

# Opportunities for Trust Building:



## Overview and Recommendations for Law Enforcement's Public Complaint Process



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American Civil Liberties Union of Utah  
355 North 300 West  
Salt Lake City, Utah 84103  
801 521-9862  
aclu@acluutah.org  
[www.acluutah.org](http://www.acluutah.org)



*“It has always been my firm belief that policing is one of America’s most noble professions. The actions of any police officer, in an instant, can impact an individual for life, and even a community for generations. Given this realization, every police officer must be centered on what is important. Service, justice, and fundamental fairness—these are the foundational principles in which every police action must be grounded.”*

*—Dr. Stephen R. Covey, Author of The Seven Habits of Highly Effective People and The Nature of Leadership*

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## Introduction

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Recent high profile incidents involving controversial police actions, both in Utah and across the country, have stirred public concern and have put a spotlight on law enforcement's relationship with their communities. Increasing transparency and community involvement in law enforcement oversight is vital for addressing public concern and building trust in law enforcement practices. At the most basic level, law enforcement agencies having an effective process for the public to file a complaint is crucial to maintaining or rebuilding a healthy relationship with respective communities. A good public complaint process helps police agencies proactively identify potential problems with their policies or practices, and to hold bad actors accountable. When members of the public feel that they are being heard and seeing appropriate responses, their trust in law enforcement will increase. And with the call for civilian oversight and larger reforms, the public complaint process is a good first step towards improvements that that will increase trust and make a better community climate for all.

Multiple stakeholders have set out best practices and recommendations on this topic on the vitally important process of law enforcement agencies accepting and reacting to public complaints. Our experience, prior to this report, led us to doubt that many Utah law enforcement agencies were living up to these practices. We have heard from people who feel confused, shut out, and ignored when they attempt to bring their complaints to agencies. Our suspicions were confirmed when we conducted two statewide surveys of public complaint policies and practices in Utah law enforcement agencies. We found that no Utah law enforcement agency has a public complaint process that fully meets consensus best practices, and that several agencies had problems around accessibility, marginalizing complainants, and internal lack of consistency.

While these results are disappointing, they also present an opportunity for Utah agencies to improve. We conclude this report with various recommendations for steps that can be taken to address these problems and implement an effective public complaint process that Utah's communities deserve.

## Executive Summary

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To evaluate how well Utah law enforcement agencies handle complaints from the public, the ACLU of Utah conducted two studies. In one, our surveyor conducted an in-depth telephone study of 12 law enforcement offices from across the state, and in the second, we made a more general request to 106 agencies. We measured agency policy and practices with respect to public complaints against the consensus best practices and recommendations suggested by the experts. We concluded that none of the agencies we surveyed are in full compliance with these consensus best practices, and that all would benefit from taking the steps we recommend here.

Moreover, we found a lack of consistency among agencies we surveyed, with each agency accepting and processing citizen complaints in their own ways. For example, some agencies have standardized methods for accepting complaints, while others take an *ad hoc* approach. Some agencies have a policy of following up with complainants in every instance, while others do not.

Unfortunately, we found some troubling trends in the way Utah law enforcement agencies handle citizen complaints. Our three main areas of concern were as follows:

1. Utah agencies too often create conditions of inaccessibility, which discourages the public from complaining.
2. Utah agencies marginalize some populations and restrict their ability to access the complaint process.
3. Several Utah agencies have internally inconsistent information about their public complaint processes.

We conclude that this failure to comply with best practices and because of the lack of uniformity, departments miss an opportunity to gain community trust and a better community climate. Accepting, investigating, and taking action on meritorious citizen complaints will alert agencies to problems with their own policies and practices and help them hold officers accountable for bad behavior. A citizen complaint process that discourages, ignores, or lets valid complaints slip through the cracks, however, denies the agencies valuable information and chances to improve.

Further, an effective public complaint process both empowers the public and increases trust. If members of the public see that law enforcement is hearing and reacting to their voices, there is no question of the positive impact on that relationship. On the other hand, a poorly designed or executed complaint process can be the first step in discrimination, deterrence, and intimidation of individuals who already feel wronged by police. In this way, a bad citizen complaint process can lead to distrust and a strained relationship between two groups meant to work together toward justice and peace.

It is in this context that we make various recommendations for positive change in Utah. We believe that taking these measures will improve the public complaint process, and thus improve the quality of law enforcement efforts in Utah and trust people have in the police.

### The Importance of an Effective Public Complaint Process

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An important benefit of an effective public complaint process for law enforcement agencies is enhancing public trust. On the other hand, when departments discourage the public from complaining, whether intentionally or not, community trust can deteriorate. If an officer abuses his or her power and there is no public consequence, credibility for all police can be harmed, contributing to community distrust.<sup>1</sup> Because of the nature of policing, officers often depend on the cooperation of the citizen and so it is crucial for members of the public to trust in the police.

**“I wanted be taken seriously and be acknowledged...”**  
Complaint, received by ACLU of Utah, against Pleasant Grove Police Department

Another key objective served by an effective public complaint process is providing the community and agency with a check on officer misconduct, bad policy, or bad practices. The police are vested with far-reaching powers and a significant degree of discretion in fulfilling their duties. While in most cases agencies and officers exercise this power and discretion appropriately, this power can be misused. Accordingly, the public and law enforcement agencies alike must

be constantly vigilant to officer abuses or problematic agency policies or practices. A fair and effective complaint process is a necessary step to achieve this goal.

<sup>1</sup> International Association, *Supra* 3

On an individual level, the complaint process can allow a police department to right wrongs and address behavioral problems before they lead to a publicized negative incident.<sup>2</sup> Systemically, when complaints from the public reveal trends, the complaint process can inform police executives that there is a policy or practice problem in need of attention and change.<sup>3</sup> Responsible police executives can use information from complaints to correct poor officer performance or misbehavior and put in place systems to prevent future problems.<sup>4</sup> These steps can prevent expensive litigation and preserve police resources for other priorities.

“I want for them to be respect[ful] to citizens. All not some.”

Complaint, received by ACLU of Utah, against Utah highway patrol

## Best Practices for Public Complaint Processes

The International Association of Chiefs of Police (IACP), the Office of Community Oriented Policing Service (COPS office), the U.S. Department of Justice, and the Commission on Accreditation for Law Enforcement Agencies, Inc are some of the organizations that have produced materials on the best practices for the internal affairs process of law enforcement. These guidelines are not rigid and blanket policies that are insensitive to the particular needs and resources of each law enforcement agency. The guidelines are appropriate for law enforcement agencies of any size or type.

### Internal Affairs Guidelines

1. There should be written policies concerning the complaint process.
2. All employees should be trained to know and understand policies.
3. Internal Affairs should be a distinct unit.
4. Complaints should be accepted in all forms (i.e., in person, in writing, by email, webpages, and by telephone).
5. There should be no threats or intimidation. This includes threat of consequences for filing a false complaint (except where required by law), checking warrants, or checking immigration status.
6. Agencies should advertise the process.
7. Complaint forms should be available in languages of any substantial non-English speaking populations.
8. Departments should have a written time frame for completing all Internal Affairs investigations.

<sup>2</sup> International Association, *Supra* 3

<sup>3</sup> Office of Community Oriented Police Services, *Supra* 8

<sup>4</sup> Office of Community Oriented Police Services, *Supra* 8



These best practices accomplish several goals that every law enforcement agency should have:

- Prevent misconduct within their departments
- Properly address misconduct, should it occur
- Build and maintain community confidence in police
- Create and maintain an ethical work environment
- Develop and sustain trust between their organization and the communities that they serve.<sup>5</sup>

All law enforcement agencies should work toward achieving these practical goals.

The guidelines used for internal affairs should be understood by all personnel, including “executives, supervisors, officers, and civilian employees within the department”.<sup>6</sup> Policies concerning the complaint process should be written and put in a manual because it allows for rules to be strictly and uniformly enforced.<sup>7</sup>

“It taught me not to trust the police any further.”  
Complaint, received by  
ACLU of Utah, against Utah  
highway patrol

## Methodology

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We conducted two studies, one involving 12 agencies, to which we refer as the small study, and one study involving over 100 agencies, to which we refer as the large study.

In the small study, our surveyor called twelve law enforcement offices to conduct the telephone survey, contained in this report as Appendix A: the Blanding City Police Department; the Brigham City Police Department; the Cedar City Police Department; the Logan City Police Department; the Moab City Police Department; the Ogden City Police Department; the Provo City Police Department; the Richfield City Police Department; as well as the Davis County and Grand & San Juan County offices of the Utah Highway Patrol, as each section of the Utah Highway Patrol has its own complaint policy and procedure.

