



Commission Study Session

Chief Brad L. Nelson

September 21, 2020

TOPICS

- Federal 1033 Surplus Program



- Civilian Review Board (CRB) Proposal



1033 PROGRAM – WHAT IS IT?

- ▣ In the National Defense Authorization Act for fiscal years 1990 and 1991, Congress authorized the transfer of excess DoD property to federal, state and local law enforcement agencies. The Law Enforcement Support Office (LESO) is responsible for the program.
- ▣ The program provides excess Department of Defense property that might otherwise be destroyed, to law enforcement agencies across the United States and its territories.
- ▣ It allows the more than 8,000 law enforcement agencies that have the powers of apprehension and arrest from all 50 states and all U.S. territories to participate in the program.
- ▣ Program requisitions cover the gamut of items used by America's military – clothing and office supplies, tools, rescue equipment, vehicles, rifles, and other small arms. Of all the excess equipment provided through the program, only five percent are small arms and less than one percent are tactical vehicles.

Source: Defense Logistics Agency,

<https://www.dla.mil/DispositionServices/Offers/Reutilization/LawEnforcement/>

PROHIBITED ITEMS

The DLA has determined that 133 federal stock classes of supply are prohibited for transfer to law enforcement agencies because of their tactical military characteristics.

Prohibited equipment includes:

- ✓ Any aircraft, vessels or vehicles that inherently contain weaponry, (e.g. tanks, Bradley fighting vehicles, armed drones)
- ✓ Crew served/large caliber (.50 cal. or greater) weapons and ammunition
- ✓ Military uniforms; body armor; Kevlar helmets
- ✓ Explosives or pyrotechnics of any kind
- ✓ Also, aircraft and vehicles available in the program are “demilitarized,” meaning that any specific military technology (e.g. communication equipment) are removed prior to transfer to law enforcement agencies.



Source: 1033 Program FAQs

<https://www.dla.mil/DispositionServices/Offers/Reutilization/LawEnforcement/ProgramFAQs.aspx#q8>

SPD INVOLVEMENT IN 1033 PROGRAM



- SPD first procurement of equipment from this program were four sets of binoculars in 1991 followed by 16 M16 rifles in 1998.
- Also received were a Humvee, 10 shotguns, one M79 Grenade Launcher, 11 handguns, and one M14 rifle.
- Our armored personnel carrier (APC) was received in 2011 at a cost of \$5,000.
- Between 1993 and 2019, all equipment acquired through this program except for the APC has been returned to the government.

WHAT ARE THE PURPOSES OF APC'S IN AMERICAN LAW ENFORCEMENT?

- Provides armored cover from gunfire for both civilians and law enforcement.
 - Provides distance between the suspect and the police.
 - Allows for safe communication between the negotiator and the suspect.
 - Provides for mobile cover.
 - Allows for a psychological factor.
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CITIZEN CONCERNS: WHY AND WHEN IS IT APPROPRIATE TO USE OUR APC?

WHY:

- Only used when *potential* for an armed encounter is elevated or occurring.
- Enhances citizen and officer safety during high risk operations.
- Mere presence of APC can result in decreased likelihood of violent encounters (psychological effect).



WHEN:

- Chief of Police approves each deployment.
 - In 2019, our APC was used five times, all for narcotics related search warrants with suspects having known violent criminal history and/or weapons being present.
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2017-PRESENT OVERALL USE OF OUR APC

PLACED IN SERVICE ON 49 OCCASIONS:

- 22 times for Law Enforcement operations
- 15 times for training purposes
- 12 times for public relations events
- Most recently, on 03/11/2020, involving a barricaded subject with a hostage and weapons present



THE SUNFLOWER COALITION CONCERNS

- ▣ Concerns with the militarization of civilian law enforcement.
 - ▣ Concerns with the SPD “acquiring military equipment such as rifles, armored or weaponized drones, aircraft, grenades, surveillance technologies, silencers, militarized armored vehicles, or other such military equipment through any other means.”
 - ▣ A request that the city no longer participate in the 1033 Program.
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1033 PROGRAM PARTICIPATION PROPOSAL

BY RESOLUTION, ANY FUTURE REQUESTS FROM THE 1033 PROGRAM BY THE SPD WILL REQUIRE COMMISSION APPROVAL IN AN OPEN MEETING.

