



Sheridan Police Department
Policies and Procedures
9.1 Replaces 103.7
Chapter 9 – Department Oversight
Section 1 – Citizen Complaints/Internal Reviews

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Signature:

The image of the police department and its effectiveness in carrying out its mission with the public depends on the personal integrity and discipline of all employees. The public has a right to expect and demand fair and impartial law enforcement services. Employees must be free to exercise their best judgment and to initiate action in a reasonable, lawful, and impartial manner without fear of reprisal (see Discretion, section 2.3). All allegations of improper conduct by employees will be thoroughly and expeditiously investigated. This policy is intended to help ensure fairness and consistency in the complaint process.

9.1.1 Types of Investigations

- A. To assure the good order of the department, identify patterns of misconduct and determine the need for training; all complaints including allegations of violations of law, conduct unbecoming of an officer, incompetence, violations of department policies or procedures, and nonfeasance (failure to act/respond) by employees will be investigated.
- B. The department encourages citizens to bring forward legitimate grievances regarding substandard service or misconduct by employees.
- C. All complaints, including anonymous ones, shall be investigated. A citizen's opinion that they are not guilty of a charge will generally not be considered a complaint. Citizens who feel they received a citation or arrest without merit should be advised that judicial review is the primary investigative process into our enforcement action.
- D. Occasionally, malicious and deliberately false accusations are made against the department or its employees. These shall be investigated to protect the integrity of the department and the employee, thereby instilling confidence in the department.
- E. Complaints which question the department's response to community needs will be investigated.

9.1.2 Cooperation in Department Investigations

- A. Employees are required to be truthful at all times. During department investigations, employees shall answer all questions honestly, completely, and to the best of their ability. No employee shall, in any manner, interfere with or hinder an internal affairs investigation.
- B. Employees will consider the internal investigation process a confidential process. Except as authorized or required, an employee shall not contact persons involved in the investigation, nor shall they give information to other employees or to members of the public about the nature or the existence of an internal affairs investigation. Refusal or reluctance in cooperating with internal investigations shall be grounds for termination.

- C. No member of the department who is the subject of a misconduct complaint shall intentionally take any action against the complainant in retaliation for the filing of the complaint. Any employee who retaliates against another as a result of the filing of such a complaint shall be subject to disciplinary action up to and including termination from the department. This does not prohibit the affected employee from filing a civil suit or taking other lawful action against the complainant in any case where the complaint is determined to be intentionally false and malicious.
- D. Employees will only participate in a formal interview related to an administrative investigation of another agency with the prior approval of a bureau commander.

9.1.3 Initiating Investigations

A. Processing complaints

1. Complaints made to any member of the department alleging misconduct of police personnel will be treated with serious consideration. Any complaint will be immediately made known to a supervisor.
2. Every effort will be made to facilitate the convenient, courteous, and prompt receipt and processing of complaints. All employees will be familiar with the process of how to file a complaint, and will provide necessary information to persons requesting the information. In addition, copies of the "Commendation and Complaint Form" and instructions are available to the public in the lobby of the police department and on the department's web page.
3. The supervisor receiving a complaint will interview the complainant and write a summary report of the allegations to include the identity of the complainant and a narrative of the allegation.
 - a. The supervisor will turn the summary report of allegations in to the bureau commander having supervisory oversight of the involved officers.
 - b. The bureau commander will enter the complaint in the Internal Affairs Investigation Log and assign it a number. This will ensure the captain, and chief of police are notified of the complaint.
 - c. The bureau commander will then either complete the investigation, or assign the investigation to another supervisor.
 - d. Upon completion, the investigation will be reviewed by the bureau commander and sent to the captain. The captain will review the investigation with the chief of police and determine the disposition of the investigation.
4. If the complainant is not satisfied with making a report of the complaint to a supervisory officer of this department, the complainant should be referred to the next level supervisor. If still not satisfied, the complainant will be informed that he or she may make the complaint to any one of the following:
 - a. The chief of police directly;
 - b. The city administrator
 - c. The city mayor;
 - d. The Sheridan County Attorney's Office; or
 - e. The Federal Bureau of Investigation, which has investigative jurisdiction of all matters relating to violations of civil rights by police authorities.
5. The department will keep the complainant informed concerning the status of the complaint including:

- a. Verification of receipt that the complaint has been received;
 - b. Periodic status reports; and
 - c. Notification of results of the investigation upon conclusion.
- B. Complaints can be made by:
 - 1. Members of the department who report them to a supervisor or commanding officer;
 - 2. Citizens, including employees of other agencies, who report them to any member of the department;
 - 3. The office of the city administrator;
 - 4. Supervisory or commanding officers;
 - 5. Prisoners or arrestees, although circumstances may require a department representative to meet the reporting person at the detention facility.
- C. In any case in which a citizen does not wish to fill out a written statement, the receiving officer will attempt to gather as much information as possible concerning the complaint, and process it according to the provisions of the policy. Citizens will not be denied the ability to make a complaint based on their refusal or reluctance to complete any department generated form.

