauthorized contacts with the complainant(s) may result in disciplinary action. All interviews with complainants should be conducted in the confines of an office when feasible, but under no circumstances are we to discuss a complaint in the reception area or any location that allows uninvolved persons to observe. Under no circumstances will it be acceptable to refuse to hear a complaint nor will we take any action that requires the complainant to return at a later time. The initial completion of the form must always be undertaken. This applies to complaints received by telephone and anonymous complaints received in any manner.

Use of the Complaint Form (01-12-06)

Each Supervisor will maintain copies of the departments SCF form for the filing of complaints against members/employees of the department. Additional forms will be stored according to department guidelines and in the lobby of police headquarters.

Persons completing the forms shall adhere to the basic guidelines for completion is as follows:

1. Who completes the form?
 - a. The supervisor receiving the complaint.
 - b. The complainant if they request to do so.
 - c. An employee can complete the form only when no supervisor is available and the citizen cannot wait for a supervisor.
 - d. Members of OPS can also complete the form, if necessary.
2. How the Form is to be completed:
 - a. Each block is to be completed, if information is available.
 - b. All information entered on the form must be neatly written and clearly legible or the information should be typed.

Notification/Routing Time Frame (01-12-07)

Once the complaint form has been filled out with all the information the supervisor will deliver the form to OPS within twelve (12) working hours of it being received by the department.

Classification and assignment of investigative responsibility will be determined by the Office of Professional Standards and made within forty-eight (48) hours of the receipt of the complaint. Once the assignment and classification has been made OPS will log the information into Guardian Tracking, which will notify the Chief of Police of the assignment.

Investigators will be responsible for keeping the complainant(s) aware of the status of the investigation. At a minimum the complainant shall receive status updates every 30 days and a notification of findings when the investigation has been concluded.

The member(s) of the Office of Professional Standards who assign investigations to any individual(s) outside the Office of Professional Standards will establish a reporting procedure by which they will be kept fully informed of the status of the investigation.

The primary objective of the department concerning the expedient completion of this investigation will follow this basic schedule:

1. All investigations will be completed within sixty (60) days of their start unless the nature of the investigation requires additional time. The extension of this time frame **must** be approved by the Chief of Police. The Chief shall render his decision as to discipline, if any, within thirty (30) days from receipt of the file. The Chief may also return an investigation needing additional work to the Office of Professional Standards for an additional five (5) working days after which time he/she will have five (5) additional days to render a decision. Any disciplinary action which occurs as a result of the investigation shall be reduced to writing and a copy given to the member who is named in such action within ten (10) days after the Chief has reached his decision.
2. Investigations completed by individuals not assigned to the Office of Professional Standards will be submitted upon completion to the Office of Professional Standards and the Chief of Police. The Chief of Police will review the investigation, take any necessary action, and document such action.
3. Investigations completed by the Office of Professional Standards will be immediately submitted to the Chief of Police. Upon completion of the necessary action and documentation of such action, the report will be returned to the Office of Professional Standards for secure storage and logging into Guardian Tracking. All internal investigations will be filed in the Office of Professional Standards and all statistical data collected.
4. The assigned Investigator will be responsible for the documented notification provided to each complainant and involved employee advising the complainant and the employee of the results/findings of the investigation. This notification and findings must be forwarded within five (5) calendar days following the receipt of the completed report by the Office of Professional Standards.

Procedural Process of Investigation (01-12-08)

The Office of Professional Standards will conduct investigations into all allegations of criminal acts, use of deadly force, misuse of force, or serious misconduct. Also, any complaint assigned by the Chief of Police will be investigated.

All investigations relating to improper action or conduct will be conducted in accordance with the following provisions:

1. The supervisor first receiving the complaint, whether originating externally or internally, enter the information into the Citizen Complaint Module in OSSI/RMS. The information will be forwarded to the Office of Professional

- Standards for investigative assignment and logging into Guardian Tracking. The Chief and affected officer are notified through Guardian Tracking.
2. If the complaint can be resolved at the lowest supervisory level, it shall be done. A report, sent to the Chief of Police, will contain the processing, investigation, and disposition of the complaint.
 3. The complainant will be contacted by a supervisor regarding the complaint within three (3) working days.
 4. The Chief of Police will be notified verbally or in writing of all complaints received against the department or employees; this is usually done through the logging of the complaint into Guardian Tracking.
 5. All investigations will be confidential. The results of any internal investigation will be released **only** by the Chief of Police and in accordance with GA open records laws. All investigative records will be maintained in a secure area within the Office of Professional Standards and will be accessible only by Office of Professional Standards personnel and the Chief of Police. A record of all complaints against the department or employees will be maintained by the OPS unit.