This will result in:

- ☑ Better Transparency
- ☑ Oversight
- ☑ Accountability



QUESTIONS/COMMENTS

CITIZEN REVIEW BOARD PROPOSAL



“Change is the law of life and those who look only to the past or present are certain to miss the future.”

- John F. Kennedy

HISTORY OF SALINA POLICE DEPARTMENT LAW ENFORCEMENT ADVISORY BOARD

In 2005, Kansas Legislature enacted legislation addressing the subject of racial and other profiling. This legislation:

- Established a governor's task force on racial profiling.
 - Made it unlawful for any LEO or police agency to engage in racial profiling.
 - Precluded race, ethnicity, national origin, gender or religious dress to be a sole factor in determining probable cause for arrest.
 - Required all Kansas law enforcement agencies to adopt a detailed written policy to preempt racial profiling.
 - Provided direction for complaints regarding racial profiling.
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ADDITIONAL LEGISLATURE REQUIREMENTS

In addition, the following was included in this legislation:

“For law enforcement agencies of cities of the first class, establishment or use of current independent citizen advisory boards which include participants who reflect the racial and ethnic community, to advise and assist in policy development, education and community outreach and communications related to racial profiling by law enforcement officers and agencies.” (KSA 22-4610) (c)(3)

Chief Hill established the L.E.A.B. and the Mission Statement mirrored verbiage found in the above legislation.



Current LEAB members and years of service:

L to R: Joel Wimer (12), Millie Moye (5), Vanessa Burns (5), Robert Cunningham (8),
Not pictured, Bridget Weiser (5)

L.E.A.B. HISTORY

- ▣ First Board Meeting – May 10, 2007
- ▣ Advisory to the Chief of Police and Saline County Sheriff
- ▣ Recommendations are non-binding

After conferring with the City Legal Department, it was determined that the L.E.A.B. was not subject to the Kansas Open Meetings Act (KOMA).

Source: Police Advisory Committee Minutes, May 10, 2007.

In its current form, this is still the case.

L.E.A.B. BYLAWS SCOPE OF WORK

- **Review/develop/recommend policies for law enforcement officers and the agencies as it relates to the prohibition of racial profiling and other law enforcement community-related issues assigned to the board by either the Chief of Police of Salina and/or the Sheriff of Saline County.**
- **Review and recommend training that includes an understanding of historical and cultural systems that perpetuate racial profiling, and assists in identifying racial profiling practices.**
- **Review and recommend other training topics assigned by the Chief of Police and/or the Sheriff.**
- **Review/develop/recommend strategies to inform the public of an individual's right to file a complaint and of the procedural process.**
- **Review/develop/recommend strategies to inform the public of the appropriate contact information and the proper procedures for filing a complaint.**
- **Review/develop/recommend methods to increase public awareness of law enforcement efforts to deal compassionately, yet firmly, with alleged violators.**

LEGISLATION CHANGE

2011 Kansas State Statutes

22-4611b. Community advisory boards; establishment, cities, counties. The governing body of any city, by ordinance or the sheriff of any county may, establish a community advisory board to work with the law enforcement agency of such city or county in accordance with the provisions of K.S.A. 22-4606 et seq., and amendments thereto.

History: L. 2011, ch. 94, § 6; July 1.

MANDATORY BIAS-BASED POLICING REPORT

- ★ This 2011 legislation removed the 2005 requirement that cities of the first class establish independent citizen advisory boards, but mandated annual bias-based policing reports be submitted to the Attorney General's Office.

KSA 22-4610(d) requires all law enforcement agencies to file an annual **report** of complaints alleging racial or other **bias-based** policing with the Office of the **Attorney General** at the end of each state fiscal year. **Reporting** is required even if no complaints were received. The **report** is due by July 31.