9.1.4 Classification of Investigations

- A. All complaints against employees or departmental policies or procedures will be recorded and reported to the chief of police.
- B. The person assigned to conduct an investigation shall not be:
 - 1. The complainant;
 - 2. The ultimate decision maker on disciplinary action;
 - 3. Personally involved in the alleged misconduct.
- C. The person assigned to conduct an investigation has the authority to report directly to the chief of police if needed.
- D. The following guidelines will be used in determining the type of investigation necessary. In most instances, the case will be assigned with a 14 day deadline. If circumstances dictate a need for an extension, a progress report should be completed along with an explanation for the delay.
 - 1. The chief of police or investigating officer shall maintain close liaison with the county attorney in investigating alleged criminal conduct. When liability is at issue, the chief of police or investigating officer shall similarly maintain contact with the city attorney. In cases where a criminal and administrative investigation are being conducted, the investigations will be kept separate so as to avoid information from the administrative investigation tainting the criminal investigation. In such dual investigations, no action will be pursued that may jeopardize the integrity of the criminal investigation. In serious cases this may include delay of the administrative investigation.

9.1.5 Citizens Inquiry

- A. A citizen inquiry classification will be used in cases of citizens contacting the department with questions about a policy, procedure, or tactic used by the department rather than a complaint of misconduct.
- B. If the receiving supervisor determines the employee acted within prescribed policy, procedure, or tactic, the matter will be handled as an inquiry and no further documentation will be required. Examples of inquiries include, however, are not limited to questions such as:
 - 1. Why did an officer handcuff a prisoner?

2. Why was a ticket issued?
 3. Why did an officer use the emergency lights?
 4. Why was a traffic stop made?
- C. If the receiving supervisor determines the employee acted outside the department's policies, procedures or practices the supervisor will initiate an investigation.

9.1.6 Recording Information

The following information will be gathered by those persons assigned to conduct investigations of the Sheridan Police Department:

- A. A summary of the allegations including:
 1. A brief indication of policies, procedures, or practices which were allegedly violated;
 2. Any relevant quotations made by the reporting party; and
 3. Relevant dates and times.
- B. Complete identifying and contact information (including past contacts or incidents when appropriate) of all persons involved including the reporting party, any witnesses or third party involvement, and a list of employees involved; including the supervisor during the alleged incident.
- C. Any departmental records which describe the alleged incident or are relevant to the investigation. Examples include incident reports, tickets, case report, radio logs, internal written documents, photographs, audio recordings, video recordings, etc.
- D. A summary of interview statements made by the employees, witnesses or other persons involved.
- E. A detailed list of the actions taken by the investigating person; including a timetable of the incident.
- F. Any subsequent contacts with the reporting party and a brief description of his or her reaction to the actions taken by the agency.
- G. Any recommendations to be made including corrective, disciplinary, policy, procedure, or training issues.

9.1.7 Criminal Investigations

Two types of internal investigations may take place, administrative or criminal. During administrative and criminal investigations of employees different rules apply. Administrative and criminal investigations may be conducted simultaneously, but investigators assigned to the administrative investigation may not collaborate or share information with the criminal investigator. The following outlines procedures to be followed when investigating each type.

- A. An investigation for administrative purposes is to obtain information to determine whether a violation of rules or procedure occurred. If the designated interviewer wishes an employee to answer questions related to his or her official duties or related activities, and is willing to forego the use of such answers in a criminal prosecution, the interviewer shall advise the employee that:
 1. The purpose of the interview is to obtain information to determine whether a violation of rules or procedure occurred. The answers obtained may be used in disciplinary proceedings resulting in reprimand, demotion, suspension, or termination.
 2. All questions related to employment must be fully and truthfully answered. Refusal to answer or lying may result in disciplinary action up to and including termination.

