

2017 Annual Report

The Board of Police Commissioners'
Office of Community Complaints



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The Office of Community Complaints

Under the authority of the Board of Police Commissioners, the Office of Community Complaints (“Office”) is a non-police, civilian oversight agency. The Office has been charged with the responsibility of protecting the citizen from the possibility of abuse or misconduct on the part of the Kansas City, Missouri Police Department. The Office is also entrusted with the duty to protect members of the police department from unjust and unfair accusations. The Office of Community Complaints is committed to effectively and impartially resolving all complaints involving a citizen’s guaranteed right to fair and efficient police protection.

In fulfillment of its mission, the Office has pledged:

- ◆ To encourage members of the community to file complaints when they feel they have experienced police misconduct.
- ◆ To encourage active participation by all parties in the complaint process.
- ◆ To examine carefully each investigative file so as to ensure that all efforts have been made to resolve the complaint.
- ◆ To review all complaints with complete objectivity and impartiality.
- ◆ To respect and protect the rights of both the citizen and the subject officer.
- ◆ To engage in community outreach throughout Kansas City, Missouri to educate the general public concerning the agency’s purpose.
- ◆ To report to the Board of Police Commissioners any patterns of misconduct that are uncovered as a result of investigations and complaint review.
- ◆ To report to the Board of Police Commissioners any and all relevant issues and policy matters that may arise.
- ◆ To proactively identify trends that may need to be addressed by the Regional Police Academy for officer training.



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The Board of Police Commissioners

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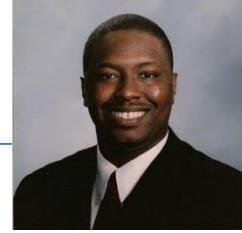
Member:

The Honorable Sly James
Mayor of Kansas City, Missouri

Secretary/Attorney:

David V. Kenner

A Note from the Executive Director



Commissioners:

It is with great pleasure that I submit the annual report of the Kansas City, Missouri Board of Police Commissioners' Office of Community Complaints (OCC), for the period from January 1, 2017 to December 31, 2017. Data in the OCC's report includes information pertaining to the review of allegations of misconduct against members of the Kansas City, Missouri Police Department (Department).

The staff of the Office of Community Complaints continues to work on behalf of the greater Kansas City community and the men and women of the Department to improve transparency and accountability in policing. By reaching out to the various stakeholders and constituencies in the metropolitan area, taking action to yield positive outcomes through its outreach and mediation programs, and acknowledging the importance and impact of the investigative process, the OCC is acting in accordance with its goal of being a national leader in law enforcement oversight.

The Office of Community Complaints would like to extend its appreciation to the Board of Police Commissioners for providing a service to give the public an opportunity to voice complaints concerning alleged police misconduct and for each individual member's attentiveness, passion and commitment to the complaint process. Further, the OCC would like to acknowledge the Chief of Police and his staff, especially the Department's Internal Affairs Unit, for their diligence, professionalism and dedication.

Finally, the Office of Community Complaints would like to thank the people of Kansas City for placing their trust in the members of its staff. We honor that trust by conducting thorough, impartial and timely investigations. The OCC truly believes the City of Kansas City is well served and a better community because of the efforts of the Office of Community Complaints and those who support its mission.

We enjoy serving you and thank you for supporting our efforts.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Merrell R. Bennekin". The signature is stylized and cursive.

Merrell R. Bennekin, J.D. CPM
Executive Director

Complaint Intake 2017

The Office of Community Complaints is the primary resource for accepting complaints filed against both sworn and non-sworn members of the Kansas City, Missouri Police Department (“KCPD”). Established in September 1969, the Office is the oldest continually-operating oversight office in the United States.

Complaints may be filed by mail, online at www.kcmo.gov/police/office-of-community-complaints, via e-mail at communitycomplaints@kcpd.org, by FAX, in person at the Office of Community Complaints, or at 10 additional locations as detailed below.

Locations Where Complaints Can Be Filed		
LOCATION	ADDRESS	HOURS
Office of Community Complaints	635 Woodland Ave., Suite 2102	M-F, 8:00 a.m. to 4:30 p.m.
KCPD - Central Patrol Division	1200 E. Linwood Blvd.	24 hours a day
KCPD - East Patrol Division	2640 Prospect Ave.	24 hours a day
KCPD - Metro Patrol Division	7601 Prospect Ave.	6:00 a.m. to 11:00 p.m. daily
KCPD - North Patrol Division	1001 N.W. Barry Rd.	24 hours a day
KCPD - Police Headquarters, Records Unit	1125 Locust St.	M-F, 7:00 a.m. to 7:00 p.m.
KCPD - Shoal Creek Patrol Division	6801 N.E. Pleasant Valley Rd.	24 hours a day
KCPD – South Patrol Division	9701 Marion Park Drive	24 hours a day
Ad-Hoc Group Against Crime	2701 E. 31 st St.	M-F, 10:00 a.m. to 6:00 p.m.
Northland Neighborhoods, Inc.	4420 N.E. Chouteau Tw., Suite 100	M-F, 9:00 a.m. to 5:00 p.m.
Westside CAN Center	2130B Jefferson St.	M-Sa, 6:00 a.m. to 6:00 p.m.

Every complaint that is filed will be forwarded to an analyst, who will make attempts to contact the complainant in order to ascertain all details of the complaint as well as allow the complainant to select the preferred method of handling the complaint. If a complainant does not cooperate by responding to letters and/or telephone messages, the complaint is closed with no further contact by the Office.