BIAS-BASED POLICING ANNUAL REPORT

Questions

1. Have all of law enforcement officers serving in the agency who were not exempted from annual training by the Kansas Commission on Police Officer Standards and Training completed training required in K.S.A. 22-4610 subsection (c)(2)(A)?: YES
2. Does the agency have a policy prohibiting racial or other biased-based policing?: YES
3. Does the agency mandate specific discipline for sustained complaints of racial or other bias-based policing?: YES
4. Does the agency have a racial or other bias-based policing community advisory board?: YES
5. Does the agency have a racial or other biased-based policing comprehensive plan?: NO
6. Does the agency collect extra pedestrian or traffic stop data, pursuant to the racial and other biased-based policing statute (beyond standard citation data)?: NO



COMPREHENSIVE PLAN

QUESTION #5:

- ▶ Does the agency have a racial or other bias-based policing comprehensive plan?

PLAN vs. POLICY

- ▶ Since 2011, we have had four different staff members complete this report resulting unfortunately in different interpretations of policy vs. plan.
- ▶ We presently have a bias-based policing policy and have since 03/20/2003.
- ▶ On 09/08/2020, we completed our bias-based policing comprehensive plan.

“This comprehensive plan is optional and the Attorney General’s Office does not confirm, validate or collect individual agency plans.”

Sarah Brown, Complaint Intake Specialist - Racial Profiling & Bias-Based Policing Unit, Kansas Attorney General’s Office

WHAT CONSTITUTES A COMPREHENSIVE PLAN?

- 1) Policies prohibiting racial or other biased-based policing to guide well-meaning officers and address racist officers;
- 2) Policies to promote the recruitment and hiring of a diverse workforce to ensure the workforce is comprised of people who can police in a race-neutral and nonbiased fashion;
- 3) Training to promote employees' controlled responses to override racial and other biases;
- 4) Ongoing training of supervisors to enable them to detect and respond effectively to biased behavior;
- 5) Implement a style of policing that promotes positive interactions between police officers and all communities;
- 6) Whether or not the governing body or sheriff has included data collection as part of the comprehensive plan (optional), and
- 7) Other matters deemed appropriate.

Source: K.S.A. 22-4611a

OPTIONS PRESENTED

KWU LISTENING SESSION / JUNE 29, 2020

- 1) Continue the L.E.A.B. as it has been since 2007, maintaining the status quo.
- 2) By Commission Action, recognize and approve the L.E.A.B. as a city board.
- 3) Consider the formation of a Citizens Review Board (CRB), AKA Civilian Oversight Board, thereby abolishing the L.E.A.B.

At the 07/22/2020 Commission Meeting, Staff was asked to present a CRB proposal in a Study Session.

MULTIPLE SOURCES FOR GUIDANCE/RECOMMENDATIONS

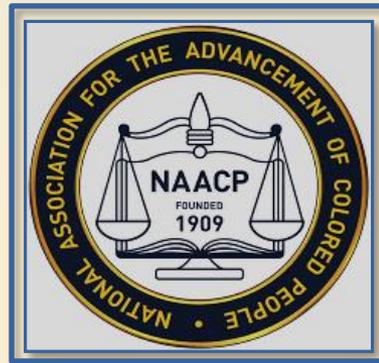
- International Association of Chiefs of Police
- National Association for Civilian Oversight for L.E. ([NACOLE*](#))
- NAACP
- Other communities in Kansas
- Commission input
- The Sunflower Coalition Policy Proposal – July 15, 2020



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- * *The mission of The National Association for Civilian Oversight of Law Enforcement ([NACOLE](#)) is to create a community of support for independent civilian oversight entities that seek to make their local law enforcement agencies more transparent, accountable, and responsive to the communities they serve.*

NAACP

INCREASING COMMUNITY ENGAGEMENT



“A crucial part of this process is recognizing the historical factors that have led to distrust between police and communities and taking concrete steps to remedy them. An independent civilian complaints review board is necessary to ensure that the community is engaged in addressing police misconduct.”