<sup>5</sup> International Association of Chiefs of Police, *Building Trust Between the Police and the Citizens They Serve: An Internal Affairs Promising Practices Guide for Local Law Enforcement*, (2009)

<sup>6</sup> International Association of Chiefs of Police, *Supra* 3

<sup>7</sup> International Association, *Supra* 3, *Police Integrity*, (1997), Office of Community Oriented Police Services, *Standards and Guidelines for Internal Affairs*.

The small study sample consisted of city police departments and two county offices of the Utah Highway Patrol and was diverse in terms of geography and population size. The survey tool was the same tool used in a similar report by the ACLU of Connecticut (See Appendix A). This survey was conducted over the telephone. In the fall of 2013, our surveyor called the agencies using the non-emergency telephone number if it could be located, and if not, called an employee or dispatch number. Our surveyor conducted the calls during normal office hours and asked employees 10 multi-part questions. Not all of the first calls were successful in reaching a person who had the knowledge to answer the survey or a person who could help at that time. Departments were called until the survey was completed. Our surveyor sometimes called agencies various times to complete the survey. When appropriate, our surveyor made clear that she was only seeking information and that an actual incident had not occurred.

In the large study, we made phone calls to 106 Utah law enforcement agencies: 77 city police departments and 29 sheriff departments. In those calls, we requested information about the agency's public complaint procedures. If we were unable obtain information after three phone calls, we sent the agency a records request under Utah's Government Records Access and Management Act. If those methods were unsuccessful in gathering information, the department was classified as unresponsive. In unresponsive cases, the department's website was used as an information resource if possible.

## Findings:

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In general, we found that no law enforcement agency in Utah is fully complying with consensus best practices for an effective public complaint process. As mentioned, our survey highlighted three main areas of concern:

1. Utah agencies too often create conditions of inaccessibility, which discourages the public from complaining.
2. Utah agencies marginalize some populations and restricted their ability to access the complaint process.
3. Several Utah agencies have internally inconsistent information about their public complaint processes.

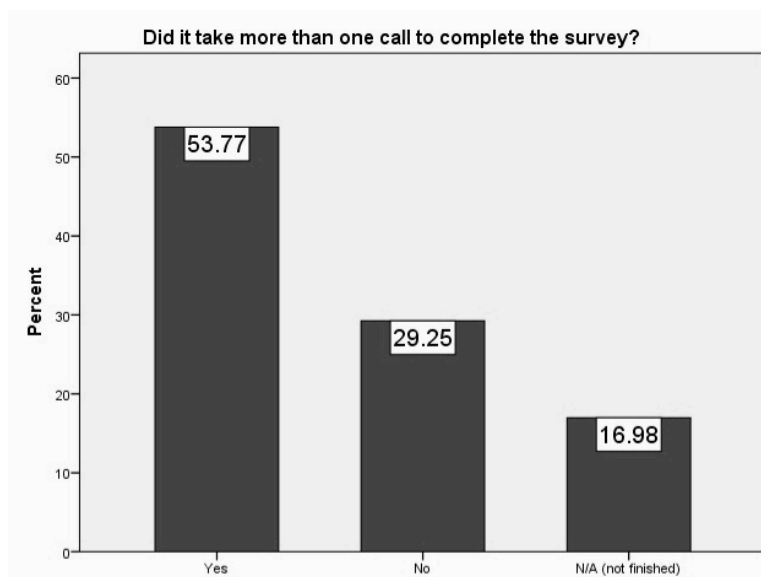
Though there is clearly room for improvement, we also will recognize Utah law enforcement agencies that had commendable practices in their public complaint processes.

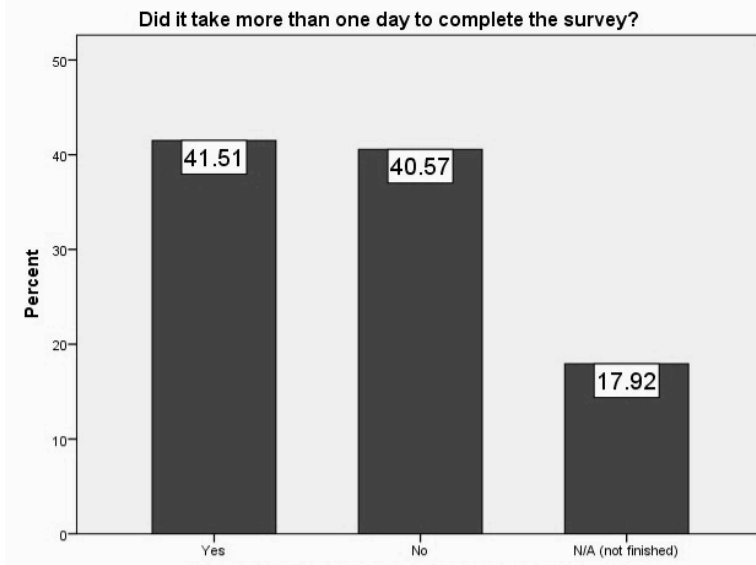
## Concerns over Accessibility

Problems with accessing the public complaint process were abundant in Utah law enforcement agencies. Concerns over accessibility came in several forms: having to call multiple times to have all questions answered, the difficulty of finding non-emergency phone numbers, the level of responsiveness, and restrictions on the form of complaints. All of these problems make it more difficult for people to file complaints, and thus discourages complaints. We discuss each accessibility issue below.

### A. Getting All Necessary Information in One Phone Call was Difficult or Impossible

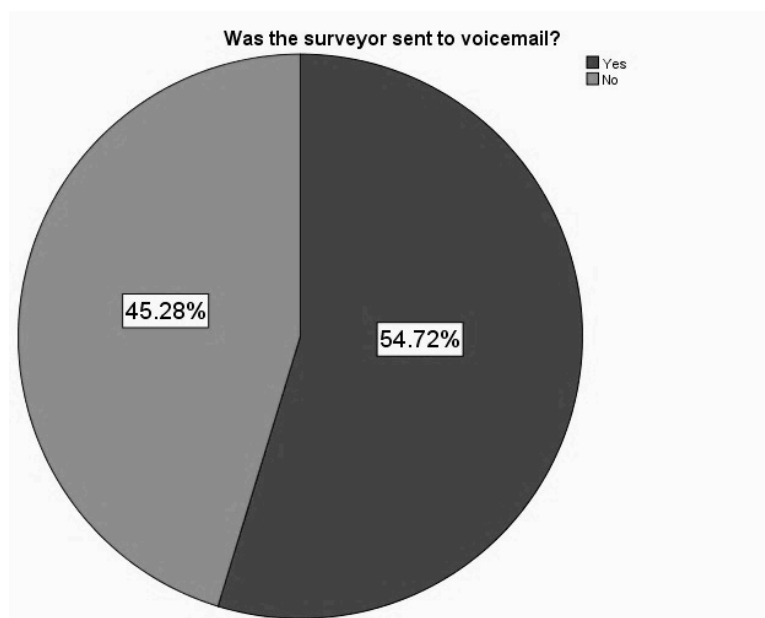
In the large study, we had difficulty reaching someone who knew the basics of the public complaint process at many agencies. Also, at many agencies, we had difficulty reaching someone who was willing and able to speak at the time of the call. In that study, 53.8% of law enforcement agencies made the surveyor call on more than one occasion to complete the telephone survey; 41.5% of the agencies required more than two calls to complete the survey. **Multiple calls were necessary for a variety of reasons, such as the first staff member reached not knowing enough about the process, phone calls directly going to voicemail, and being asked to call back at a later time or date.** Our surveyor had similar problems in the small study.





Having to call more than once to even get information about how to file a complaint indicates a practice that may discourage potential complainants and ultimately lead to agencies receiving fewer complaints and community members feeling that the department is being evasive.

Further compounding this problem is that our surveyors had a difficult time locating a live person to talk to at an agency in the first place. **In the large study, we were sent to voicemail 54.7% of the time.**



Like having to make multiple calls, having to leave a message may in itself be an impediment for potential complainants. For example, some potential complainants may prefer to remain anonymous. Some may lack proficiency in English. Some may feel that the process will become increasingly inconvenient. In each of these instances, being sent to voicemail is likely to discourage the filing of a complaint.

In addition, at several agencies, a dispatcher was either the sole source of information or acted as an intermediary. A dispatcher can be a good first contact for a complainant if he or she is fully and correctly informed about the public complaint process. If this is not the case, however, a potential complainant is at risk of getting bad information, being transferred to someone who does not have good information, or not being transferred at all.