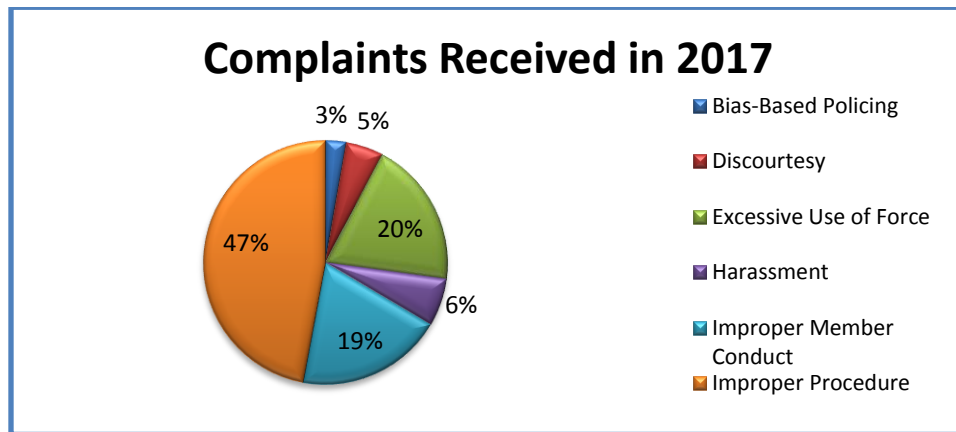
Complaint Categories

All complaints that are filed with the Office of Community Complaints are categorized by the information contained in the complaint into one of six categories. Those categories are listed in the table below.

Complaint Category Definitions	
CATEGORY	DEFINITION
Bias-Based Policing	Circumstances where the police actions of a member were substantially based on the race, ethnicity, gender, age, sexual orientation, religious beliefs, disabilities, or national origin of a person, rather than upon lawful and appropriate police procedures.
Discourtesy	Circumstances where the actions or statements of a Department member were in violation of the Code of Ethics or Rules of Conduct of the Department based upon the context of the contact with the complainant. For example, the use of ethnic slurs would be classified as discourtesy.
Excessive Use of Force	Circumstances where a member of the Department used more force than is reasonably necessary to arrest a suspect, take a suspect into custody, stop a suspect for investigation, control a situation, restore order, or maintain discipline.
Harassment	Circumstances where a member of the Department has had repeated or continued contact with a person without lawful police justification.
Improper Member Conduct	Circumstances where the behavior of a member was unprofessional, unjustified, beyond the scope of the authority of the member, unauthorized by Department procedures, or constituted an unreasonable lack of police service.
Improper Procedure	Circumstances where an administrative or procedural requirement was not met. This includes, but is not limited to improper search and seizure, omission of the Miranda Warning where required, etc.

In 2017, the Office of Community Complaints received a total of 221 complaints. Of those, 112 were forwarded to the Internal Affairs Unit (“IAU”) of the Kansas City, Missouri Police Department for a full and complete investigation. The remaining 109 complaints were handled as Non-Investigated Complaints (“NIC’s”). Additional information regarding these two classifications of complaints is discussed further below and in the Investigative Overview section of this report.

The 221 complaints that were filed with the Office of Community Complaints were classified as follows:



Non-Investigated Complaints (“NIC’s”)

In 2017, the Office of Community Complaints received a total of 221 complaints. Of those, 112 were forwarded to the Internal Affairs Unit (“IAU”) of the Kansas City, Missouri Police Department for a full and complete investigation. The remaining 109 complaints were handled as Non-Investigated Complaints (“NIC’s”). Although the majority of this report will focus on those complaints which were resolved using the formal investigative process through IAU, there are a significant number of complaints which are not handled through traditional investigative means. These NIC complaints range from those which are outside the jurisdiction of the Office to those people who do not cooperate with attempts by the Office to obtain additional information about their complaint, to anonymous complainants.

The following NIC types of complaints are generally classified as NIC’s:

- Third-party complaints without a matching complaint from the aggrieved party
- Complaints against non-KCPD members (i.e. other police departments, city departments, etc.)
- Complaints which occurred more than 90 days before the filing of the complaint, but absolutely no longer than 1 year before the filing of a complaint
- Anonymous complaints
- Complaints with an obvious lack of violation of police department policy or procedure
- Complaints solely dealing with the issuance of a traffic citation
- Complaints already being investigated by the Department or IAU (shootings, complaints involving an officer’s personal life, etc.)
- Complaints where legal action has been filed by the complainant
- Complaints where the complainant is not cooperative with the Office in obtaining additional information
- Complaints withdrawn by the complainant before an investigation, mediation, or conciliation can be conducted

Within the NIC category, however, are those complaints that are mediated or conciliated and thus forego a formal investigation by the IAU. Mediations and Conciliations are classified as NIC’s due to the lack of a formal investigation.

Mediation is designed to provide the complainant an opportunity to sit down face-to-face with the Department member(s) with whom they have a grievance in the presence of an independent, third-party mediator who volunteers his or her time to the Office. If mediation is selected and both parties come to the table, the complainant cannot then opt for a formal IAU investigation regardless of the outcome of the mediation. Mediations are considered

confidential and there will not be any discipline of the involved member, nor will there be a record of the mediation placed in the member's personnel file.

Conciliation is done at the division or unit level, where a supervisor contacts both the complainant and member to obtain a set of facts, and a smaller-scale inquiry into the complaint is done by a supervisor. The complainant is then contacted by the supervisor and receives information regarding how the complaint was handled.

In 2017, 109 NIC's were received in the Office, and 108 were reviewed (consisting of those filed in current and previous years). Of the 108 which were reviewed in 2017, 24 were handled as mediations and conciliations, with 92% considered successful. Of the remaining 86 NIC's, 51 were closed due to complainant non-cooperation, and 35 fell into other categories.