Source: *Pathway to Police Reform Community Reform Mobilization Toolkit:*
<https://www.naacp.org/wp-content/uploads/2018/07/Toolkit.pdf>

COMMUNITY ADVISORY BOARDS IN KANSAS

- ▣ Citizen Review Board – Wichita
- ▣ Citizen Advisory Board – Overland Park
- ▣ Citizens Police Advisory Council – Olathe
- ▣ Citizens Advisory Council – Topeka
- ▣ Community Police Review Board – Lawrence
- ▣ Chiefs Advisory Board – Lenexa
- ▣ Community Advisory Board – Riley County
- ▣ Law Enforcement Advisory Board - Salina



THE SUNFLOWER COALITION POLICY PROPOSAL - 07/15/2020

Request that our present Law Enforcement Advisory Board be replaced by a Citizens Review Board governed by the City Commission to address concerns with:

- Limited scope of L.E.A.B.'s jurisdiction
- Current review authority of L.E.A.B.
- Transparency
- Selection process for present board members and potential conflicts of interest



CIVILIAN OVERSIGHT DEFINED

Civilian oversight may be defined as the following:

- ❑ Investigates, audits, or reviews internal law enforcement investigations or processes, including community complaints and use of force incidents.
- ❑ Conducts ongoing monitoring of law enforcement agencies' policies, procedures, training, management, and supervision practices.
- ❑ Includes any agency or process that involves active participation in the above by persons who are not sworn law enforcement.

Source: https://www.nacole.org/civilian_oversight_basics
National Association for Civilian Oversight for L.E. (NACOLE)

KS COMMUNITY ADVISORY BOARDS VARIED PURPOSES

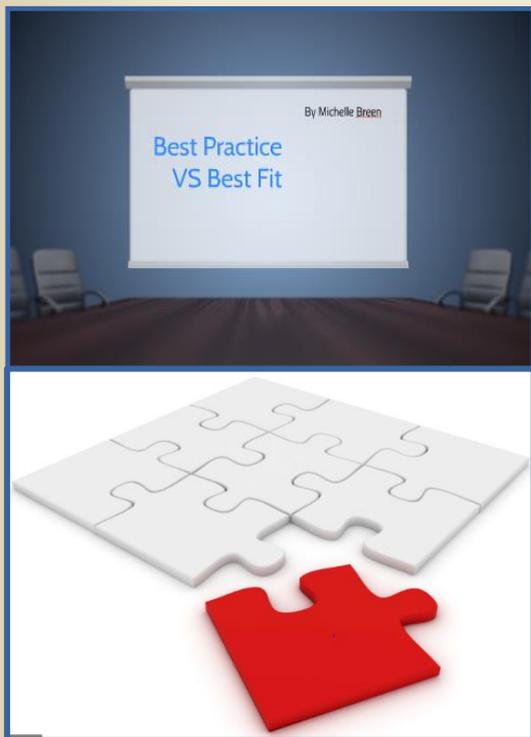
MANY DIFFERENCES

- Board members chosen by City Manager, Mayor or Police Chief
- Number of board members varied from 7-15
- Residency requirements, background checks, citizenship

BUT SEVERAL CONSTANTS

- Post-reviews of investigative process and findings
- None possessed subpoena powers or had independent investigations
- All reviews are confidential
- Board/commission authorized to review completed internal investigations can agree/disagree with findings
- Board determinations are advisory and non-binding
- References to diverse/representative committee makeup in varying forms

'BEST FIT' vs. 'BEST PRACTICE'



- There are no “Best Practice” for forming a CRB as communities and agencies vary greatly.
- There exists a necessity to balance the need and allocation of resources.
- The best form of oversight depends on the circumstances faced by jurisdiction and the need for additional oversight (Transparency, KOMA, Conflict of Interest).
- The least intrusive means of oversight.