Disappointingly, in the large study, **we were completely unable to reach 17.9% of agencies**. In this situation, we tried to call three times and sent a GRAMA request. Clearly, whatever an agency's formal policy on taking complaints, being completely inaccessible is going to thwart a large amount of potential complainants.

#### B. Locating Agency Contact Numbers was Often Difficult or Impossible.

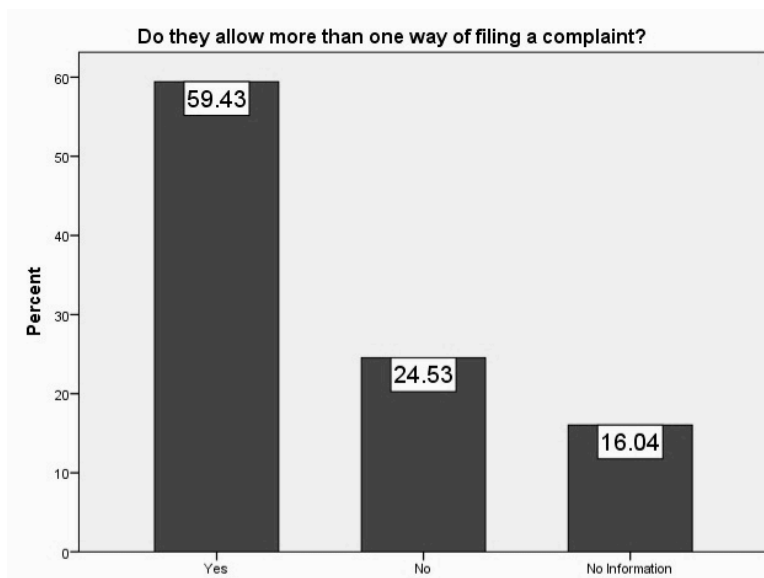
For 25 agencies surveyed in the large study, **the official website either did not list the non-emergency phone number, or that number was difficult to find**. Without a number to call, some potential complainants will be deterred, since failing to have the basic information for facilitate conversation is to erect a barrier.

#### C. Many Utah Agencies Put Unnecessary Restrictions on the Form of Complaints

There are many forms complaints may take, including an Internet form, email, "snail mail," and in person. To live up to the best practice of making it easy for an individual to file a complaint with a police agency, an agency should make complaint forms available in as many ways as practicable, and accept all complaints that reach the agency regardless of form.<sup>8</sup> The large study, however, found that almost 25% of Utah agencies accept complaints in only one form.

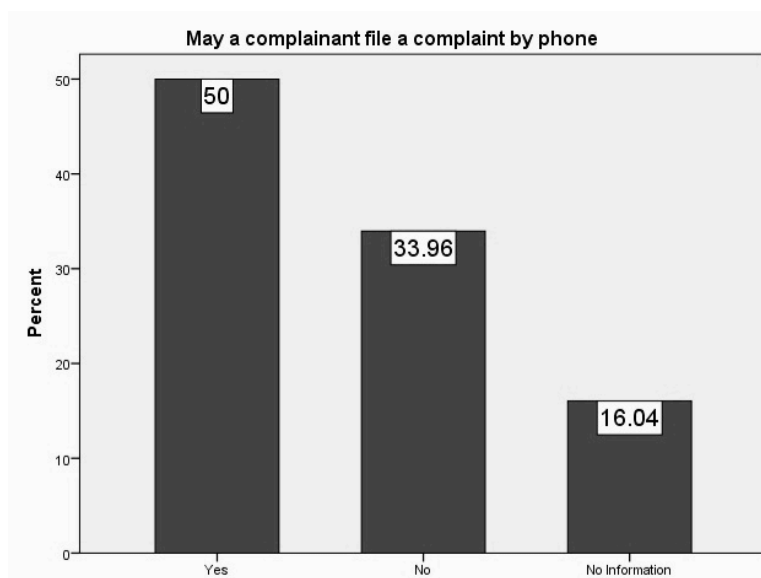
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<sup>8</sup> Office of Community Oriented Police Services, *Supra* 8

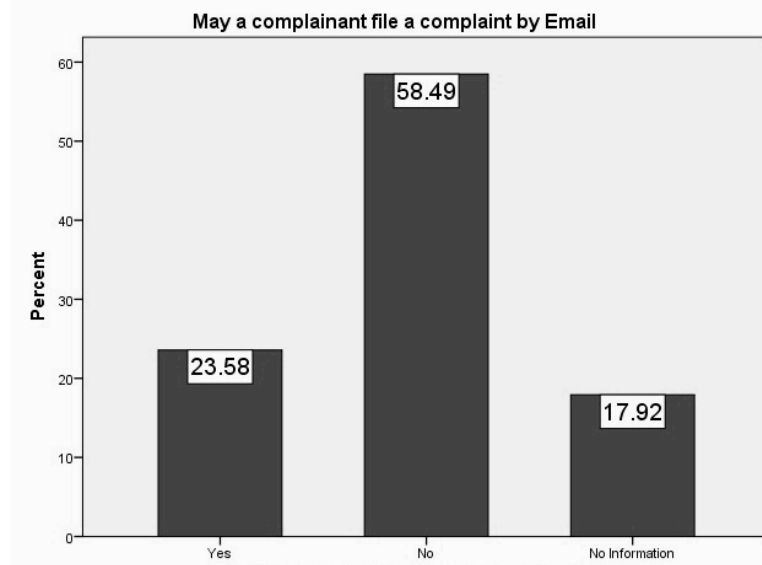
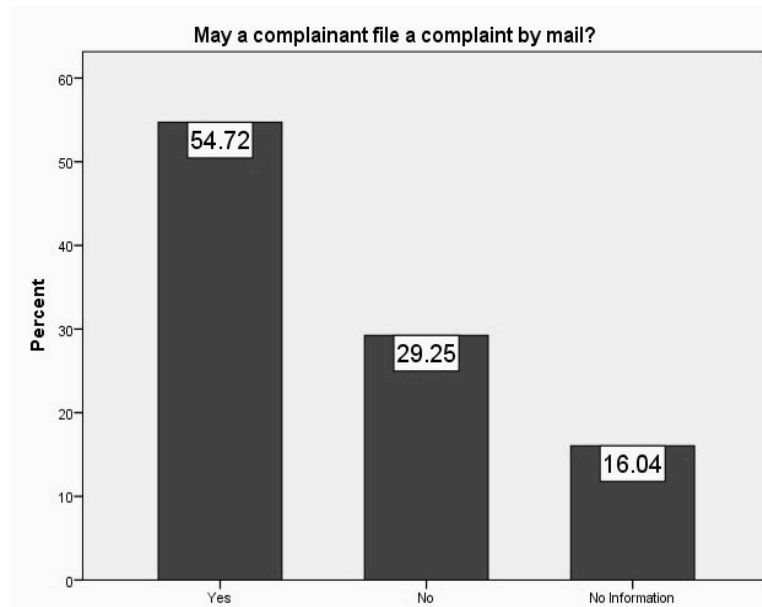


We were particularly surprised at Utah agencies' failing to take advantage of email and "snail mail." While most departments accept complaints in person, only 23.6% allowed emailed complaints. Further, only 54.7% out of all departments accepted complaint forms and letters by mail.

We were likewise surprised that in the large study, only 50% of all departments said they accept phone complaints.



In the small study, eight out of twelve agencies said that they require complainants personally go to agency offices to file a complaint. This policy clearly makes the process less accessible because it requires time and effort to go to the office, and a person may feel intimidated in doing so. **Further, potential complainants may feel they are risking humiliation, retaliation, and harassment due to the lack of anonymity.**



Another disappointing result of the small study was the revelation that two agencies require complaints to be sworn. Requiring a sworn statement is a major impediment to filing a complaint. Some potential complainants may feel intimidated, and some may feel that a failure of memory or unintentional misstatement could result in a criminal perjury case.

### Concerns over Marginalized Complainants

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In addition to these generalized problems with accessibility, we found that many agencies have policies and practices that marginalize certain groups of potential complainants. Their groups include anonymous complainants, people police suspect of being undocumented immigrants, third party complainants, and people with little or no English proficiency.

#### A. Refusing or Discouraging Complainants Who Wish to Remain Anonymous

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Professionals agree that law enforcement agencies should take all complaints, including anonymous ones<sup>9</sup>. Though anonymous complaints can be more difficult to investigate, there are often good reasons a complainant with a valid complaint may want to remain anonymous. In the small study, we found that half of the agencies say that they accept anonymous complaints. Distressingly, however, three agencies that accept anonymous complaints, devalued anonymous complaints. For instance, a respondent in one agency said that the department would take anonymous complaints if they are complaining by phone “but not much action will be taken if it is anonymous.”