When a department member or employee is under investigation or subjected to questioning for any reason which could lead to demotion, dismissal, or suspension, such investigation or questioning shall be conducted under the following conditions and requirements:

1. The Division Major/Shift Commander shall be notified prior to a subordinate being questioned by members of the Office of Professional Standards.
2. When department members or employees are notified that they are the subject of an investigation by the Office of Professional Standards for an alleged violation or as the result of a citizen complaint; the assigned Investigator will provide the member or employee with a **written** notification of the nature of the complaint, name of the complainant, and location the violation or complaint occurred, unless this notification would jeopardize the investigation.
3. The member/employee under investigation shall be informed of the name and rank of the employee in charge of the investigation, and all persons to be present during questioning sessions.
4. Questioning sessions shall be reasonable periods, if possible. The sessions will be scheduled during the member/employee's normal duty hours, when feasible, and there shall be times allowed for personal necessities and rest periods as necessary. If questioning does occur during the member/employee's off-duty time, they shall be compensated for that time in accordance with all payroll policies.
5. When a complaint is filed and an investigation initiated, the member/employee may be required to submit to medical or laboratory examinations, photographs, audio/ video recordings, lineups, financial disclosure statements, and searches of any locker, desk, or other assigned storage area on City property, should evidence exist to determine this necessity. Members/employees shall be notified at the conclusion of any search of assigned storage space. Employees may also be required to participate in a polygraph examination for the purpose of verifying the information provided during the investigation or as evidence exists to determine the necessity for such an examination. Polygraph examinations must be approved by the Chief of Police. Refusal to submit to any of the investigative aids could result in disciplinary action up to and including dismissal.
6. If a member/employee is the target of a criminal investigation or is under arrest, the Criminal Investigation Division Commander will be contacted prior to the completion of the internal investigation. The member/employee will be advised of their constitutional rights under the fifth and fourteenth amendments to the United States Constitution and also the protection afforded them under the doctrine set forth in *Garrity vs. New Jersey*, 385 U.S. 493 (1967) prior to being questioned by the Office of Professional Standards investigator. The purpose of an Internal Affairs investigation is to determine if departmental policy has

- been violated, not to enter into any criminal investigation. This investigation is administrative in nature.
7. Individuals who make false or unfounded criminal complaints against members/employees may be prosecuted. Members/employees shall have the right to file civil suits against these individuals if legal avenues exist.
 8. Any member/employee, who makes a false or untruthful statement to any Office of Professional Standards Investigator, or representative thereof based on assignment, shall be immediately dismissed from further employment.

A department member/employee who is the subject of an investigation for misconduct may be suspended, with or without pay, from duty as a temporary administrative action; any suspension without pay must be approved by the Chief of Police. Such suspensions may be due to his/her physical or psychological fitness for duty or an action pending disposition of the Office of Professional Standards investigation. Return to duty by the member/employee will be at the discretion of the Chief of Police.

Any supervisor is authorized to place an employee on paid administrative leave (suspension) should a situation arise where the employee is unfit for duty and/or is involved in an incident requiring review by OPS or Chief of Police. The Division Major, of the respective division, should be notified of this action as soon as possible.

Should an investigation reveal the potential for the filing of criminal charges against a member/employee, the Commander of the Criminal Investigation Division, or a designee of the Chief of Police, will maintain necessary liaison with the District Attorney's Office.

Based on the records of the Office of Professional Standards internal affairs investigations, an annual statistical summary report shall be produced and made available to the public and agency personnel.

A report will also be produced and forwarded to the Training Division which identifies areas of concern which might be addressed through the training process. The areas of concern will have been discovered through investigation of citizen's complaints of members/employees conduct.

Disposition of Investigation (01-12-09)

Upon completion of an internal investigation, but no more than sixty (60) days from the beginning of the investigation, the Office of Professional Standards will submit a written report as to the findings to the Chief of Police. The investigator in all internal investigations shall be a finder of fact and shall not make any form of recommendation as to disciplinary action. The Chief of Police will send the file to the member/employee's section supervisor/commander for recommendations. After receiving written recommendations from all supervisors involved, the Division Major will make his/her written recommendation and return the file to the Chief of Police. Upon final disposition, the file will be returned to the Office of Professional Standards for secure filing. In the case of minor complaints, the Chief of Police or his/her designee will make the final disposition and give the file to the Office of Professional Standards for secure filing.

All complaints and/or investigations into agency/employee misconduct will require a conclusion of fact.

One of the following findings will be assigned as a conclusion of fact (final disposition) for **ALL** complaints:

Not Sustained

There is insufficient evidence to sustain a complaint.

Exonerated

The incident occurred but the member/employee actions were justified, lawful, and proper.

Unfounded

The complainant admits to false allegations or the member/employee was not involved in the incident.

Sustained

The allegation(s) are supported by sufficient evidence to indicate the member/employee did, in fact, commit one or more of the alleged acts.

Not Involved

The investigation established that the individual accused was not involved in misconduct in the alleged incident.

Policy Failure

The employee acted according to policy or procedure guidelines, or the issue question does not fall within the scope of an existing policy or procedure. This situation indicates the need for a review and change of appropriate procedures or the implementation of new policy or procedure.