Source: IACP.net, Briefing Paper #302 *Civilian Oversight of Law Enforcement: A Review of the Strengths & Weaknesses of Various Models*

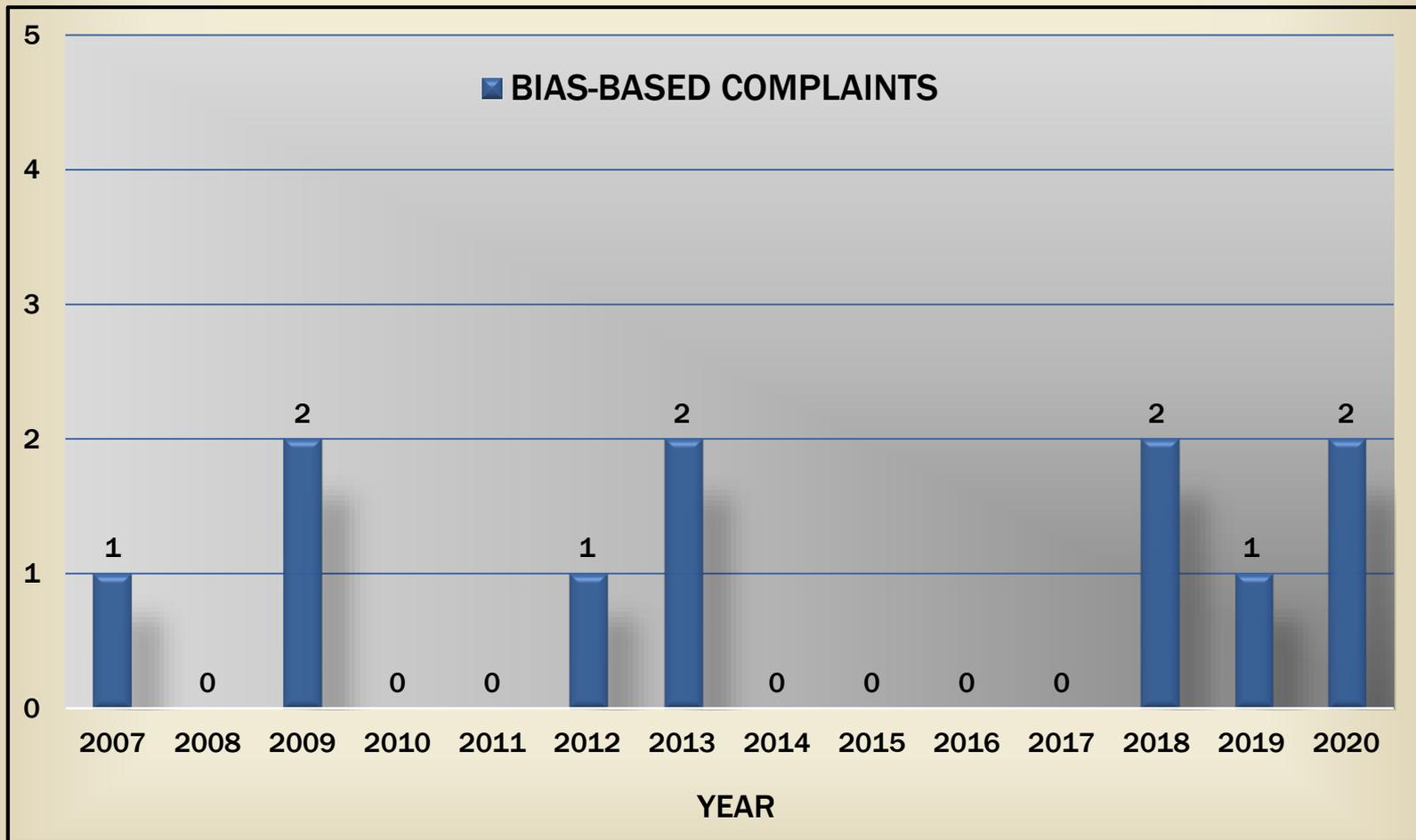
CURRENT COMPLAINT PROCEDURE

- ❑ **The complaint is received from a citizen through one of the following methods:**
 - **Submission of the online complaint form**
 - **Direct telephone call**
 - **Email**
 - **In-person**
 - **Anonymous complaint**
 - **Complaint made to L.E.A.B. member**
 - **Supervisor**
 - **Internal Affairs**
- ❑ **The Chief of Police assigns the complaint to be investigated by Internal Affairs or other supervisor.**
- ❑ **The findings are presented to Chief of Police.**
- ❑ **The Chief of Police determines an appropriate response.**
- ❑ **The conclusion of all bias-based policing complaints are presented to the Law Enforcement Advisory Board.**