#### Can you file anonymously?

Response	Frequency	Percent
Yes	6	50.0
No	1	8.3
Unsure	1	8.3
Mixed	1	8.3
Yes with comment about decreased value	3	25.0
Total	12	100.0

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<sup>9</sup> Supra 11



A formal policy of not accepting anonymous complaints will discourage some potential complainants from filing. Likewise, treating anonymous complainants less seriously, whether explicitly or through practice, will discourage complaints and anonymity. Further, the agency will lose an important subset of information about their police force. Requiring a person to appear in person at an office is another barrier to potential complaints and anonymous complaints. Eight departments out of twelve said they did require complainants to come into the department.

Agencies are incorrect to assume that a desire to remain anonymous can only indicate untrustworthiness. For example, a complainant may be afraid of retaliation if the department knew who was filing the complaint. Moreover, a complainant may feel more empowered to be more candid if allowed an opportunity to complain anonymously. **It does not live up to consensus best practice to prohibit or discourage anonymity in complaints.**

#### B. Barriers for Undocumented Immigrants to File Complaints

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In the small study, when our surveyor asked whether an agency would alert immigration officials if an “illegal immigrant” filed a complaint with the agency, three out of twelve of the departments said that they would.<sup>10</sup> Another three departments said that they were unsure whether they would call immigration officials to report an undocumented immigrant. By denying protection to undocumented immigrants, police departments are violating guidelines and are also creating a group of people who lack protection from abuse.

**If an “illegal immigrant” filed a complaint, would an agency alert Immigration authorities?**

Response	Frequency	Percent
Yes	3	25.0
No	6	50.0
Unsure	3	25.0
Total	12	100.0

<sup>10</sup> The survey tool the surveyor used in the interviews used the term “illegal immigrant.” Our surveyor thus used the term in administering the survey tool. It is not a phrase that we endorse by using.

In Utah, under the principles of the Utah Compact, we recognize that undocumented immigrants are part of our communities and that we need a humane response to undocumented immigrants.<sup>11</sup> **Further, regardless of one's immigration status, every person in the United States has constitutional protections**, such as a right to be free from unreasonable search and seizure. Distancing people who are undocumented from law enforcement, moreover, is harmful to public safety. Excluding community members, by reporting them to immigration officials, who could be working with police to reduce crime are now avoiding and fearful of police. Accordingly, law enforcement agencies are well served to encourage complaints from all parts of society, including people that agency employees suspect of being “illegal immigrants.”

It is concerning when an agency contacts, or threatens to contact, immigration authorities about a person whose primary reason for contacting agency is to file or seek to file a complaint. A policy and practice of alerting immigration officials to complainants an agency suspects of lacking documentation not only discourages potential complain, **but sends the signal that police should not be accountable for misconduct toward a certain segment our community.** This practice thus sends an insidious message well out of step with Utah values.<sup>12</sup>

Further, if even one agency implements this practice, it is very likely that undocumented immigrants will start to avoid making complaints to any agency. One agencies bad policy or practice can have a “chilling effect” especially in consideration of the lack of uniformity within and between agencies in their policies concerning the public complaint process. This barrier to submitting information is a realistic concern that endangers public safety and can harm trust between community members and law enforcement.

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### C. Some Agencies do not Allow or Disparage Third-Party Complainants

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Our small study yielded mixed results when our surveyor asked whether the agency accepted third-party complaints.

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<sup>11</sup> See <http://www.utahcompact.com/>

**Can a third party file a complaint for someone?**

Response	Frequency	Percent
Yes	7	58.3
No	2	16.7
Unsure	1	8.3
Yes with comment about decreased value	2	16.7
Total	12	100.0

Seven departments said they accepted third-party complaints. Two departments said they would not, one was unsure, and two more said they would take the complaint but that the complaint would be viewed as less valuable than others. **A lieutenant from one responding agency said a complaint filed by a third party “won’t be as strong, but it will always be talked about.”** Another lieutenant at another agency responded that a third party filed complaint would be accepted “but no action will occur besides talking to an officer.”

As with anonymous complaints, there are many valid reasons that a third-party might want to file a complaint. For example, the individual or individuals subject to the law enforcement misbehavior may feel to frightened to file a complaint, and ask a third-party to do so on his/her behalf. A third-party may be able to identify problem behavior that the wronged individual could not see. If law enforcement disallows or prejudices third-party complaints as a matter of policy or practice, they are going to miss out on valid complaints.

#### **D. Several Agencies Placed Barriers for Non-English Speakers**

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**The smaller study revealed that many departments make it difficult or practically impossible for those with limited or no English language skills to file a complaint.** In calling the agencies, our surveyor focused on the ability of Spanish speakers with little or non-English ability because Spanish is the second most

common primary language spoken in Utah. The 2012 U.S. Census estimates that 99,490 people in Utah speak Spanish and speak English “less than very well”.<sup>13</sup>

**Disappointingly, of the twelve agencies our surveyor called, only one indicated that complaint forms were available in Spanish.**

**Are the forms available in Spanish?**

Response	Frequency	Percent
Yes	1	8.3
No	6	50.0
Unsure	4	33.3
Not Applicable	1	8.3
Total	12	100.0

This lack of forms in Utah’s second most common spoken language is problematic for many reasons. Most importantly, if a person is unable to understand the form to make a complaint, that person is less likely to file a complaint.

In addition to being bad public policy, **failing to maintain complaint forms in Spanish and other languages may be out of line with law enforcement agencies’ obligations that receive federal funding.** Under federal Executive Order 13166, issued in 2000, an agency receiving federal funding must provide meaningful access to those with limited English proficiency. To determine compliance with this rule, federally funded agencies consider factors including: the number of individuals with limited English proficiency served by the agency; how often individuals come into contact with the agency; the importance of the agency; and the resources and costs associated with providing meaningful access.

It is safe to say that in Utah, where close to 100,000 people speak Spanish but little or no English, most law enforcement agency jurisdictions will be home to a substantial number of Spanish speakers. Likewise, it is a fair assumption that Spanish speakers will come into contact with most Utah law enforcement agencies regularly.

<sup>13</sup> U.S. Census, Selected Social Characteristics In The United States, (2012)

Further, law enforcement is important to all in the community. Finally, Spanish language ability is common and easily available across Utah. For all of these reasons, we conclude that to comply with federal requirements, Utah law enforcement agencies should uniformly make the public complaint process accessible in at least Spanish. Agencies need to also consider whether the process should be accessible in other languages as well depending on how the factors apply in their jurisdictions, e.g. American Indian tribal languages.

While eleven agencies in the small study did not have a form in Spanish, most told our surveyor that they would make a Spanish language translator available to a Spanish speaking individual who wanted to file a complaint but did not speak English.

Would an interpreter be available?		
Response	Frequency	Percent
Yes	9	75.0
No	2	16.7
Unsure	1	8.3
Total	12	100.0

While conducting the small survey, our surveyor noted a marked insensitivity to the circumstances of non-English speakers in some agencies. The most troubling example of this problem was when the surveyor asked one agency's representative why forms were not available in Spanish, **the representative replied "because we live in America you should speak English and also we would not be able to read them,"** and expanded that nobody in that agency spoke Spanish.

#### E. Minors

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One bright spot in our small study was that eleven of the twelve agencies surveyed indicated that they accept complaints from minors with no requirement for parent or guardian involvement.

## Concerns over Internal Inconsistencies in Understanding the Complaint Process

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Our final major area of concern is internal inconsistencies within individual Utah law enforcement agencies on how the public complaint process is understood and communicated to the public. While conducting the large study, we reached more than one person during phone calls at five agencies. Of those five agencies, four had employees who gave conflicting information to our surveyor during the separate calls.

In the small study, our surveyor spoke to more than one person at seven of twelve agencies. Of those seven agencies, respondents at five agencies gave the surveyor conflicting information. Two examples of topics where there was conflicting information include the ability to file anonymously and whether there were time limits to filing complaints.

## Stand Out Law Enforcement Agencies

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While we have spent much of this report pointing out areas where agencies can improve, we recognize two agencies in particular that deserve recognition for some good practices.

First, the Provo City Police Department maintained a website that provided easily accessible information about how to file a complaint and who to contact to do so. Further, the department's officer in charge was knowledgeable and able to answer all questions on the process. The department also avoided several common accessibility problems by having clear contact information, indicating a willingness to translate forms into Spanish, and allowing, and not discouraging, anonymous complaints.