Misconduct Not Based on Complaint

During the course of the investigation misconduct was identified which was not originally listed in the complaint or narrowly related to the complaint.

Discipline (01-12-10)

The authority to discipline members/employees is exclusively that of the Chief of Police. Disciplinary decisions shall normally be rendered within thirty (30) days of the conclusion of the investigation. The discipline will be administered immediately after the decision or any subsequent appeals.

Members/employees (excluding probationary members/employees) shall only be disciplined or terminated for just cause. Discipline or termination for cause shall include, but not be limited to, violation of Department Operating Policies and Procedures, General or Special Orders, City Personnel Rules, and/or State laws.

Personnel Involved in Court Cases (01-12-11)

A. Personnel under Orders of the Court

Due to changes in Federal Statute 18 U.S.C.922 (G8), regarding persons subject to court orders, interpretation of the code states it is unlawful for any person subject to a court order to carry any type of firearm or ammunition.

While law enforcement personnel are exempt to that provision, the Department believes it must present itself above reproach to the public we serve. It is in the best interest of the Department we administratively respond to these sensitive issues.

Therefore, any employee who has been served, and is subject to a court order, such as Temporary Protective Orders, Restraining Orders, etc., must **immediately** notify their supervisor and provide the Department with a copy of said order. This policy shall apply regardless of jurisdiction or origination of the order or where the alleged event occurred.

The employee shall, without delay, be relieved of duty and placed in administrative status. The employee's supervisor will **immediately** collect the employee's assigned and/or authorized firearms and ammunition and place those items in the safekeeping of the Department's Armorer.

The supervisor shall, without delay, file a written report of the existence of the court order and of the supervisor's initial actions to the Chief of Police by way of the chain of command. The report, the supervisor and the affected employee should report to the Chief or his/her designee promptly the next business day for a hearing.

Dependent upon the circumstances surrounding the order, or other considerations, the employee may be returned to duty, placed on administrative status, etc. Employees are not guaranteed administrative duty. Each situation is considered unique and will be handled in a manner appropriate to that particular situation. The employee may be suspended without pay pending the outcome of the matter, or if warranted, pending the outcome of an investigation by the Office of Professional Standards. As in any administrative or criminal proceeding, employees are subject disciplinary action resulting from the outcome of an investigation or proceeding.

The employee shall be reinstated to normal, assigned duties and have all weapons, etc., returned to him/her upon satisfactory resolution of the court order, and/or subsequent investigations, if any.

B. Domestic Violence Convictions

According to the United States Code, in an amendment to the Gun Control Act of 1968, any person who has been **convicted in any court** of a "Misdemeanor Crime of Domestic Violence" is among the class of persons who, "no longer can own, possess **or receive** a firearm or ammunition". Law enforcement personnel are not exempt from this code.

Domestic Violence is defined by the United States Code as, "any misdemeanor, having as an element, the use or attempted use of physical force (e.g., Simple Assault, Assault and Battery, etc.), or the threatened use of a deadly weapon committed by a current or former spouse, or parent or guardian of a victim, or by a person with whom the victim shares a child in common, is cohabiting with, or has cohabited with a victim as a spouse, parent or guardian, or is similarly situated to a spouse, parent or guardian". **This definition includes any misdemeanors involving the above definition whether or not the state statute defines the offense as "Domestic Violence" and is applicable even if the conviction occurred before the law's effective date.**

Personnel who are, or have ever been arrested or convicted of this type of offense shall **immediately** notify their supervisor of said incident. The supervisor shall **immediately** relieve the employee of duty and assign him/her to administrative status. The supervisor shall collect the employee's assigned and/or authorized firearms and ammunition, and place them in the safekeeping of the Department's Armorer.

The supervisor shall without delay file a written report of his/her actions and of the employee's arrest or conviction to the Chief of Police by way of his/her chain of

command. The employee shall remain on administrative status pending investigation by the Internal Affairs Division and/or a hearing before the Chief of Police.

C. Noncompliance with Child Support Court Orders

O.C.G.A. 19-11-9.3 provides for the suspension of all licenses and certifications of those persons in violation of court orders regarding child support. Licenses and certifications include but are not limited to P.O.S.T. certifications and driver's licenses.

The Department of Human Resources is compelled by the law to notify the issuing agencies of the noncompliance status, and the issuing agency is compelled by the law to suspend issued privileges. Should an officer or employee receive notification of the suspension of any of these privileges, he/she shall notify the office of the Chief of Police by way of the chain of command **immediately**.

Commanders and supervisors receiving notification of this status shall immediately relieve the officer of duty, place them in administrative status pending a hearing before the Chief of Police. Officers shall be relieved of their weapons and shall not be permitted to function as police officers, including operate their issued city vehicle pending said hearing.

On the next business day, or as arranged by the Chief of Police, a hearing shall be conducted by him/her regarding the status of the employee/officer.

D. Responsibility of Personnel

All departmental personnel are required, upon becoming aware of another employee's status in the above instances, to truthfully and promptly report that information to his/her immediate supervisor.