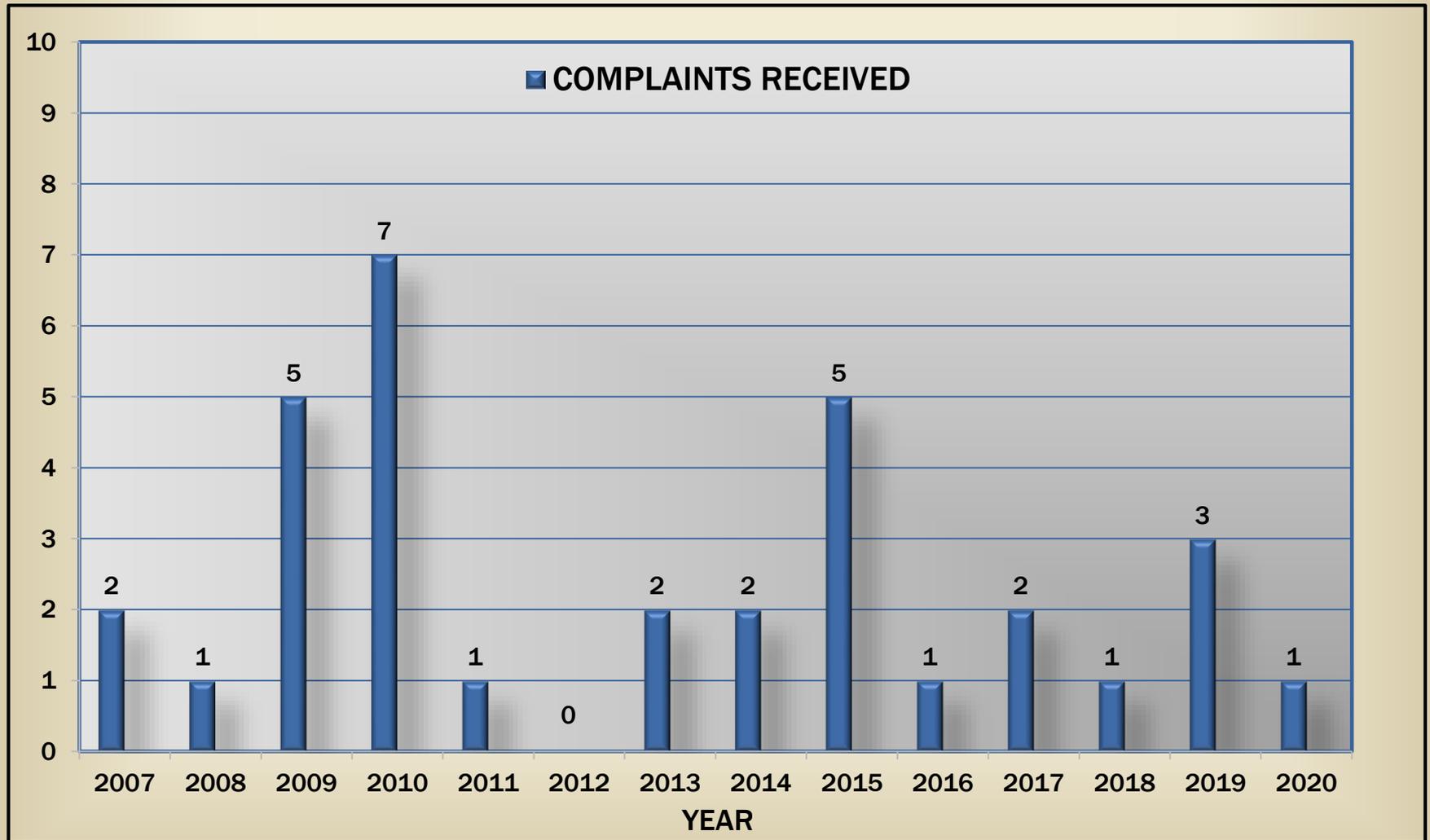
SPD ONLINE COMPLAINT FORM

City Manager's Office	<h2>Salina Police Department</h2> <h3>Mission</h3> <p>To deliver police services equitably, effectively, and within the context of democratic values, in order to resolve community issues and problems and provide for the safety and security of our citizens.</p> <p>The Salina Police Department is a full-service, municipal police organization, consisting of 115 authorized personnel, serving in three operating divisions: Management, Administrative and Operations.</p> <p>The police department exists for the purpose of protecting and serving the people of Salina. Vital to this purpose are our values, which reflect what the department believes in as an organization. These beliefs are reflected in the department's recruiting and selection process, policies and procedures, training and development, and ultimately, in the actions of its officers in delivering services.</p> <p>Values reflect what the department considers important and determine the way officers view not only their role, but also the people they serve. Moreover, our values serve as a linkage between the ongoing operations of the department and the community's ability not only to participate in, but also understand the reason for police department strategies.</p> <p>Our operational philosophy is based on the following values, which we believe are conducive to good policing:</p> <ul style="list-style-type: none">• The Salina Police Department places the highest value on human life• The Salina Police Department must preserve and advance the principles of democracy• The Salina Police Department believes that the effective delivery of police service is dependent on community involvement• The Salina Police Department believes that it must be accountable to the people it serves• The Salina Police Department is committed to professionalism in all aspects of its operation• The Salina Police Department strives to maintain the highest standards of integrity• The Salina Police Department values its members, the caring men and women who comprise the department	<h3>Contact Information</h3> <p>Salina Police Department 255 N. 10th St. Salina, KS 67401</p> <p>(785) 826-7210 (non-emergency line) 9-1-1 (emergency line)</p> <p>Brad Nelson Chief of Police Chief's Bio</p> <p>Email</p> <h3>Hours</h3> <p>12 a.m.