Another law enforcement agency deserving recognition is the Grand & San Juan Counties' Highway Patrol office. This agency had easily accessible contact information and took complaints in any form (phone, mail, in person, etc.). Further, the agency does not place restrictions on who can complain. For example, minors may complain without a parent, anonymous complainants were accepted, and Spanish-speakers could have the complaint form translated for them.

## Recommendations

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In light of our findings, we have ten recommendations for Utah law enforcement agencies to improve their public complaint process.

1. Establish or Update Written Policy Regarding Public Complaints
2. Train All Employees to Know and Understand the Written Policy
3. Create a Short Policy Reference Sheet
4. Publicize the Complaint Process
5. Accept Complaints from Everyone Without Qualification
6. Accept Complaints from Every Source
7. Do Not Require Sworn Statements
8. Do Not Contact, or Threaten to Contact, Immigration Officials
9. Make Complaint Forms Available in All Commonly Spoken Languages
10. Adopt Uniform Standards on a Statewide Basis

### **1. Establish or Update Written Policy Regarding Public Complaints that incorporate guidelines**

To avoid giving conflicting information about the public complaint process, Utah agencies should establish clear and well-written policies. Doing so will ensure not only that representatives give consistent information to the public, but also that representatives will know how to respond to varying situations, such as responding to potential complainants who wish to remain anonymous or to potential complainants they suspect of being undocumented.

### **2. Train all Employees to Know and Understand the Written Policy**

All agency employees who interact with the public, from the chief or sheriff to the administrative assistants, should be trained to know and understand the agency's public complaint policy. This is critical because civilians may contact someone besides internal affairs personnel.

### **3. Create a Short Policy Reference Sheet**

Agencies should create a quick reference sheet that is placed near telephones. Employees can use these sheets to ensure uniformity and accuracy for answers and aid their memories in answering questions regarding the public complaint process.

### **4. Publicize the Process**

To make the public complaint process accessible and available to everyone, citizens need to know that it is an option for them to file a complaint with a law enforcement agency. Information on the complaint process should be easily seen and available in the department building itself, in other public buildings, and on-line. In addition, law enforcement websites should prominently display their non-emergency numbers, and ideally any number specific to accepting public complaints, on their websites.

### **5. Accept Complaints from Everyone without Qualification**

We recommend that law enforcement agencies accept complaints from everyone. Experts agree that “the net should be set as large as possible” in accepting complaints from the public.<sup>14</sup> Accordingly, there should be no limits on who can file a complaint, and agency representatives should not disparage or prejudge any type of person who complains. This recommendation includes anonymous complainants, non-English speakers, third parties, minors, and so on.

### **6. Accept Complaints from Every Source**

We recommend that law enforcement agencies make public complaint forms available in as many forms as practicable, such as on paper and online. Moreover, agencies should accept complaints no matter how submitted, whether in person, by phone, by mail, and so on.

### **7. Do Not Require a Sworn Statement**

A potential complainant should not be required to submit a sworn statement of any kind to submit a complaint to a law enforcement agency.

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<sup>14</sup> Office of Community Oriented Police Services, *Supra* 8



**8. Do Not Contact, or Threaten to Contact, Immigration Officials**

Law enforcement agencies should make a policy against contacting, or threatening to contact, immigration authorities about a person who files or express interest in filing a complaint.

**9. Make Complaint Forms Available in All Commonly Spoken Languages**

As discussed above, all law enforcement agencies in Utah should make complaint forms available in Spanish. In addition, if there are other languages commonly spoken in an agency's jurisdiction, the agency should make the forms available in those languages as well.

**10. Adopt Uniform Standards on a Statewide Basis**

The best practices and recommendations contained in this report represent considerable thought and effort by various stakeholders in law enforcement. Moreover, the public complaint process is vital for all communities and agencies, no matter where they are in Utah. Consistency among agencies would benefit both the public by making the complaint process, and protections in that process, similar to use across the state and would benefit agencies by further creating trust in the systems they have in place. Accordingly, we recommend that all law enforcement agencies adopt the consensus best practices and these recommendations and work toward statewide adoption. We would further support statutory requirement that all agencies adopt consensus best practices.

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## Appendix

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### A: Survey Instrument

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#### **Call Instructions:**

1. Please look over the script and familiarize yourself with the questions you will be asking.
2. Dial **\*67** in front of the police department's number in order remain anonymous.
3. Remember, you are requesting information about how to file a complaint against a police officer.
4. You have absolutely no information about the incident or even whether an incident occurred. You only want to know about the process of filing a complaint. If they won't give you any information without details of the incident, note this.
5. If asked, you do not feel comfortable giving any information including your name. If the officer pressures you, ask why they want your name and record his/her answer.
6. Please stick to the script! Only ask the exact questions in the script. Never change the wording. If the officer cannot answer a question please ask if there is someone you can speak with that can help you.
7. Please do not ask leading questions. You should only repeat the exact questions and should not initiate other questions. Feel free to repeat questions as many times as you feel you need, but you are not trying to entrap the officer. Our goal is to simply understand what information the "average" person would receive when asking about making a complaint.
8. Please be specific when documenting answers on the attached form. Please do not wait to fill out the form until after you have completed the call.
9. You **MUST** complete the entire form (or if questions could not be answered, please note this and why). Be sure to include the information about the department and the length of your call. Also, please keep track of the process of getting the correct person on the line to answer your questions.

**Department Information:**

Department Name: \_\_\_\_\_

Telephone Number: \*67 \_\_\_\_\_

Date/Time of phone call: \_\_\_\_\_

**\*\*WHEN CALLING, REMEMBER TO DIAL \*67 BEFORE DIALING\*\***

**Script/Questions:**

**Before speaking with someone:**

How long did it take to reach someone who could help you? \_\_\_\_\_

Did you have to navigate an automated system to reach someone? \_\_\_\_\_

Did the automated system have an option for filing a complaint? \_\_\_\_\_

Were you put on hold? \_\_\_\_\_ How many times? \_\_\_\_\_ How long? \_\_\_\_\_

How many times were you transferred? \_\_\_\_\_

Were you ever sent to voicemail? \_\_\_\_\_

Once someone is on the phone:

“Hi, I am calling because I am trying to find out how to file a complaint against a police officer. I don’t know anything about this sort of thing, so I don’t even know where to start. Can you tell me what I need to know?”

If asked what event occurred, respond: “I am just trying to get some information on the complaint process.” REPEAT IF NECESSARY

3. “How can someone file a complaint?” \_\_\_\_\_

“Is there a form?” (Y/N): \_\_\_\_\_

If yes, “how does someone filing a complaint get the form?” \_\_\_\_\_

“Does a complainant have to come into the police department?”

In Person Requirement (Y/N): \_\_\_\_\_

“Can someone make a complaint online, by mail or over the phone?”

Put an X next to each method a complaint can be filed.

In Person (Y/N): \_\_\_\_\_ Phone (Y/N): \_\_\_\_\_ Online (Y/N): \_\_\_\_\_ Mail: \_\_\_\_\_

Fax: \_\_\_\_\_

Comments (if by mail or online, please note how one would get the complaint form):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. "Does a person making a complaint have to give their name, or could he make the complaint anonymously?" Anonymously (Y/N): \_\_\_\_\_

"Can a third party file a complaint for someone?" Third Party (Y/N): \_\_\_\_\_

5. "Thanks, I was also wondering if complaints have to be filed within a certain amount of time?" If they could not answer, push harder. Ask if you can speak with someone who can answer.

(Y/N): \_\_\_\_\_ If yes, how long? \_\_\_\_\_ If unsure, what was said? \_\_\_\_\_

Comments (optional): \_\_\_\_\_

6. "So, what happens after a complaint is filed...?"

a. Does someone investigate? \_\_\_\_\_

b. Does the person making the complaint have to talk to someone? \_\_\_\_\_

c. Will the officer learn who filed a complaint against them? \_\_\_\_\_

d. Will somebody let the complainant know what the results of the investigation? \_\_\_\_\_

e. How long does the process take? \_\_\_\_\_

7. "Does it matter if the person filing the complaint is under 18?"

(Y/N): \_\_\_\_\_ If yes, "how can someone under 18 file a complaint?" \_\_\_\_\_

Comments (optional): \_\_\_\_\_

8. "What if person making the complaint only speaks Spanish, would a translator be available?" (Y/N): \_\_\_\_\_

"Are the forms available in Spanish?" (Y/N): \_\_\_\_\_

If unsure, what was said? \_\_\_\_\_

Comments (optional): \_\_\_\_\_

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9. "Thank you for your help, I just have one more question. If an illegal immigrant wanted to file a complaint, would Immigration be called?" (Y/N):

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"Is there a way for an illegal immigrant to file a complaint without immigration be called?"