Investigative Overview

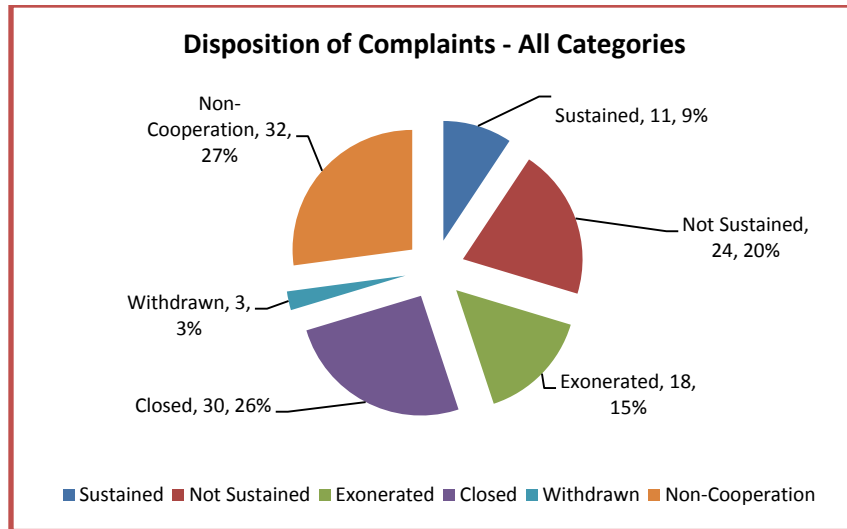
The majority of this report will focus on those complaints which were sent to the Internal Affairs Unit for investigation. In 2017, 112 complaints received were forwarded to the Internal Affairs Unit for investigation, and 118 complaints were worked. “Complaints worked” refers to complaints returned to the Office of Community Complaints after having been sent to IAU for investigation. Those complaints are not necessarily from the same calendar year (i.e., a complaint filed in the latter months of 2017 would not have a completed investigation and recommendation made until sometime in 2018). As discussed previously, this number does not include those complaints handled through mediation or conciliation.

Complaints worked fall into one of six dispositions. Fully completed IAU investigations result in a Sustained, Not Sustained, or Exonerated recommendation, while other complaints may result in a disposition of Closed, Withdrawn, or Non-Cooperation. These terms are explained fully below.

Complaint Disposition Definitions	
DISPOSITION	DEFINITION
Sustained	The alleged act occurred and was without lawful police justification.
Not Sustained	The evidence fails to prove that an act of misconduct occurred.
Exonerated	The alleged act did occur but the Department member engaged in no misconduct because the actions of the Department member were lawful, justified, and/or proper.
Closed	The complaint was closed due to the following circumstances (not an exhaustive list): lack of jurisdiction, pending litigation, pending Department investigation (i.e. homicide or officer-involved shootings), third-party complaints that were not originally identified as third-party, no violation of policy or procedure.
Withdrawn	The complainant indicated he or she did not wish to pursue the complaint after it was filed.
Non-Cooperation	The complainant failed to cooperate. (This can refer to those complaints referred to as NIC’s as well as those sent for investigation to IAU.)

Of the 118 complaints that were returned from the Internal Affairs Unit in 2017, 53 had full and complete investigations done that resulted in eleven (11) sustained findings, twenty-four (24) not sustained findings, and eighteen (18) exonerated findings. The remaining 65 complaints consisted of three (3) withdrawn complaints, thirty-two (32) complaints closed for non-cooperation with Internal Affairs¹, and thirty (30) complaints that were closed.

¹ In order for a complaint to be investigated, the complainant must provide a statement (usually live or via telephone if residing out of town) regarding the allegations as contained in the complaint form. This interview sets the parameters for the investigation and allows the complainant to provide additional information that may not fit on the complaint form. The full OCC policy/procedures can be found at the end of this document.



The below chart shows the breakdown of complaints by the complaint category as well as the finding.

	S	NS	E	C	WD	NC
Bias-Based Policing	0	1	0	1	0	0
Discourtesy	2	3	1	1	0	1
Excessive Use of Force	0	8	4	1	0	16
Harassment	0	0	1	2	0	1
Improper Member Conduct	4	3	5	2	1	6
Improper Procedure	5	9	7	23	2	8

Abstracts of Sustained Cases:

The type of sustained complaints and the policy and/or procedure violated are listed below.

Complaint 1: *Improper Procedure*. Violation of Personnel Policy #201-8, “Code of Ethics and Rules of Conduct,” and Procedural Instruction #13-5, “Internally Recorded Audio/Video Records.”

Complaint 2: *Improper Member Conduct*. Violation of Personnel Policy #201-8, “Code of Ethics and Rules of Conduct.”

Complaint 3: *Improper Procedure*. Violation of Personnel Policy #201-8, “Code of Ethics and Rules of Conduct,” Procedural Instruction #13-5, “Internally Recorded Audio/Video Records,” and Procedural Instruction #10-1, “Tiburon Computer System – Automated Reporting System (ARS)/Records Management System (RMS).”

² S=Sustained; NS=Not Sustained; E=Exonerated; C=Closed; WD=Withdrawn; NC=Non-Cooperation

Complaint 4: *Improper Member Conduct*. Violation of Personnel Policy #201-8, "Code of Ethics and Rules of Conduct," and Procedural Instruction #13-5, "Internally Recorded Audio/Video Records."

Complaint 5: *Improper Member Conduct*. Violation of Personnel Policy #201-8, "Code of Ethics and Rules of Conduct," and Personnel Policy #630-7, "Off Duty Employment."

Complaint 6: *Improper Procedure*. Violation of Personnel Policy #201-8, "Code of Ethics and Rules of Conduct," Legal Bulletin 13-20, "Towing Abandoned Vehicles from Private Property," and Procedural Instruction 09-9, "Towing of Abandoned Vehicles."

Complaint 7: *Discourtesy*. Violation of Personnel Policy #201-8, "Code of Ethics and Rules of Conduct."

Complaint 8: *Improper Procedure*. Violation of Personnel Policy #201-9, "Code of Ethics and Rules of Conduct," Procedural Instruction 09-9, "Towing of Abandoned Vehicles," and Procedural Instruction #14-7, "Patrol Procedures."

