

# **Office of Public Safety Accountability (OPSA)**

## **Purpose, Authority and Procedures Statement**

### **I. PURPOSE**

The purpose of this statement is to set forth the authority of the Director, Office of Public Safety Accountability and to establish the procedures to be utilized in performing the duties of the position. The position has been established for the purpose of monitoring the investigations of citizen complaints concerning misconduct by employees of the Sacramento Police Department and the Sacramento Fire Department. The Director has broad oversight powers that include the evaluation of the overall quality of performance by public safety employees and the authority to encourage systemic change. In addition, the Director will specifically track and monitor high profile or serious complaint cases to conclusion, review completed investigations, and advise the City Manager of any deficient investigations.

### **II. AUTHORITY AND RESPONSIBILITIES OF THE DIRECTOR**

Under the direction, control and supervision of the City Manager, the Director shall have the following authority and responsibility as related to the Sacramento Police Department and Fire Department:

- A. Monitor all investigations conducted by the Sacramento Police Department concerning allegations of unnecessary or excessive force.
- B. Monitor all investigations of citizen complaints alleging other categories of misconduct, as the Director deems necessary.
- C. Request further investigation in those cases, which require additional investigation as determined by the Director.
- D. Receive all documents, reports or any other item necessary to monitor an investigation of citizen complaints and force investigations.
- E. Produce an annual report to the City Manager in which the Director will compile statistical information including number of complaints filed, number sustained and action taken. The Director will provide in the annual report an analysis of trends and patterns. The Director will make recommendations for improvements in the complaint process, training needs of public safety personnel or other measures the Director believes will improve the overall citizen complaint process, including recommendations for systemic changes.

- F. Accept and document complaints directly from citizens as an alternative procedure for receiving citizen complaints concerning public safety personnel. A separate complaint form from that utilized by the Sacramento Police Department or Fire Department shall be created and utilized by the Director. All such complaints shall be forwarded to the respective public safety department for investigation as soon as possible.
- G. Interview and/or reinterview complainants and citizen witnesses as needed.
- H. Provide complainants with timely updates on the status of investigations, excluding disclosure of any information, which is confidential or legally protected.
- I. Serve as a liaison to complainants who would otherwise be unfamiliar with or intimidate by the complaint/investigative process.
- J. Monitor and/or independently investigate any other matter as directed by the City Manager.
- K. Serve in public information capacity which will include providing public information on pending investigations as directed by the City Manager and making presentations in various community forums, excluding disclosure of any information, which is confidential or legally protected.
- L. If the Chief of Police or Fire Chief or their designated representative denies any request from the Director, the Director may direct his request to the City Manager for further consideration.

### **III. PROCEDURES - RECEIVING AND MONITORING COMPLAINTS, INTERVIEWS**

- A. The Director or his representative shall be available to accept complaints by members of the community against Sacramento public safety personnel. The Director, or his representative, shall receive complaints from citizens in person, in writing, or over the telephone, and shall follow similar procedures for accepting complaints as followed by the Sacramento Police Department and Fire Department including:
  - 1. All complaints must be received by the Director within one (1) year of the incident-giving rise to the complaint. No complaint shall be accepted by the Director if it is not filed within one (1) year after the date of the incident giving rise to the complaint.
  - 2. The complaint form for Police employees shall substantially comply with the requirements of California Penal Code section 148.6, subdivision (a)(2).

3. The Director or representative shall, as soon as possible, notify the Sacramento Police Department or Fire Department upon receipt of a complaint against an employee of the Sacramento Police Department or Fire Department. The Police Chief or Fire Chief or their designated representative shall process the complaint pursuant to the procedures set forth in the Citizen Complaint Manual.
- B. The Director shall monitor all Sacramento Police Department investigations concerning complaints alleging excessive or unnecessary force by police employees while the investigation is in progress.

The Director shall have authority to monitor investigations of all other citizen complaints while the investigation is in progress as the Director deems necessary. The procedures for facilitating the monitoring of investigations are as follows:

1. The Police Chief or Fire Chief or their designated representative shall notify the Director in writing of all complaints from whatever source received by personnel of the Sacramento Police Department or Fire Department. The notice shall include the identity of the individual designated to represent the Police Chief or Fire Chief throughout the complaint process, (hereafter "designated representative"). The Director shall give prior written notice to the Police Chief or Fire Chief, through the designated representative, of his intent to monitor an investigation. Upon such notice, the Director shall have authority to monitor all aspects of the investigation.
2. The Police Chief or Fire Chief or their designated representative shall as soon as possible provide all documents, reports, or other items requested by the Director, which relate to the matter under investigation.
3. The Director may be present when interviews of employees, citizen complainants and/or witnesses are conducted by the Sacramento Police or Fire Department. The Director may submit questions during the interview. Questions submitted by the Director shall be asked by the interviewer in accordance with state and federal law. Subsequent to an initial interview, if the Director believes that additional questions need to be asked to gather relevant information that was not elicited during the initial interview, the Director may request, through the Police Chief or Fire Chief or their designated representative, that employees, citizen complainants and/or witnesses be re-interviewed. The Director may be present during any subsequent interviews.

4. The Director shall be placed on the Critical Incident call-up list for the Police Department and the High Profile Incident Notification call-up list for the Fire Department, and will be notified when critical incidents occur. The Director will have the option of responding to any and all such incidents. The Director shall have the authority to monitor interviews of subject employees, employee witnesses and citizens immediately after such incidents.