-12 p.m. Monday-Sunday</p> <h3>Additional Links</h3> <p>Crimestoppers</p> <p>Organizational Chart</p> <p>SPD Policies</p> <p>2020 CALEA compliance review</p> <p>Value of Accreditation</p> <p>CALEA Standards</p>
Community & Development Services		
Community Relations Division		
Computer Technology Department		
Finance & Administration Department		
Fire Department		
Human Resources Department		
Municipal Court		
Parks & Recreation Department		
Police Department		
▶ Accreditation		
▶ Annual Reports		
▶ Burglar, Panic & Robbery Alarm Permits		
▶ Citizens' Complaint & Commendation Forms		
▶ Community Outreach & Crime Prevention		
▶ Continuous Process Improvement Legacy		

BIAS-BASED POLICING COMPLAINTS 2007 - 2020



USE OF FORCE COMPLAINTS 2007 - 2020



COMMON MODELS OF OVERSIGHT

- Review Focused Model
- Investigation Focused Model
- Auditor/Monitor Focused Model
- Hybrid Model

“Reviewing completed internal affairs investigations is the most common oversight function across all model types.”



REVIEW FOCUSED MODEL

- ▣ Ensures the community has the ability to provide input in the complaint investigation process.
 - ▣ Community review of investigations may increase public trust in the process.
 - ▣ An individual or a board/commission authorized to review completed internal investigations can agree/disagree with findings.
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INVESTIGATION FOCUSED MODEL

- ▣ May reduce bias in investigations into citizen complaints.
- ▣ Full-time civilian investigators may have highly specialized training.
- ▣ Investigations conducted by oversight agency does not rely on investigators from within the police department.
- ▣ Civilian-led investigations may increase community trust in the investigation process.
- ▣ NYC Police Department - Completely independent of the P.D., possess subpoena powers and have investigative authority.
- ▣ Requires the most resources.