Complaint 9: *Improper Member Conduct*. Violation of Personnel Policy #201-9, "Code of Ethics and Rules of Conduct," Procedural Instruction #14-7, "Patrol Procedures," and Procedural Instruction #09-12, "Questioning and Detaining Persons; Arrest; Search and Seizure."

Complaint 10: *Improper Procedure*. Violation of Procedural Instruction #04-4, "Recovered Property Procedure," Procedural Instruction #10-1, "Tiburon Computer System – Automated Reporting System (ARS)/Records Management System (RMS)," Procedural Instruction #13-5, "Internally Recorded Audio/Video Records," Procedural Instruction #14-7, "Patrol Procedures," and Personnel Policy #201-9, "Code of Ethics and Rules of Conduct."

Complaint 11: *Discourtesy*. Violation of Personnel Policy #201-9, "Code of Ethics and Rules of Conduct."

It should be noted that by policy, the only person who can impose discipline is the Chief of Police. Disciplinary records are protected under the Missouri Sunshine Law and cannot be disclosed.

Complainant and Subject Member Statistics

Racial and Ethnic Backgrounds:

The City of Kansas City is home to just under 500,000 residents, while the Kansas City metropolitan area, consisting of cities on both sides of the Kansas/Missouri state line, has a population of approximately two million. At the end of 2017, the Kansas City, Missouri Police Department had 1,334 sworn officers (including police officer candidates), as well as 516 civilian employees. The ethnic breakdown of Department members is outlined below. It should be noted that the vast majority of complaints are filed against sworn members of the KCPD, and not against civilian employees, though the Office can receive complaints about either type of employee.

Kansas City, Missouri Police Department (Sworn and Non-Sworn Members n=1850)		
	Number	Percent
White	1331	71.9%
Black	314	17.0%
Hispanic	91	4.9%
American Indian	7	0.4%
Asian	13	0.7%
Hawaiian/Pacific Islander	2	0.1%
Multiple Races	70	3.8%
Unknown/Other	22	1.2%
TOTAL	1850	100.0%

Kansas City census data from 2010 indicates the white population of Kansas City at approximately 60%, the black population at 30%, and the Hispanic population at around 9%.

The statistics concerning the officers who are the subject members of sustained, not sustained, and exonerated complaints follow a similar breakdown of race:

Members Complained Against (n=88)		
	Number	Percent
White	79	89.8%
Black	8	9.1%
Hispanic	1	1.1%
Unknown/Other	0	0.0%
TOTAL	88	100%

Though the members complained about are primarily white and follow the breakdown of the police department as a whole, complainants are much more diverse in nature. The below chart outlines the race and sex of complainants by the disposition of their complaint.

Race and Sex of Complainants by Disposition (n=149)							
	W/M	W/F	B/M	B/F	H/M	H/F	Other
Sustained	6	2	3	1	0	0	0
Not Sustained	2	5	12	11	0	0	0
Exonerated	5	1	12	6	2	4	0
Closed	4	2	13	12	1	2	1
Withdrawn	0	0	1	2	0	0	0
Non-Cooperation	4	3	14	14	0	4	0
TOTAL	21	13	55	46	3	10	1

Complainants by Age:

As shown in the below chart, the majority of complainants are ages 35 to 49. This has remained relatively consistent over time.

Complainants by Age (n=149)		
AGE GROUP	#	%
17 and Under	4	2.7%
18 to 24	15	10.1%
25 to 34	37	24.8%
35 to 49	57	38.2%
50 to 64	28	18.8%
65 and Older	8	5.4%
Unknown	0	0.0%
TOTAL	149	100.0%

Tenure of Members Complained Against:

Tenure of members is based upon the date the complaint was filed as compared to the date the subject member became employed by the Department. Members with less than one year of

service have spent six months of that time in the Police Academy, and another six months under the direction of a Field Training Officer (“FTO”). A chart comparing the overall tenure of the sworn members of the Department with the members involved in Sustained, Not Sustained, and Exonerated complaints is below.³

	0 to 4 Years	5 to 9 Years	10 to 14 Years	15 to 19 Years	20 to 24 Years	25-Plus Years
Sworn Officers n=1279	212 (16.6%)	147 (11.5%)	265 (20.7%)	254 (19.9%)	268 (20.9%)	133 (10.4%)
Sustained	5	1	4	1	1	1
Not Sustained	11	6	11	3	4	2
Exonerated	5	6	11	10	5	1
Total & Percentage	21 (23.9%)	13 (14.8%)	26 (29.5%)	14 (15.9%)	10 (11.4%)	4 (4.5%)

Assignment of Members:

The Kansas City, Missouri Police Department is separated into six patrol divisions. Additionally, there are numerous investigative elements that are responsible for covering the entire city. While the majority of complaints are against patrol officers, officers in units such as the Tactical Response Teams, Violent Crimes Section, Homicide, Fugitive Apprehension and Arraignment Section, Property Crimes, the Downtown Bike Patrol, and others receive complaints.

Type of Unit	Number	Percentage
Patrol Divisions	81	92.0%
Traffic and Parking Control	2	2.3%
Detention	1	1.1%
Street Narcotics/Drug Enforcement	0	0.0%
Other	4	4.5%
TOTAL	88	99.9%

³ It should be noted that the number of members contained in these statistics, as stated earlier in this report, are the subject members of sustained, not sustained, and exonerated complaints only. Due to the lack of information that is known at the time a complaint is filed, it is not always possible to identify the subject members who are being complained about.