In the case of the Sacramento Fire Department the following are examples of High Profile Incidents:

- 4.1 Serious misconduct
  - 4.2 Vehicle accidents with death/serious injury involving Fire Apparatus
  - 4.3 Fire related death/serious injury of Fire Department personnel
  - 4.4 OSHA response for Fire Department personnel (Industrial Accident)
  - 4.5 Law enforcement arrest of Fire Department personnel
  - 4.6 Harassment issues involving Fire Department personnel
  - 4.7 Work place violence claims against Fire personnel
  - 4.8 EMS patient care complaints that rise to a level of disciplinary action (behavior related issues as opposed to medical care issues)
5. If the Police Chief or Fire Chief or their designated representative denies any request from the Director, the Director may direct his request to the City Manager for further consideration.
- C. The Director may interview or re-interview complainants and citizen witnesses as the Director deems necessary.
  - D. In all other matters where the City Manager directs monitoring by the Director, the procedures set forth in Section III. shall apply.

#### **IV. AUDITS**

The Director shall review all completed investigations of excessive or unnecessary force by Police officers. The Director shall have authority to review all in progress and completed investigations into citizen complaints regarding the Sacramento Fire Department. The Director, as the designated representative of the City Manager, shall have authority to review the handling of complaints, inquiries or investigations of any other matter as directed by the City Manager. The procedures in matters under review by the Director are as follows:

- A. The Police Chief or his/her designated representative shall forward to the Director a copy of all records concerning investigations of excessive or unnecessary force against Sacramento Police officers no later than 10 working days after the investigation is completed. These records shall include the disposition of the complaints.
- B. The Police Chief or his/her designated representative shall make available upon request by the Director all records which reflect a complaint or inquiry, including, but not limited to, incident reports, supplemental attachments to a call history, incident logs, case summary reports or complaints classified as frivolous, unfounded or exonerated within the meaning of Penal Code section 832.5.
- C. The Director shall review the file and, thereafter may request that the Police Chief or Fire Chief or their designated representative conduct further investigations. The Director shall identify and substantiate the reasons for requesting additional investigation to the Police Chief or Fire Chief, through the designated representative.
  - 1. If the Director believes that relevant questions were not asked during an interview, and/or that relevant information was not gathered, the Director may request that the Police Chief or Fire Chief, through their designated representative, re-conduct such interview(s) with public safety employees, citizen complainants and/or witnesses who were previously interviewed.
  - 2. If the Director believes that interviews of public safety employees, citizen complainants and/or witnesses should have been conducted but were not, the Director may request that the Police Chief or Fire Chief, through their designated representative, conduct such interviews.
  - 3. When interviews are conducted, the Director is authorized to be present. The Director may submit questions during the interview and the interviewer shall ask questions submitted by the Director in accordance with state and federal law.
- D. If the Police Chief or Fire Chief or their designated representative denies any request from the Director, the Director may direct his request to the City Manager for further consideration.

## **V. ANNUAL REPORT**

- A. The Director shall prepare an annual report. The Director's annual report shall include, but is not limited to, the following:
  - 1. A statistical analysis documenting the number of complaints by category, the number of complaints sustained and the actions taken.
  - 2. An analysis of trends and patterns.
  - 3. Specific recommendations for change.
- B. The Director's report shall not contain any information concerning the discipline of any particular employee, nor make reference to or identify any particular employee, nor shall the report comment upon or make any recommendation concerning potential civil or criminal liability of specific employees, or citizens. Whenever disclosure of information may possibly reveal the identity of a particular employee, the information shall be sanitized so that accurate statistical data may be conveyed while simultaneously protecting the employee's identity. However, if the circumstances are such that disclosure of any information will necessarily reveal the identity of a particular employee, the information shall be excluded from the annual report.
- C. The report shall be forwarded to the City Manager for dissemination to the Mayor, City Council, City Attorney, Police Chief, Fire Chief, Labor Relations Director, and the City Clerk for filing as a public record.

## **VI. CONFIDENTIALITY OF RECORDS**

Any personnel records, citizen complaints against city personnel employed by the Police Department or Fire Department and information obtained from these records, including records in Internal Affairs files, which are in possession of the Director or staff, shall be confidential and shall not be disclosed to any member of the public, except in accordance with applicable law. All original files provided by the Police Chief or Fire Chief or their designated representative to the Director shall be returned to the respective department within ninety (90) days after case closure and submission for final review. The Director, and his representative, is responsible for the confidentiality, security and safekeeping of all Sacramento Police Department and Fire Department files in the Director's possession.

Investigative reports prepared by the OPSA may only be submitted only to the City Manager and City Attorney when litigation is pending or highly probably.

## **VII. COOPERATION AND COORDINATION**

The Director shall report directly to the City Manager. However, the Director shall meet periodically with the Police Chief and Fire Chief and their respective Internal Affairs Commanders regarding recommendations to improve the Sacramento Police and Fire Departments investigative process within the framework of applicable law and labor agreements.

## **VIII. PUBLIC RELATIONS**

- A. The Director and/or his representative shall publicly comment on pending complaints and investigations as directed by the City Manager. Public comments shall conform to State law regarding confidentiality of public safety personnel records and shall exclude disclosure of any information regarding protected aspects of investigations.
- B. An important aspect of the Director's responsibility shall be devoted to providing public information, including printed literature, radio and television, and public presentations at community meetings. Communications should be sensitive to our diverse community and written material presented in a multilingual format.
- C. The Director shall not disclose information that is confidential or legally protected.