

# KANSAS COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING

## Policy: 201 Investigative Guidelines

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Issuing Authority: Gary E. Steed

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**I. Purpose:** The Kansas Commission on Peace Officers' Standards and Training (Commission) relies on the Commission's special investigators to conduct investigations necessary to carrying out its state mandated duties. The nature of these investigations is to determine an individual's eligibility to hold a full-time, part-time or provisional law enforcement certificate.

**II. Policy Statement:** Investigations regarding behavior that may constitute a violation of the Kansas Law Enforcement Training Act (training act), K.S.A. 74-5601 et seq., will be conducted by Commission special investigators. The findings of those investigations that involve a potential violation of the training act will be presented to the Commission for possible certification action.

**III. Scope:** Information concerning possible training act violations comes from many sources. Agencies are required to submit information reference possible violations on status change forms. Allegations or complaints may be received from officers, private citizens, prosecutors and various public officials. Regardless of the source, including unsigned assertions, the Commission will conduct an impartial assessment to determine whether the complaint rises to a potential violation of the training act. If the information or complaint is found to be outside the scope of the training act, no further action will be taken.

The Commission or a designated committee or member of the Commission is authorized under K.S.A. 74-5607(b) to conduct investigations and proceedings necessary to carry out the provisions of the Kansas Law Enforcement Training Act.

The Commission is authorized to take certification action based on behavior set out in K.S.A. 74-5616(b).

The Commission may self-initiate or directly receive and investigate any complaint with the exception of allegations of racial or other biased-based policing (K.S.A. 74-5616(b)(6)).

Pursuant to K.S.A. 22-4611, complaints reference racial or other biased-based policing must be made to the officer's employing agency or to the office of the Kansas attorney general. The office of the Kansas attorney general may forward those complaints to the Commission for further review and possible action. Initial complaint information received by the Commission reference racial or other biased-based policing will be forwarded to the Kansas attorney general's office.

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The training act establishes that the director and any employee designated as a law enforcement officer by the director shall possess all powers and privileges which are now or may hereafter be given to an agent of the Kansas bureau of investigation and may exercise such powers and privileges throughout the state.

The Commission will not conduct investigations into a law enforcement agency's operations or management that are only job performance related and/or pertain exclusively to violations of a department's policies and procedures. Behavior or incidents determined to be criminal acts will be referred to the appropriate criminal investigative agency and any Commission investigation will be deferred until the conclusion of the criminal investigation and criminal prosecution, if any, of the individual.

**IV. Definitions**

Complaint: For the purpose of this policy the term complaint shall include the terms assertion, allegation, accusation, contention and other similar meaning terms.

I Code: One of three (3) categories an employer must check off on form CR304 (Notice of Termination or Status Change). The use of this code indicates an employment termination or resignation that may involve an actionable violation of the training act.

**V. Procedures**

A. Written complaints and possible I Code violations will be distributed to the special investigators through the Commission's legal counsel. Incoming complaint telephone calls will be taken by any available investigator, who may either keep the case or turn it over to legal counsel for reassignment.

1. Incidents that on face value point toward a possible training act violation will be assigned an active case number and further investigated.

2. Events that are outside the scope of the training act will be recorded in a log with no further investigative action. If deemed appropriate the complaint information may be forwarded on to a local or state agency.

B. An investigation entails the collection of documents, recordings, or other relevant information and/or conducting interviews sufficient to allow an assessment of the case by the investigator, the Commission, and the Commission's legal counsel.

1. The special investigator may request that the Commission issue a subpoena for documents or other relevant information pursuant to K.S.A. 74-5607(b)(2).

2. It is not necessary, in all cases, to notify an officer of a pending investigation.
  - a. The officer will be notified in the event the officer is to be interviewed during the course of the investigation.
  - b. An officer will not be notified of an investigation if, by doing so, any investigation would be negatively affected.
  - c. Any notification made concerning an investigation will be to the individual officer. Notification will not be made to the employing agency unless it is necessary during the course of the investigation.
  - d. Note that each officer personally holds a (license) law enforcement certification that makes that officer eligible for law enforcement employment.
  - e. Keep in mind that, as with any employment issue, it is left to the policy of the individual employing agency to determine at what point an officer should notify the employing agency of any pending investigations.
3. An officer must consent to a personal interview, if requested, during the course of a Commission investigation to determine a person's continued suitability for law enforcement certification.
4. Should the officer refuse to agree to an interview he/she will be issued an administrative notice compelling their participation.
  - a. K.S.A. 74-5616(b)(3) provides for the suspension, conditioning, reprimand or censure, revocation, or denial of a law enforcement certificate of a police/ law enforcement officer who provides false information or otherwise fails to cooperate in a commission investigation to determine a person's continued suitability for law enforcement certification. This notice is contained in Commission form INV202.
- C. The findings of the investigation will be presented to the Commission's Investigative Committee. The Investigative Committee may close the case with no further action, request further information, or forward the case to the Commission's Hearing Committee for possible action.
  1. Pursuant to K.S.A. 74-5616(c) the procedure for disciplinary action by the Commission shall be in accordance with the Kansas administrative procedures act, K.S.A. 77-501 et seq.

D. Once the case is concluded, in any manner, the special investigator will prepare a summary report and close the case.

#### **VI. Consent Agreements**

A. The officer may enter into an informal settlement (consent agreement) with the Commission at any time before or after the filing of any disciplinary action.

B. K.S.A. 77-505 authorizes the use of informal settlements at any time.

C. This process will be followed for those choosing to voluntarily surrender his/her certification.