3. No answers given, nor any information obtained by reason of such statements, may be admissible against the employee in any criminal proceedings.
 4. The employee should be given the administrative proceedings rights advisement:
 “I wish to advise you that you are being questioned as part of an official investigation of the police department. You will be asked questions specifically directed and narrowly related to the performance of your official duties or fitness for duty. You are entitled to all rights and privileges guaranteed by the laws and the constitution of this state and the constitution of the United States, including the right not to be compelled to incriminate yourself. I further wish to advise you that if you refuse to testify or to answer questions relating to the performance of your official duties or fitness for duty, you will be subject to departmental charges, which could result in your termination from the police department. If you do answer, neither your statements nor any information or evidence, which is gained by reason of such statements, can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in relation to subsequent departmental charges.”
 5. In an interview for administrative purposes, no Miranda rights are required. Further, the foregoing rules are inconsistent with the Miranda ruling in that employee’s statements cannot be used as evidence. As the interview does not serve criminal prosecution, the employee has no Sixth Amendment right to counsel. The governing case is *Garrity v. New Jersey*, 385 U.S. 483, 87 S. Ct. 616 (1967).
- B. An investigation for criminal investigative purposes will be conducted if it is determined that criminal prosecution is a possibility and the statements obtained may be used against the employee in a criminal proceeding. The interviewer shall:
1. Give the employee Miranda rights;
 2. Advise the employee that if he or she asserts his or her right not to answer questions, no adverse administrative action will be taken based upon the refusal. The governing case is *Gardner v. Broderick*, 392 U.S. 273, 88 S.Ct. 1913, 1916 (1968).
 3. If the employee decides to answer questions at this point, the responses may be used in both criminal and disciplinary proceedings.
 4. During interviews for criminal investigative purposes, employees may have an attorney present during the interview if they request it.
- C. In addition to interviews of the employee and witnesses, the investigating officer conducting an administrative investigation may require other activities in support of the investigation including:
1. An employee may be compelled to submit to a test for alcohol or drug use. The results may be used in a disciplinary hearing. Refusal to submit to the examination may be grounds for disciplinary action up to and including termination. When conducting alcohol and drug testing, employees will follow city policies in regards to the administration of such tests (*City of Sheridan Employee Handbook*).
 2. An employee may be compelled to make financial disclosure statements when it is directly and narrowly related to allegations of misconduct.
 3. An employee may be required to provide access to social networking sites when it is directly and narrowly related to allegations of misconduct.
 4. An employee may be required to submit to a polygraph examination. In addition, the following guidelines will apply:

- a. Any polygraph examination administered under the provisions of this policy shall be administered by a qualified examiner. Consideration shall be given to using an examiner from outside the department.
 - b. Refusal to submit to a polygraph examination, or to answer all questions pertaining to charges in the polygraph examination, shall be grounds for disciplinary action up to and including termination.
- 5. An employee may be required to be photographed or participate in a lineup.
- D. Property belonging to the department is subject to inspection at any time for any reason whether or not there is reasonable suspicion that evidence of work-related misconduct will be found therein. Property includes, but is not limited to, vehicles, desks, computers, files and storage lockers.

9.1.8 Disposition

- A. Disposition occurs when the chief of police approves the actions taken during the investigation and makes a conclusion of fact.
- B. The chief of police will classify completed investigations as follows:
 - 1. Unfounded: no truth to the allegations;
 - 2. Exonerated: allegations are true; however, employee(s) acted in accordance with departmental guidelines;
 - 3. Not sustained: unable to verify the truth of the matters under investigation;
 - 4. Sustained: allegations true; or
 - 5. Policy failure: flaw in policy caused the incident.
- C. A summary of the investigation will be reviewed with the employee(s) involved and a copy of the final report will be given to the affected employee(s) at the discretion of the chief of police.
- D. Unless some type of culpability by the employee is shown, there shall be no mention of the incident in the personnel files. Employees who receive disciplinary action will have a summary of the incident outlining the supporting facts, placed in their personnel file. Employees who do not receive sanctions as a result of an investigation/internal review, but do receive remedial training or employee counseling will have the course of action noted in their performance appraisal.
- E. The chief of police will make or direct the disposition release to the reporting party.
- F. The investigative documents will be filed in the office of the chief of police. A record of all complaints against the department or its employees shall be maintained in a secure location by the chief of police. This records activity is an exception to personnel records and the department's records system. All such records of complaints are confidential except that the chief of police may release statistical summaries with specific information redacted.
- G. The following is the minimum retention period for internal investigation records:
 - 1. Investigations that result in formal discipline - retained permanently.
 - 2. Investigations that result in informal discipline (remedial training, counseling) – retained 3 years, then purged.
 - 3. Complaints that are not sustained, unfounded or exonerated - retained 2 years then purged.
 - 4. The master list of citizen complaints, internal investigations and early intervention investigations shall be retained permanently by the office of the chief of police.