Of the members working in the patrol divisions that received complaints, the breakdown is as follows:

Patrol Division	Number
Central Patrol	27
East Patrol	24
Metro Patrol	19
North Patrol	2
Shoal Creek Patrol	2
South Patrol	7

The Central, East, and Metro Patrol divisions comprise the central city or “urban core” of Kansas City, while the remaining three divisions are more suburban in nature. Traditionally, the three urban divisions carry the majority of complaints, due to the increased calls for service and officers deployed to these divisions.

It should be noted that the number of members contained in these statistics, as stated earlier in this report, are the subject members of sustained, not sustained, and exonerated complaints only. Due to the lack of information that is known at the time a complaint is filed, it is not always possible to identify the subject members who are being complained about.

Historical Data

Complaints taken in by the Office as a whole have decreased in the last five years, as have complaints sent to the Internal Affairs Unit for a formal investigation. While there is no specific reason for this decrease, one can speculate that it pertains to the decrease in the number of officers on the street handling calls. As officers move from dispatched call to dispatched call, there is less time to partake in what is called “self-initiated” activity – i.e., activity which is observed, rather than dispatched.

In 2017, there were 222,401 calls for service, and 25,913 self-initiated activity calls. These numbers have fluctuated over the last five years, as seen below.⁴ Calls for service in 2017 were the highest that they have been in five years, and the number of self-initiated activities was the lowest in five years.

	2013	2014	2015	2016	2017
Calls for Service	207,943	199,057	207,428	204,778	222,401
Self-Initiated Activities	30,599	37,210	31,111	26,857	25,913

There can also be other factors which may contribute to the rate of complaint intake: how frequently people are coming into contact with police, perception of such contact, knowledge of the Office, increased usage of de-escalation techniques, and others. The Office does not view a decline as a negative; rather, it views the reduced rate of complaints as an opportunity to redouble our efforts in community engagement as well as officer education.

	2013	2014	2015	2016	2017	Average
Complaints Received	407	393	326	287	221	327
Complaints Worked	201	188	207	151	118	173

From 2013 to 2017, the number of complaints handled through IAU has decreased each year, with the exception of 2015, which saw a small increase. The below table indicates the disposition of complaints by category from 2013 to 2017.

⁴ Source: Kansas City, Missouri Police Department

	2013	2014	2015	2016	2017
Sustained	12	3	12	7	11
Not Sustained	60	49	61	25	24
Exonerated	43	33	59	27	18
Closed	41	42	30	49	30
Withdrawn	5	5	1	4	3
Non-Cooperation	40	54	44	39	32
COMPLAINTS REVIEWED	201	186	207	151	118

Although the number of complaints reviewed in recent years has fluctuated due to the number of complaints received in the Office of Community Complaints, the breakdown of sustained complaints averages four (4) to five (5) percent each year.

The five-year average by disposition is below.

	Five-Year Average
Sustained	5.2%
Not Sustained	25.4%
Exonerated	20.9%
Closed	22.2%
Withdrawn	2.1%
Non-Cooperation	24.2%

Community Outreach

The Office of Community Complaints (“OCC”) continuously works towards engaging the Kansas City community and the employees of the Kansas City, Missouri Police Department in an effort to achieve the agency’s aims. In 2017, the Office continued to establish a presence with numerous organizations in the Kansas City metropolitan area by making presentations, attending meetings, and facilitating learning events centered around improving the police-community relationship.

To this end, the Office has developed several documents that will ultimately be available in Spanish and Vietnamese to aid in reaching the majority of the Kansas City population. The OCC Youth Guide has been widely distributed through youth-oriented events held in the metro area. Additionally, a “Do’s and Don’ts When Interacting with Law Enforcement” flyer is available.

The Office maintains a steady presence on social media, with accounts on Twitter and Facebook that relay positive messages and information critical to the community.

Follow us!



@OCCkansascity



@occkc

Office of Community Complaints Operational Policy

The operational policy of the Office of Community Complaints is as follows:

I. INTRODUCTION

A. The Office of Community Complaints (OCC) was established in 1969 by the Board of Police Commissioners of Kansas City (Board) to receive and review complaints filed against members (department members) of the Kansas City Missouri Police Department (KCPD).

B. OCC, originally established as the Office of Citizen Complaints, assists the Board in carrying out its duties and responsibilities as an oversight agency under the provisions of Section 84.430 RSMo.

C. The purpose of this policy is to provide guidelines and procedures for reviewing and processing community complaints made by persons against department members of the KCPD.

II. TERMINOLOGY

A. **Conciliation** – The informal resolution of a complaint without the need for a formal investigation. Conciliations may take place with the Executive Director of OCC or the Executive Director's designee and the complainant, or with the Executive Director of OCC or the Executive Director's designee, the complainant and the department member's chain of command.

B. **Mediation** – The informal resolution of a complaint through the use of persons trained as mediators. These persons must be neutral, outside parties. Mediators will not be compensated for their services.

C. **Secretary/Attorney** – Use of this term shall mean the Secretary/Attorney for the Board of Police Commissioners appointed pursuant to Section 84.420.2(4), RSMo.

D. Community complaints alleging improper actions will be classified in one of the following six (6) defined categories:

1. **Bias-Based Policing** – Circumstances where the police actions of a department member were substantially based on the race, ethnicity, gender, age, sexual orientation, religious beliefs, disabilities, or national origin of a person, rather than upon lawful and appropriate police training and procedures.

2. **Discourtesy** – Circumstances where the actions or statements of a department member were in violation of the KCPD written directive entitled, "Code of Ethics and Rules of Conduct," based upon the context of the contact with the complainant. For example, the use of ethnic slurs would be classified as discourtesy.

3. **Excessive Use of Force** – Circumstances where a department member used more force than is reasonably necessary to arrest a suspect, take a suspect into

custody, stop a suspect for investigation, control a situation, restore order, or maintain discipline.

4. **Harassment** – Circumstances where a department member has had repeated or continued contact with a person without lawful police justification.