Response: \_\_\_\_\_

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Comments (optional): \_\_\_\_\_

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**"Thank you for your time. Have a nice day, good-bye."**

Length of Phone Call: \_\_\_\_\_

**Post call – reflection:**

Comments (optional):

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10. How would you rank to the tone of the employee you spoke with most?

Friendly & Reserved yet still Defensive and Hostile & Helpful helpful and willing mildly hostile uncooperative to answer my questions

Comments (optional):

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**Additional Comments Regarding the Phone Call:**

## B: Model Policy from Little Rock Police Department

The following partial policy, with a few additions, can serve as a model for agencies seeking to make changes to their internal affairs policy. These additions include clarifying that all forms are to be accepted and from all people. Additionally, this policy should include that no threats against false complaints, no requirements of sworn statements, and no checks of warrants or of immigration status are acceptable. Last, it needs to be clear that the departments will investigate anonymous complaints as far as they can.

### IV. Investigation Responsibilities

- A. The Chief of Police is responsible for the proper handling of citizen complaints for the Police Department.
- B. Citizen Complaints:
  1. Anytime a citizen contacts a Police Department employee to inquire about or register a complaint, the citizen will be immediately referred to any on-duty police supervisor.
    - a) Supervisors working off-duty who are contacted by a citizen wishing to register a complaint will assist the citizen with the complaint in accordance with this General Order.
  2. The police supervisor receiving a complaint shall immediately, or as soon as practical, make every reasonable effort to accommodate the citizen. If the complainant has first-hand knowledge of the incident and expresses a desire to file a complaint, the supervisor shall complete a citizen's complaint form. Citizens may be referred to Internal Affairs Monday thru Friday during business hours if the citizen is agreeable. Otherwise, the complaint process will not be delayed by a referral to Internal Affairs unless the citizen makes such requests.
  3. Citizens shall not be discouraged from filing a complaint. However, appropriate remedies may be suggested to the citizen to resolve minor incidents. The supervisor handling the matter shall, with discretion, make the appropriate resolution without a formal complaint. Complaints resolved at the supervisor level shall be thoroughly documented to include how the matter was resolved. Completed documentation shall be forwarded through the Chain of Command to the Office of the Chief of Police. Resolving complaints in this manner is only permissible if the citizen has no desire to pursue a formal complaint, there is no indication of police misconduct that would mandate a formal investigation, and the citizen agrees to it. Regardless of the nature of the complaint or allegation, the appropriate action will be documented pursuant to established Departmental guidelines.
  4. It shall be the responsibility of Division Commanders to ensure that all employees in their respective divisions follow these guidelines.

- C. All signed complaints taken by any supervisor will be forwarded to the Office of the Chief of Police, along with a summary of the complaint, for investigation assignment. The Office of the Chief of Police will determine whether the subsequent investigation will be conducted by Internal Affairs, or by the employee's Chain of Command, unless the complaint falls within the following criteria:
  - 1. The shift or section Lieutenant may manage a complaint investigation up to and including recommending corrective or disciplinary measures if determined at the onset of the complaint that the incident is within the criteria established in Little Rock Police Department Rules and Regulations 1/2006.00, which states, "Minor violations which do not involve gross misconduct and which will not reflect discredit upon the Department, but which indicate a need for some form of discipline and/or training, may be handled by the offender's commander or supervisor."
  - 2. Citizen complaints alleging excessive force or physical abuse will be forwarded to Internal Affairs for review. Internal Affairs will then review Departmental records to determine if there is an existing Use of Force file associated with the complaint incident. If there is an existing Use of Force file on the incident, Internal Affairs will review the documents to determine if the complaint warrants further investigation based upon the use of force evaluations and recommendation, disposition of the file and complaint allegation. Internal Affairs will make a recommendation on the matter and forward the associated complaint and Use of Force file to the Office of the Chief of Police to determine complaint disposition or investigation assignment.
- D. The Internal Affairs Unit is responsible for the investigation of all complaints against Department employees involving serious misconduct. They include but are not limited to:
  - 1. Officer-involved shootings and the use of deadly force;
  - 2. In-custody deaths;
  - 3. Excessive force/brutality/physical abuse;
  - 4. Discrimination;
  - 5. Corruption, extortion or the violation of any criminal statute (the criminal investigation is to be conducted by the Major Crimes Division and/or SID);
  - 6. Misuse or abuse of police authority; and,
  - 7. Other complaints, as may be directed by the Office of the Chief of Police.
- E. Anonymous Complaints: Complaints brought by citizens who do not wish to become involved to the extent of signing a letter or sworn statement will be investigated in the same manner as any other complaint. Formal investigations of an anonymous complaint are initiated only upon the specific direction of the Chief of Police. The Department exercises caution associated with investigations of this type to avoid unnecessary harassment of Departmental employees from outside sources.
- F. The Internal Affairs Unit shall be responsible for the completion of all internal investigations and shall be required to provide an appropriate summary of the facts of each case. Upon completion, the assembled file along with all statements, records and evidence gathered during the investigation will be forwarded to the involved employee(s)' Chain of Command for review and evaluation.



1. The Chain of Command will review the investigative file and make recommendations regarding the disposition of each allegation and list all applicable policy violations. Policy violations will be cited by source and section numbers.
  2. Following evaluation by the Chain of Command, the investigative file will be immediately forwarded to the appropriate Bureau Chief.
- G. Division Commanders are responsible for the investigation of complaints not enumerated above, including, but not limited to:
1. Inadequate police service;
  2. Improper procedure;
  3. Unprofessionalism;
  4. Rudeness;
  5. Discourtesy;
  6. Insubordination; and,
  7. Other complaints, as may be directed by the Office of the Chief of Police.
- H. The investigative file shall be returned to the Internal Affairs Unit upon completion of the supervisory review process, and the complaint will be classified as either:
1. Sustained - the allegation is supported by sufficient evidence;
  2. Not sustained - there is insufficient evidence to prove or disprove the allegation;
  3. Exonerated - the employee's actions were within the scope of his authority, complied with departmental guidelines and were lawful and proper;
  4. Unfounded — the allegation was false or not factual or did not occur; or,
  5. Misconduct, not based on complaint, where revealed.
- I. The Office of the Chief of Police will review all files.
- V. **Internal Affairs Investigation Procedures**
- A. The Professional Standards Section Commander will report directly to the Chief of Police.
- B. Investigations are conducted:
1. Whenever a written citizen complaint form has been signed by the complainant or the Chief of Police orders an investigation.
  2. In the case of an anonymous complaint, a Citizen Complaint Form will be completed as much as possible and forwarded to the Chief of Police. The anonymous complaint will be recorded to include the date received and the nature of the complaint by the Office of the Chief of Police. If the nature of the complaint is such that further investigation is warranted, an investigation will be authorized by the Chief of Police.

- C. Written reports and/or taped statements may be obtained from the employee(s) under investigation, depending upon the complexity of the allegation.
  - 1. Employees will be notified in writing prior to any Internal Affairs interview. Internal Affairs personnel will utilize a standard "Notice of Interview Letter", which will contain the following information:
    - a) Complaint number;
    - b) Date, time and location of interview;
    - c) The involved employee(s);
    - d) The employee's rights and responsibilities; and,
    - e) Allegations and nature of complaint.
  - 2. Before a taped interview is conducted, or a written report is made, the employee involved will be advised of the complaint and allowed to read the complaint form, if it is available. The name(s) of the officer(s) conducting the interview, and all others present, will be stated at the beginning of the interview.
  - 3. The employee is responsible for his and/or his observer's statements concerning the matter under investigation.
  - 4. The employee being interviewed may not record the interview.
  - 5. Cell phones are not allowed in the interview room while the interview is in progress.
- D. When practical, an interview will be conducted while the employee(s) is (are) on-duty.
- E. The following guidelines shall apply to Internal Administrative Interviews:
  - 1. The employee will be advised that the interview is part of an Internal Administrative Investigation.
  - 2. The employee may have a sworn member of the Little Rock Police Department present during the interview process or other official Internal Affairs business.
    - a) A Police Officer may select a sworn member of equal rank or one rank greater (Sergeant).
    - b) Supervisors may select a sworn member of equal or lesser rank.
    - c) The member selected will not be involved in the case under investigation either as an accused, as a witness or as a member of the investigating unit.
    - d) The member selected will not be in the involved employee's chain of command or a member of the chain of command responsible for evaluating the employee.
    - e) Non-sworn employees may have either a sworn member of the rank of Police Officer or Sergeant or a non-sworn member of first-line supervisory status of the Little Rock Police Department present during the interview process.
    - f) The member selected will not interfere with the scheduled time of the interview.