AUDITOR/MONITOR FOCUSED MODEL

- ▣ Emerged as a result of political compromises between community activists and law enforcement agencies.
- ▣ Has more robust reporting practices than other models.
- ▣ May promote long-term, systemic change in police departments.
- ▣ Tends to be less expensive than full investigative agencies, but more expensive than review-focused models.
- ▣ Allows the agency to actively engage in many of the steps of the complaint process.
- ▣ Reviews patterns and practices.

Note: Also requires significant resources for dedicated auditing and monitoring staff.

Source: https://www.nacole.org/civilian_oversight_basics *Civilian Oversight 101 Training Video*

HYBRID MODEL

- ▣ Contains elements from one or more of the three models.
- ▣ Has been developed to address the needs of a specific community and conform to state or local laws.
- ▣ May be a modification of a previous oversight agency.
- ▣ Is increasingly common.

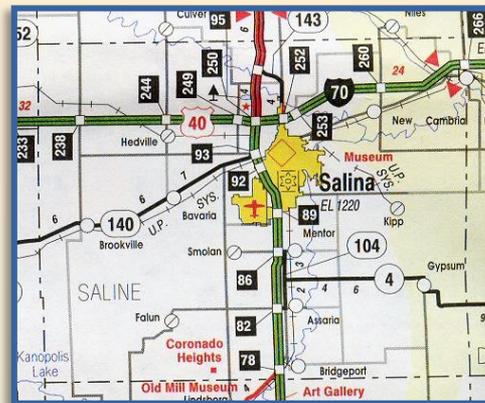


SPD PROPOSED CRB REVIEW FOCUSED MODEL

- ▣ **Independent Citizens Review Board (CRB) enacted by ordinance.**
- ▣ **To be structured similar to other City of Salina public boards:**
 - **Board members approved by Commission upon recommendation by the mayor.**
 - ▣ **Required to be a Saline County resident.**
 - **Hold meetings in public in accordance with Kansas Open Meetings Act and Kansas Open Records Act.**
 - **Chief of Police to be ex-officio member.**
 - **Citizen's forum included on each agenda.**
- ▣ **Review completed investigations and provide feedback to the Chief of Police regarding specific complaints received from the community.**
- ▣ **Prepare an annual report submitted to City Commission by the CRB.**
- ▣ **Authorized to review and recommend changes for all public disseminated policies.**

(CONTINUED)

- Continue current L.E.A.B. recommendation that the board will “Reflect the racial/ethnic diversity of Salina, Saline County. This does not mean that the board membership must match the City of Salina or the County of Saline racial/ethnic demographics. It is recommended that minority groups be over-represented on this board.”



CRB SCOPE OF WORK (PROPOSED)

The Salina Citizen's Review Board assists the Salina Police Department with community outreach and advises the Police Department about community concerns. In addition, the Board serves to provide assistance in policy development, use of force complaints, education and communications related to racial and other biased-based policing.

Review and provide feedback to the Chief of Police regarding completed investigations and resolution of complaints regarding:

- ❑ Bias-based policing
- ❑ Use of force

In addition, in any SPD officer-involved shooting incidents, CRB members will be briefed upon completion of KBI investigation and the review by the County Attorney's Office.

SCOPE OF WORK - CONTINUED

- ▣ Receive civilian complaints and forward them to the Police Department.
 - ▣ Review policy, recommend changes and ensure compliance.
 - ▣ Perform community outreach.
 - ▣ Assist the department in preparing and disseminating any educational material regarding the CRB's function and role in our community.
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“It is not the Board’s duty to re-investigate the alleged misconduct or any portion of the Police Department’s investigation, it is to determine whether the P.D.’s findings are supported by the evidence it had before it.”

*City of Lawrence, Kansas
Community Police Review Board Bylaws*

OTHER AVENUES TO FILE A COMPLAINT



**Kansas Attorney General's Office
Racial and Bias-Based Policing Complaint Form**

<https://ag.ks.gov/public-safety/racial-and-bias-based-policing>



Upon approval of the KBI Director, the Special Operations Division may investigate complaints against Kansas law enforcement officers.

*KBI Special Agent in Charge Jeff Newsome
Professional Standards Division*



“The ability of the police to perform their duties is dependent upon public approval of police action.”

- Sir Robert Peel, 1829