

OCC Complaint Process

(<http://www.sfgov3.org/index.aspx?page=435>)

How to Make a Police Misconduct Complaint

The most effective way to file a complaint of police misconduct is to come into the OCC office. This will allow investigators to personally interview you and to do a thorough job of completing the initial, and one of the most important, phases of the investigation of a complaint.

Other ways a complaint may be filed are:

- Complete and return the complaint form by mail. Forms are also available by calling the OCC and requesting that one be sent to you. They are available at all nine district police stations, and from various community groups. Once completed, the complaint form may be folded and dropped in any mailbox. The postage is prepaid.
- Send us a letter detailing the incident. Please be sure to include your address and your daytime and evening telephone numbers so we may contact you for additional information, if necessary.
- Call the OCC. Complaints may also be filed over the telephone.
- Go to a district police station. All district stations are open 24 hours a day. All police personnel are required to receive complaints courteously and to assist you with filing them.

Important Considerations

Please include the following information in your description of the event:

The day, date, time and exact location of the incident. The officer's name, badge number, and physical description. Witnesses' names, addresses and telephone numbers. License numbers for any vehicles involved in the incident. Any other evidence you feel may be important such as copies of citations, photographs, and medical records. If you have injuries include their nature and extent. If you are injured it is vitally important that you file your complaint as soon as possible so that photographs can be taken and medical records obtained quickly. When you file your police misconduct complaint, you should receive a copy of it regardless of how it is filed.

Anonymous complaints

The Office of Citizen Complaints does receive anonymous complaints. Anonymous complaints will be treated with the same importance as any other complaint; however, the Police Commission has determined that anonymous complaints cannot be sustained without additional evidence.

The Investigation Process

The police misconduct complaint will be investigated by a trained investigator. The investigation may include interviews of witnesses and officers, a review of police department records, policies and procedures, inspection of medical records and

photographs, and legal analysis. Once the complaint has been completed it will be reviewed by a team of supervisors to ensure accuracy and consistency with Police Commission standards.

Preliminary disposition letters will be sent to both the complainant and the officer(s). The complainant and officers have the right to make an appointment with the investigator to review the procedures followed in the investigation. In the event that the complaint is sustained, it will be forwarded to the Chief of Police for further action after a ten day period in which an review hearing can be requested.

The Chief may hold a disciplinary hearing in which the Chief may impose up to a ten day suspension. If the nature of the allegation requires more serious discipline, or if the officer has had previous instances of the same misconduct, the Chief may send the complaint forward to the Police Commission which will hold a formal administrative hearing. After conferring with the Chief, the OCC Director can also file charges with the Police Commission even if the Chief does not.

Should you have to testify before the Police Commission, you are not required to have a lawyer. The OCC or the Police Department will prosecute the case for the Chief. That prosecutor will ensure that your rights are protected.

Police Compliance and Retaliation

Both the San Francisco Charter and SFPD General Order 2.04 require San Francisco Police Officers to cooperate with OCC investigations.

The Department has a policy, which encourages citizens to bring forward complaints of inadequate police service or official misconduct, and orders officers, when presented with complaints, to receive them with courtesy and without delay. This order also mandates full cooperation of all police department employees with OCC investigations.

In 1988, the Police Commission adopted Resolution 115988 which prohibits police officers from threatening, intimidating, misleading, or harassing potential or actual OCC complainants, witnesses, or staff members.

Officers are not allowed to contact complainants or witnesses regarding the issues in a complaint while that complaint is under investigation.

Investigative Hearing Process

Investigative Hearings are held following the conclusion of an OCC investigation at the request of the complainant or of the officer or when, in the opinion of the Director, a hearing would facilitate the fact finding process. Hearings have been structured to be as non-adversarial as possible. The legal, technical rules of evidence do not apply; there is no direct or cross examination of witnesses unless all parties agree otherwise.

The hearing is not a court of law or a substitute for a court. The Investigative Hearing Officer, who is not a member of our staff, and who has had no previous contact with your case, will decide only the facts of your case. The facts are then applied to

Departmental rules and procedures, by the Director, who will decide whether to sustain the allegations contained in your complaint.

Preparing for a Hearing

When the OCC has completed an investigation of your complaint, and the Director approves the recommendations of the investigator, a letter will be mailed to you that will indicate our findings. Should you so desire, you may make an appointment to review the investigator's report in the OCC office. You may make notes, but confidentiality requirements of state law prohibit the making of a copy.

You will have ten (10) days within which to decide whether you want a hearing, and to submit your request to the Director. The Director will review your request and notify you by mail whether your request has been granted. If it has, you will also be advised of the date and time of the hearing.

At The Hearing

It is important that you attend the hearing, even if you did not request it. Your absence may cause evidence not to be considered which could alter the outcome.

If you need an interpreter, one can be provided for you at no charge if you advise the Hearing Coordinator as soon as possible before your hearing date.

Both complainants and officers have the right to have a representative present during all parts of the hearing. Representatives are not mandatory, but you are encouraged to bring one. Your representative may be a friend, family member, an attorney or anyone else who is not a witness in your case.

Should you want a representative, you must get your own. The OCC will not represent you, or present any evidence at the hearing.

Your Complaint Of Police Misconduct Makes a Difference

We are aware that you feel strongly about your encounter with a police officer, or you would not have taken the trouble to register a complaint, but without adequate evidence, we cannot prove all complaints.

Your complaint goes into the officer's complaint file where it stays, even if it cannot be proven.

In the event this behavior is repeated, the department can take corrective action to help the officer alter the offending behavior.

A Final Note to Complainants and Witnesses

Many people are frightened at the prospect of filing a complaint against a police officer. The OCC and the Police Commission are of one mind in preventing harassment of and retaliation to victims and reportees of police misconduct. Any allegations of retaliatory action by police officers should be brought to the attention of the OCC immediately.