- g) The member is only an observer and will not participate in or interfere with the interview process or other official Internal Affairs business, and will only be allowed as support for the employee. The employee may confer with the observer as needed, but all statements will be made by the employee being interviewed. No supervisor will issue any instruction or order that contradicts the orders of Internal Affairs personnel.
- h) The member selected may not record the interview.
- 3. The employee will obey all lawful orders and truthfully answer questions pertaining to Internal Affairs' investigations, as required by the Little Rock Police Department Rules and Regulations.
- 4. The employee will be advised of Garrity Warnings if the allegations are criminal in nature.
- 5. The employee shall not be subjected to offensive language during the interview.
- 6. Interview sessions shall be for reasonable periods and timed to allow for personal necessities and rest periods, as reasonably necessary.
- F. During an Internal Affairs' investigation, the involved employee(s) may be required to provide reasonable photographs (not degrading or compromising) of himself. Such photographs shall be relevant to the investigation and used for Administrative purposes only. These photographs may be taken of, but are not necessarily limited to, the following:
  - 1. Injuries sustained by the employee in the specific incident;
  - 2. Articles of clothing or equipment;
  - 3. Photographs for use in photo line-ups; or,
  - 4. Any other object or item as it relates to the investigation.
- G. At the discretion of the Chief of Police, in order to further aid the investigation (at the Department's expense), the employee may be ordered by the Internal Affairs investigator to:
  - 1. Be photographed or fingerprinted;
  - 2. Participate in a physical line-up;
  - 3. Submit financial disclosure statements;
  - 4. Produce specific documents reasonably related to an investigation (i.e. text messages, phone logs, etc);
  - 5. Provide access to social networking sites;
  - 6. Submit to a polygraph examination, if the Chief of Police;
    - a) Believes the integrity of an employee is in question, and/or,
    - b) Considers the circumstances to be extraordinary.
  - 7. Submit to medical/psychological laboratory evaluations.

## VI. Divisional Investigative Procedures

- A. During the course of a Divisional Investigation, the Division Commander shall be responsible for ensuring that all investigative files are maintained in a secure manner, with access limited to supervisory personnel.
  1. Investigative files shall not be left unattended, unsecured, or in public view.
  2. When investigative files are not in use, they shall be securely stored.
- B. The following procedures will apply to all internal administrative investigations conducted at the Divisional level.
  1. If, in the opinion of the Division Commander, an Administrative Hearing is warranted for any employee as the result of a Divisional level or other investigation, the Division Commander will forward the investigative file to the Office of the Chief of Police for initial evaluation.
    - a) Following the authorization of an Administrative Hearing, the Office of the Chief of Police will contact a member of the Internal Affairs Unit, who will verify or assign an Internal Affairs case number to the Divisional investigative file.
    - b) The Office of the Chief of Police will complete a Notice of Intent and will review the investigative file to ensure that the material contained therein is appropriate, complete and consistent with existing internal administrative investigation standards.
    - c) The Office of the Chief of Police will prepare the completed investigative file in the format established for an Internal Affairs file. This format will include a Table of Contents, and all appropriate administrative supplementary information.
    - d) The Office of the Chief of Police will have a supervisor from the respective division sign a receipt and pick up a copy of the divisional investigative file. The Office of the Chief of Police will forward a copy of the receipt along with the original divisional investigative file to the Internal Affairs Unit.
  2. All requests for copies of such Divisional files (as in preparation for an Administrative Hearing) will be forwarded to the Internal Affairs Unit. The Internal Affairs Unit will inventory and issue all such copies and will be responsible for the recovery of such files.
  3. All Administrative Hearings will be handled in accordance with the Administrative Hearing Section of this policy.
  4. A Division Commander may request the assistance of the Internal Affairs Unit at any time during the course of a Divisional investigation.
  5. Upon completion of the Chain of Command review, the originating Division Commander will return the investigative file through the Bureau Chief and any additional related documentation to the Internal Affairs Unit for secure retention.

## **XI. Disposition of Internal Affairs and Divisional Investigations**

- A. The Professional Standards Section shall submit a monthly report to the Office of the Chief of Police of the disposition of all Departmental investigations, excluding officer-involved accident investigations. This report will contain the following categories:
  1. Complaint number;
  2. Date received;
  3. Excessive force (Y/N);
  4. Officer(s) involved;
  5. Nature and description of complaint;
  6. Status of investigation;
  7. Date investigation received by chain of command; and,
  8. Supervisor receiving case file.
- B. The Professional Standards Section is responsible for compiling an annual statistical report, based upon Internal Affairs records for the past year, for submission to the Office of the Chief of Police.
  1. This report shall be disseminated to all Division Commanders and to the Public Affairs Office.
  2. Departmental employees and the public shall be provided this information, but only upon request.

## **XII. Complaint Records, Review, Response and Purging**

- A. Records
  1. A Citizen Complaint form shall be utilized for the recording of a complaint and the action taken on the complaint;
  2. The original complaint form will be placed in the investigative file; and,
  3. The complainant will be provided with written verification that the complaint has been received for processing. The complainant will receive a receipt of their complaint, which will include an explanation of the investigative process and review.
- B. Investigation Period
  1. Complaints received by the Department shall be thoroughly investigated and should be completed within ninety (90) calendar days of the date the complaint was filed, with the exception of service complaints, which should be completed within sixty (60) calendar days.
    - a) Any need to extend the investigation beyond the established time frame will be documented and permitted only after approval by the Chief of Police.



- b) Upon the determination that the complaint cannot be completed within the established time frame, a written response shall be provided to the complainant notifying them of the delay.

C. Response

- 1. When a final decision has been rendered and/or final action taken, the citizen and the officer will be advised in writing of such decision or action, which will include the following information:
  - a) That the investigation is completed;
  - b) The general findings and conclusion of the investigation;
  - c) That "appropriate corrective or disciplinary action" is being taken if the allegation is sustained; and,
  - d) That the complainant has the right to appeal the results of the investigation to the Civil Service Commission pursuant to the guidelines outlined in the Civil Service Commission Rules and Regulations.
- 2. The notification will be made by the Chief of Police, Professional Standards Section and/or Division Commander, whichever may apply.

D. The confidentiality of all Internal Affairs records is vital, and proper security precautions should be taken. Internal Affairs case files and records shall be maintained in a secured office or area assigned solely to the Internal Affairs Unit. Access to this area shall be limited to the following personnel:

- 1. The Chief of Police; and,
- 2. The Office of Internal Affairs.

E. The information contained in any internal investigative file shall not be used by anyone to the detriment of any complaining citizen or witness. This shall not be construed as preventing the Internal Affairs Unit from pursuing criminal charges based upon the information contained in the file.

F. Employee personnel files shall be maintained securely in the Office of the Chief of Police. Access shall be limited to the Office of the Chief of Police and administration supervisory personnel.

G. Purging Internal Affairs Investigative Files

- 1. Personnel investigative files in the Internal Affairs Unit, including all reproduced copies, shall be purged after fifty-four (54) months, unless ordered prior to the purge period by a court of competent jurisdiction, to maintain particular file(s) longer.
- 2. It is the responsibility of the Professional Standards Section Commander to ensure files are purged in a timely and secure manner, in accordance with Little Rock Police Department General Orders.