5. **Improper Member Conduct** – Circumstances where the behavior of a department member was unprofessional, unjustified, beyond the scope of the authority of the member, unauthorized by KCPD written procedures or training, or constituted an unreasonable lack of police service.

6. **Improper Procedure** – Circumstances where an administrative or procedural requirement was not met. This includes, but is not limited to, improper search and seizure, omission of the Miranda Warning where required, etc.

F. The findings of the OCC will fall into one of the following defined categories:

1. **Exonerated** – The alleged act did occur but the department member engaged in no misconduct because the actions of the department member were lawful, justified and/or proper.

2. **Not Sustained** – The evidence fails to prove that an act of misconduct occurred.

3. **Sustained** – The alleged act occurred and was without lawful police justification.

4. **Unfounded** – The act alleged by the complainant did not occur or the subject department was not involved in the act.

G. Other dispositions:

1. **Closed** – The complaint was closed due to the following circumstances: lack of jurisdiction, no violation of KCPD written directive, training or mediation, pending litigation, complainant anonymity, or third-party complaint.

2. **Non-cooperation** – The complainant failed to cooperate.

3. **Resolved without investigation** – Any complaint which is mediated, conciliated, or resolved prior to an Internal Affairs Unit (IAU) investigation.

4. **Withdrawn** – The complainant did not wish to pursue the complaint.

III. GENERAL GUIDELINES

A. OCC is under the supervision of the Executive Director who shall report to the Board and who shall be responsible for the supervision of the OCC staff and for carrying out the provisions of this policy.

B. The duties of the Executive Director of OCC, assisted by the staff, are to:

1. Receive complaints filed against department members.

a. Complaints shall be classified as set forth in Section II, E, of this directive.

b. OCC may add sub-classifications based upon facts reasonably raised by the complainant.

2. Record and account for the filing and disposition of all such complaints that are filed.

3. Conduct an initial interview in person or by phone with each person that files a complaint for the purpose of establishing the proper category of the complaint.

4. Where appropriate, attempt to resolve the issues of the complaint without formal investigation using either OCC staff or a supervisor/commander of the KCPD.

5. Refer the complaint for further investigation to the IAU.
6. Review and make recommendations on complaints after IAU has completed its investigation.
7. Submit individual summaries of complaints to the Board and the Chief of Police (Chief) of KCPD.
8. Present appropriate monthly statistical reports, monthly reports on the status of active complaints and an annual report to the Board and the Chief.
9. Make appropriate notifications to complainants concerning their complaints.
10. Maintain a file on complaints, which shall include, but not be limited to, the original complaint and the findings of OCC. The completed investigative file, which is the property of OCC, may be stored in IAU.
11. Provide information to the complainant when it is necessary for the resolution of a complaint.
12. Meet with community groups, civic organizations, and professional groups in order to educate and inform members of the public on the purpose of OCC and the complaint filing process.

IV. FILING REQUIREMENTS AND IMPOSITION OF DISCIPLINE

- A. Complaints will not be accepted more than 90 days after the date of occurrence. However, upon a showing of special circumstances that demonstrate good cause for accepting an untimely complaint, the Executive Director of OCC may accept a complaint more than 90 days, but, in any event, not more than one (1) year after the date of the occurrence.
- B. The Chief shall have sole authority to recommend and impose discipline subject to current KCPD directives.
- C. If OCC believes that an investigation indicates a department member has committed a directive violation unrelated to the subject matter of the complaint, OCC will not sustain the complaint on that basis.

V. PROCEDURES

This directive has been arranged in annexes for easy reference as follows:

- Annex A: Receiving Community Complaints
- Annex B: Processing and Investigating
- Annex C: Analyzing and Recommendations
- Annex D: Access to Complaint Files

ANNEX A RECEIVING COMMUNITY COMPLAINTS

A. Complaints may be made by the Following Persons:

1. Any individual seventeen (17) years of age or older who was personally involved in the incident that gives rise to the complaint.
2. Any individual under the age of seventeen (17) who provides documentation indicating they are a certified juvenile (certified by the court as an adult).
3. The parent or legal guardian of any person under the age of seventeen (17) years who was involved in the occurrence that gives rise to the complaint. The parent or legal guardian:
 - a. Must accompany the individual under seventeen (17), and
 - b. Will be listed as a co-complainant, and
 - c. Must sign the Complaint Report, Form 337 P.D. (Complaint Form).

B. Completion of the Complaint Form

1. The complaint process will be initiated by the completion of the Complaint Form by the complainant, guardian, or advocate for the complainant.
2. If the Complaint Form is completed in paper form, it must be signed and verified by the oath of the complainant as set for in the Missouri Revised Statutes, Section 84.430.1. Unsigned complaints not completed on-line (in paper form) will not be investigated. If the complainant refuses to sign the Complaint Form:
 - a. "Refused to Sign" will be entered on the complainant's signature line.
 - b. If the complainant continues to refuse to sign the Complaint Form, the OCC file will be closed.
3. The complaint must describe, to the best of the complainant's ability, the date, time, and location of the occurrence giving rise to the complaint.
4. Formal complaints will not be accepted by telephone. Individuals wishing to make a formal complaint by telephone will be advised:
 - a. to go to any police station or approved location as listed on OCC's website to complete and submit the complaint, or
 - b. To access the Complaint Form through OCC's website and:
 - (1) Mail the completed form to the OCC office, or
 - (2) Submit the completed form electronically to communitycomplaints@kcpd.org.

C. Complaints made in Person at a Non-Police Facility

The Executive Director of OCC shall be responsible for ensuring that complaint reports are collected weekly from a non-police facility.

D. Complaint Received by Mail in the Office of Community Complaints

1. The complainant will be contacted by an OCC Analyst to arrange for the completion and verified signature on the Complaint Form.
2. The complaint will be processed in accordance with this directive.