### XIII. Early Intervention System

- A. The purpose of the Early Intervention System is to provide the Department with a procedure that:

1. Monitors actions taken by employees requiring administrative reporting and/or internal investigations or which may otherwise be indicative of work performance deficiencies;
  2. Provides for supervisory review at all levels in the Chain of Command; and,
  3. If deemed appropriate, provides for remedial action(s) or employee assistance to correct or eliminate identified job performance based deficiencies.
- B. The intent of the Early Intervention System is to ensure that the Little Rock Police Department is not faced with a serious case of misconduct that reveals an escalating pattern of misconduct that could have been abated through earlier intervention. No disciplinary action may be imposed as a result of a review under the Early Intervention System criteria. Any disciplinary action should have been previously imposed at the time of the original incident.
1. Utilization of the Early Intervention System does not alter the critical role of supervisors in directly monitoring the performance and behavior of personnel under their command.
  2. Supervisory and management personnel shall be familiar with alternatives and authorized actions they may take in response to personnel exhibiting behavioral and/or performance-based problems with or without information provided by the Early Intervention Program.
- C. The Early Intervention System will apply to all employees of the Police Department.
- D. The Early Intervention System will be automatically activated when:
1. An employee is the subject of two (2) or more sustained internal or divisional investigations or six (6) or more Departmental investigations involving misconduct, or quality of service within any twelve (12) month period.
  2. An employee is involved in four (4) or more police vehicle pursuits within any twelve (12) month period, in which there are sustained violations.
  3. An employee is involved in three (3) or more on-duty motor vehicle accidents during any twelve (12) month period, where the employee's actions were determined to be a contributing factor or the fault was undetermined.
  4. An employee is involved in two (2) or more bias complaints within a six (6) month period.
  5. An employee is involved in five (5) or more use of force incidents in a two (2) month period.
- E. The Internal Affairs Unit will be responsible for maintaining and monitoring all data pertinent to automatic activations of the Early Intervention System. Internal Affairs will ensure that automatic activations are conducted in a timely manner and will monitor the process to ensure that all provisions of this General Order are followed.
1. Supervisors of the Little Rock Police Department will continuously monitor the performance and behavior of all personnel under their command. Supervisors have available to them, as part of their Blue Team access, the Early Intervention Dashboard that gives them an overview of the employee's current status concerning the events that activate an alert in the system.

- F. First-line supervisors must be cognizant of potential problems that may impact an employee's daily work performance. The Early Intervention System may also be activated at the request of any supervisor. This request will then be forwarded through the Chain of Command for the approval of the Chief of Police, whenever any of the following behaviors, incidents or situations can be documented:
1. A significant reduction in work performance or productivity;
  2. Indications of substance abuse;
  3. Involvement in incidents of domestic discord or financial difficulties;
  4. Any discernible pattern of recurring similar complaints, regardless of disposition or length of time;
  5. The failure of previous attempts to correct substandard performance through the use of performance review, training or discipline;
  6. Any other sudden or unusual change in behavior, which, in the opinion of a supervisor, adversely affects the employee's performance or the performance of other members of the Department; and/or,
  7. Any employee who, upon periodic supervisory review of his/her sick leave usage, exhibits a pattern of usage suggesting a definite and/or possible abuse of the Department's sick leave policy.
- G. Each first-line supervisor will maintain an Early Intervention System file on each employee assigned to his/her command. This file will be the repository for documented incidents that meet the criteria for Early Intervention System consideration. This will be the same file used for employee performance evaluations and will be considered and treated as a confidential employee record. In the event of an employee transfer, this file will be hand delivered to the Division Commander in charge of the employee's new area of assignment by the employee's former Division Commander. These files will include the following documentation concerning the employee:
1. Copies of use of force reports;
  2. Copies of vehicle accident reports;
  3. Copies of letters of all disciplinary action;
  4. Documentation of counseling session (s);
  5. Referrals to EAP;
  6. Documentation of mandated remedial training; and,
  7. Any documentation deemed necessary by the employee's chain of command.
- H. All supervisory requests for activation of the Early Intervention system will be forwarded from the Chief of Police to the Internal Affairs Unit. The Internal Affairs Unit will ensure the timely activation of the System and will monitor the process to ensure that all provisions of this General Order are followed.



I. Upon activation of the Early Intervention System, an Internal Affairs *Unit supervisor will review the alert and determine if an Employee Analysis Report (LRPD Form 5030-21) for the affected employee should be completed. The Internal Affairs supervisor should consider in his review the employee's actual involvement, whether or not discipline was administered and any other factors that could cause public concern. The Internal Affairs supervisor will complete a memorandum detailing his review of the alert and forward a copy to the Chief of Police. If it is determined that an Employee Analysis Report should be compiled, the report* will include a summary of, at a minimum, the following information:

1. General employment history, including all assignments and transfers, leave use of all types and leave available;
2. All citizen complaints and internal or divisional investigations involving the employee;
3. A synopsis of all use of force incidents involving the *employee during the last six (6) months;*
4. All disciplinary actions taken against the employee;
5. All awards and commendations received by the employee;
6. All on-duty motor vehicle accidents involving the employee;
7. All police vehicle pursuits involving the employee; and,
8. Employee's performance appraisals for the past three (3) years.

J. *The Internal Affairs Unit will compile the Employee Analysis Report and deliver a copy of the report to the Chief of Police. Once reviewed by the Chief of Police or his designee, the report will be forwarded to the employee's Division Commander.*

1. The Division Commander will ensure that each of the employee's current supervisors (first-line supervisor or sergeant upwards) reviews the Employee Analysis Report.
2. The employee's immediate supervisor will prepare a written evaluation of the Employee Analysis Report and recommendations for remedial action which may include the following:
  - a) Conclusion that the employee's actions does not warrant immediate need for corrective action;
  - b) Referral to the Employee Assistance Program (EAP);
  - c) Referral to an agency-authorized mental health professional or other mental health care provider authorized by the Department;
  - d) Requiring the employee to participate in agency-authorized training, targeting personal or professional problems that the employee may be facing (e.g., Communications, Cultural Awareness, Coping with Stress, Substance Abuse, Anger Management);
  - e) Reassignment or transfer.
3. Supervisors may obtain any additional information regarding the employee as may be necessary to appropriately complete an evaluation.

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4. Supervisors may consult with Internal Affairs Unit or Training Division personnel or any other Departmental personnel as may be appropriate during this review.
5. Once an employee has been identified by the Early Intervention system and has been notified by their supervisor, the employee will cooperate with the supervisor and/or Internal Affairs personnel in identifying reasons for and resolutions to Departmental concerns regarding the employee's actions and follow the mandated plan of action to completion.
6. This review and written evaluation will be completed and forwarded with notations by each supervisor through the Chain of Command to the Chief of Police within fifteen (15) business days of the initial receipt of the Employee Analysis Report.
7. The Chief of Police will review the evaluation and the Employee Analysis Report and will make a final determination regarding any recommendations made by supervisors.
8. In the event the review of the Employee Analysis Report results in any employee action, the employee's immediate supervisor will ensure that the action is completed, will monitor the employee's continued performance, and will provide a monthly written follow-up evaluation through the Chain of Command to the Chief of Police for a period of six (6) months from the original date when the Early Intervention System was activated. Evaluation periods may be extended at the recommendation of the employee's Division Commander and/or the Office of the Chief of Police.
9. Participation by Department employees in counseling and/or training may be voluntary or directed by a supervisor. Any order for mandatory psychological counseling and/or assessment must be approved by the Chief of Police and provided to the employee in writing. Any action to include change of work environment, training, or counseling as a result of the Early Intervention System are not considered punitive or to be a disciplinary action.
10. If it is determined, after a review of the Employee Analysis Report and other relevant information by the employee's Chain of Command, that intervention and/or corrective action is not necessary, then a monthly written evaluation will not be required. The employee's Division Commander will prepare a memorandum noting his/her final recommendations, which will then be forwarded to the Chief of Police for final approval.
- K. The Professional Standards Section Commander will prepare and deliver to the Chief of Police an annual evaluation of the Personnel Early Intervention System no later than January 31<sup>st</sup> of each year. This annual evaluation will assess the system's effectiveness and recommend any changes that may be needed to improve the system.
- L. The Professional Standards Section will maintain all original documentation pertaining to the Personnel Early Intervention System and Employee Analysis Reports for a period of sixty (60) months. Information regarding employees will be maintained in a confidential manner.
- M. The Personnel Early Intervention system will not be used as a form of harassment or retaliation against any employee and all employee actions taken as a result of the Early Intervention System will conform with the Departmental General Orders, Rules and Regulations and with applicable City of Little Rock policies.
- N. Any exceptions to the evaluation timelines established in this General Order will require the prior written approval of the Chief of Police.

Additions and revisions are italicized and underlined.

GENERAL ORDERS

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### C: Model Internal Affairs Policy Language Suggestions

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Agencies seeking model language in creating their own internal affairs policy can use the examples, starting on page 12, in the section titled *Internal Affairs Unit*, from a New Jersey State document that can be found here:

[http://www.state.nj.us/oag/dcj/agguide/internalaffairs2000v1\\_2.pdf](http://www.state.nj.us/oag/dcj/agguide/internalaffairs2000v1_2.pdf)

The ACLU of Utah is an affiliate of the national ACLU. The ACLU of Utah operates through public education, legal advocacy, litigation, and lobbying at both the state and local levels to ensure the constitutional rights and freedoms of everyone living in or visiting Utah.