E. Anonymous Complaints

1. Anonymous complaints will not be processed.
2. However, an anonymous complaint that contains specific information may be accepted by the Executive Director of OCC for purposes of identifying incidents or

trends that should be reported to the Board and the Chief. The Executive Director may refer any such complaint to the Chief who may order an internal investigation of the matter or take such other action as the Chief believes appropriate.

F. The Following Complaints will not be Investigated:

1. Incidents involving the appropriateness of the issuance of a Citation or Summons.
2. Complaints **only** challenging the validity of a search or arrest warrant and/or alleging property damage related to the execution of a search or arrest warrants. Those complaints will be referred to the KCPD Office of the General Counsel (OGC).
3. Complaints relating to allegations of damage or missing property from vehicles stored in the City Tow Lot as the City Tow Lot is operated by the City of Kansas City, Missouri, not KCPD or the Board.

G. The Following Complaints will be Accepted but not Investigated:

1. Complaints involving situations where the OCC and/or the KCPD OGC have/has been notified directly by the complainant's attorney, or by service of process that a claim or lawsuit will be or has been filed against the Board, the KCPD, or a department member of either will be held in abeyance. OCC will:
 - a. Notify the complainant(s) that due to their claim or lawsuit, the investigation of their complaint will be suspended.
 - b. Forward these matters to the KCPD OGC pending further action.
 - c. Will reevaluate the complaint for further consideration and investigation, if warranted, once the claim or lawsuit has been resolved.
2. Complaints involving police use of force where the case is pending review by a prosecuting attorney or grand jury. At the conclusion of the review by the prosecuting attorney or grand jury, the complaint will be reevaluated by OCC for further action, unless a claim or lawsuit has been filed.

ANNEX B PROCESSING AND INVESTIGATING

A. Upon receiving an unresolved complaint, the Executive Director of OCC will assign the complaint to an Analyst. The analyst will contact the complainant to determine whether there is any additional action that can be taken to resolve the complaint without formal investigation.

1. If resolution appears possible at this point:
 - a. The file will be returned to the Executive Director of OCC who will attempt to conciliate the complaint or will return the complaint to KCPD to determine whether it can be resolved prior to an IAU investigation.
 - b. The Executive Director may also employ mediation as a means to resolve the complaint. Although any complaint may be mediated or conciliated, this process is particularly appropriate in cases involving the lack of police service or improper procedure.
2. If resolution does not appear possible, the Analyst will take the following actions:
 - a. Determine the appropriate category or categories of the complaint that require investigation.
 - b. Take photographs of any injuries that the complainant attributes to the circumstances of the complaint.

- c. Obtain a Medical Release Authorization from the complainant if the complainant alleges that medical treatment was required as a result of the incident which is the subject of the complaint. Medical records will be obtained only after the complainant gives a formal statement.
 - d. Enter the relevant information from the Community Complaint Report into the OCC Database and forward a copy of the original signed complaint report and any related documentation to IAU.
 - e. Request that IAU schedule the initial formal statement of the complainant with an IAU detective.
3. Each complaint file will contain on the face of the file a time and date record. Each individual handling with the file during the processing of the complaint will note when the file is received by that individual, when the file is forwarded to another individual, and the name of the individual to whom the file is forwarded.

B. Formal Statements

1. If the complainant appears for the initial formal statement and indicates that they do not want to continue with the complaint:
 - a. The complainant will not be encouraged or discouraged in any manner in making that decision as the decision to withdraw or dismiss a complaint is that of the complainant.
 - b. The complainant will be asked to sign a Withdrawal of Complaint, Form 5489 P.D. (Withdrawal Form).
 - c. If the complainant signs a Withdrawal Form, OCC shall close the file.
2. If the complainant fails to keep the appointment and thereafter fails to respond to reasonable efforts to reschedule the appointment to give the initial formal statement, the complaint file will be returned to OCC for its review and consideration for closure.
3. A representative of OCC may be present during the taking of the complainant's formal statement by an IAU detective. The OCC representative will act solely as a monitor during the taking of the statement, and will be present at the taking of any supplemental statement by IAU.
4. All statements of the complainant shall be verified by oath or otherwise taken under penalty of perjury as required by Section 84.430 RSMo.

C. Investigation of a Complaint

1. After the initial formal statement is taken from the complainant, the file will be handled by IAU for investigation in accordance with their written directives.
2. After a formal statement has been taken from the complainant or if at any time during the investigation IAU reasonably believes there has been no clear violation of KCPD directives, the file will be forwarded to OCC for review and consideration for closure. If OCC reviews the file and determines:
 - a. There is no violation of KCPD written directives, a finding of unfounded or closed will be made by OCC and the complaint file will be closed.
 - b. That further investigation is required, the investigation will continue. The justification for continuing the investigation will be set out in a memorandum that will be placed in the case file, and the file will be forwarded to the commander of IAU.
3. In the event that IAU requests additional time to investigate the file, the OCC Executive Director and the Commander of IAU will jointly approve any request for additional time. If there is disagreement on whether additional time should be

granted, the decision whether to grant additional time will be referred to the Board whose decision shall be final.

4. If there is a disagreement between the Commander of IAU and the OCC Executive Director as to the subject matter and scope of an investigation, the matter will be referred to the Board of Police Commissioners.

D. Completed Investigations

1. Upon completion of the IAU investigation the file will be forwarded to OCC.
2. Upon receiving the complaint file, the Executive Director of OCC will assign the file to an Analyst who will review the file for purposes of making a recommendation on the complaint.
 - a. If additional information is needed to complete the analysis, the Analyst will set forth the additional specific information required in order to complete the analysis.
 - b. The reason for additional information will be specifically set out in the request.
 - c. The file will then be returned to IAU for purposes of obtaining the additional information.

E. Use of Polygraph Examinations in OCC Investigations

1. In all cases where OCC believes that a polygraph examination is necessary, OCC will first request the complainant to submit to the polygraph examination.
2. The Executive Director may request that a polygraph examination be conducted of the complainant.
 - a. The complainant has the right to refuse a polygraph examination.
 - b. If the complainant consents to the polygraph examination, the Executive Director will submit the request with the complaint file directly to the Polygraph Section and state the reason for requesting the polygraph examination.
 - c. OCC will coordinate with the Polygraph Section to schedule the examination.
 - d. Upon completion of the polygraph examination, the results and the complaint file will be forwarded directly to OCC.
3. If the polygraph examination of the complainant:
 - a. Is inconclusive or shows deception, OCC will make its recommendation on the complaint and submit the file as outlined in Annex C of this directive. In this event no polygraph examination will be requested of the department member.
 - b. Supports the complainant's allegations; OCC may recommend to the Chief that the department member who is the subject of the complaint submit to a polygraph examination.
 - (1) The Executive Director will submit such recommendation with the complaint file to the Chief.
 - (2) If the Chief agrees with the recommendation, the Chief will direct the department member to take a polygraph examination.
 - (3) If the Chief disagrees with the recommendation, the Chief will advise the Executive Director of the reasons. If the Executive Director, after consideration of the Chief's reasons, continues to recommend

that the department member submit to a polygraph examination, the matter will be referred to the Board of Police Commissioners.

4. OCC shall not consider the failure of a complainant to submit to a polygraph examination in making its findings and recommendations regarding a complaint. The analysis of the complaint will be conducted utilizing the existing evidence otherwise gathered by the investigation.

ANNEX C ANALYSIS AND RECOMMENDATIONS

A. Upon receipt of a completed investigative file, the Analyst assigned to the file will review the file for purposes of making a determination of unfounded, exonerated, not sustained, or sustained.

B. In making this finding, the Analyst will determine the elements of the alleged complaint. The Analyst will then determine what evidence exists to support or refute each of the elements of the alleged incident. Only the facts relevant to the complaint being made will be considered.

C. The analyst will then prepare a Summary of Analysis.

1. The Executive Director of OCC shall review the Summary of Analysis and either approve it or return it to the Analyst for further action.
2. After the Executive Director's approval of the Summary of Analysis, the OCC Office Manager shall prepare the final copy of the Summary of Analysis and letters for presentation to the Chief and/or Board.
3. OCC shall have 45 calendar days to complete these tasks.

D. When the summary is approved, a copy of the Summary of Analysis shall be forwarded to each member of the Board and to the Secretary/Attorney. A copy of the Summary of Analysis and the original IAU investigative file will be forwarded to the Chief and handled according to KCPD current written directives.

E. Except in cases where the Board makes the final determination, OCC will:

1. Provide the Chief and the Board with notice of the final determination.
2. Notify the complainant of the determination. This notification will be in the form of a letter signed by the Executive Director of OCC.
3. Notify all department members involved in the investigation of the final determination.
4. Return the original internal investigation file to IAU.

F. Upon receipt of a final sustained complaint, the Chief will make the final determination on discipline or training in accordance with KCPD current written directives.

G. If new or previously undisclosed evidence becomes available after final disposition of a complaint, within thirty (30) days of the discovery of such evidence, either the department member or the complainant may request the OCC Executive Director to reconsider the decision of OCC. This request for reconsideration is limited to the findings of OCC and does not pertain to disciplinary actions imposed by the Chief.

ANNEX D
ACCESS TO COMPLAINT FILES

A. Access to complaint files created by and at the direction of OCC will be governed by Chapter 610 RSMo. and resolutions of the Board dealing with the release of such files.

B. Any department member who is the subject of a complaint or the department member's attorney has the right to review and take notes from the completed complaint file. The file shall not otherwise be reproduced.

C. Records, files, medical records, documents, photographs, and other materials compiled and maintained by OCC that pertain to investigations resulting from complaints will not be subject to disclosure, except as described above.

D. The Executive Director of OCC will notify the Secretary/Attorney with regard to any request to copy or acquire any part of a complaint file. The Secretary/Attorney will notify the KCPD OGC of any such request.

E. Subject to any requirements imposed by law, KCPD, Board, and OCC shall not release to any federal, state, or private employer, or other individual any information pertaining to a department member which did not result in formal disciplinary action unless an authorization is executed by the department member in question allowing such release.

F. OCC complaint files are personnel records of the department members. Additionally, such files often describe private, confidential matters pertaining to a complainant (and occasionally to a member) relating to medical, legal and other private matters. These files are not investigations of criminal conduct.

Enabling Legislation: Missouri State Statute §84.430

The enabling legislation for the Office of Community Complaints can be found in the Missouri State Statutes, specifically in §84.430, which states the following:

Board of police--personnel disciplinary cases--decrease of force--witnesses, summons and administration of oaths (Kansas City).

84.430. 1. The board shall hear all complaints or charges filed against any member of the police department. All complaints or charges filed by persons other than the commissioners or police officers shall be verified by the oath of the person filing such complaints or charges. The board may at any time order the discharge of a specified number of police officers for the reason that in the opinion of the board, the police force is larger than the interests of the public demand or that there is insufficient money to pay the expenses of maintaining the police force as then organized; and in such cases it shall not be necessary to file any complaint or charges or to permit a hearing by the board of the policemen or police officers to be removed; but policemen and police officers so dismissed shall be placed at the top of the suitable eligible lists, and when vacancies so created shall be filled the policemen or police officers thus removed shall, if they so desire, be reappointed to fill such vacancies in the order in which such policemen or police officers were removed.

2. Any member of the board shall have power to summon and compel the attendance of witnesses before the board and the production of books and papers before them whenever it may be necessary for the more effective discharge of the board's duties and responsibilities. Any member of the board or the secretary of the board shall have the power to administer oaths or affirmations to any person appearing or called before said board.

