

WINTER HAVEN POLICE DEPARTMENT

GENERAL ORDER 52.1

INTERNAL AFFAIRS

**ACCREDITATION STANDARDS: CALEA – 11.4.5, 52.1.1, 52.1.2, 52.1.3, 52.2.1, 52.2.3, 52.2.4
CFA – 2.07, 20.01, 20.02, 20.03, 20.04**

EFFECTIVE DATE: OCTOBER 30, 1995

RESCINDS: G.O. 52.1 January 5, 2018 and all applicable Amended/Temporary Orders prior to October 10, 2018

LAST REVISED DATE: October 10, 2018

CONTENTS

This General Order contains the following numbered sections:

- I. Internal Affairs Unit
- II. Internal Affairs Authority
- III. Complaint Procedures
- IV. Complaint Classification
- V. Citizen Complaints
- VI. Duties of Internal Affairs
- VII. Notification of Members
- VIII. Internal Affairs Investigations
- IX. Conclusions to Internal Investigations
- X. Relief from Duty
- XI. Required Examinations
- XII. Statistical Data
- XIII. Reporting to FDLE/CJSTC
- XIV. Definitions

POLICY

It shall be the policy of the Winter Haven Police Department to investigate all administrative complaints against the agency and its members. The Department shall maintain an Internal Affairs Unit which shall thoroughly, expeditiously and impartially investigate all assigned complaints or cases involving the Department's integrity. The Internal Affairs Unit is an organizational component reporting to the Deputy Chief of Police.

PURPOSE

The purpose of this General Order is to establish guidelines for the administration and operation of the Internal Affairs Unit for investigating all administrative complaints.

SCOPE

This General Order shall apply to all Department members.

DISCUSSION

The Internal Affairs Unit is important for the maintenance of professional conduct in a law enforcement agency. The integrity of the Department depends on the personal integrity and discipline of each member. A system to review and investigate all complaints and allegations is essential to establish and maintain the confidence of the citizens of Winter Haven, to protect the integrity/rights of Department members, and to protect the public from unprofessional conduct by Department members.

PROCEDURE

I. Internal Affairs Unit

- A.** The Internal Affairs Unit shall be responsible for recording, registering and reviewing all alleged or suspected administrative complaints against the Department and its members. The Internal Affairs Unit shall maintain the integrity and confidentiality of all administrative investigation files and records, in accordance with Florida State Statute 112.533. The Internal Affairs Unit shall maintain a computerized Administrative Investigations Management System (AIMS). (CALEA 52.1.2) (CFA 20.01b, d, e, f)
- B.** The Internal Affairs Unit shall report directly to the Deputy Chief of Police on matters related to internal affairs, and shall be afforded direct access to the Chief of Police on matters relating to Internal Affairs. (CALEA 52.1.3)

II. Internal Affairs Authority

- A.** Internal Affairs members or any member conducting an internal affairs investigation directly represent the Chief of Police and shall receive the cooperation of all members of the Department while conducting the investigation.
- B.** The sole responsibility of Internal Affairs is to gather all the facts regarding the allegations. Internal Affairs shall be objective and thorough when submitting all reports.
- C.** The Internal Affairs Unit shall only conduct administrative investigations upon authorization from the Chief of Police or Deputy Chief's absence their designee.
- D.** Complaints involving alleged criminal violations shall be referred to the appropriate investigations unit for initiation of a criminal investigation upon authorization of the Chief of Police or Deputy Chief.

III. Complaint Procedures

- A.** The Winter Haven Police Department shall investigate all complaints against Department members in a courteous and professional manner, documenting the same.
- B.** The following complaints shall be investigated by the Internal Affairs investigator. These complaints include: (CALEA 52.2.1b) (CFA 20.01c)
 - 1.** Corruption and perjury;
 - 2.** Excessive use of force;

3. Use of force resulting in death or great bodily harm;
 4. Violation of civil rights;
 5. Allegations of bias based profiling;
 6. Allegations of gross misconduct; and/or
 7. Those less serious allegations of misconduct as directed by the Chief of Police. Any matter, subject or event may be investigated at the discretion of the Chief of Police.
- C. Complaints relating to minor allegations of misconduct not requiring an involved investigation may be referred to the supervisor of the affected member for investigation which includes but not limited to the following: (CALEA 52.2.1a) (CFA 20.01a)
1. Rudeness;
 2. Discourtesy;
 3. Tardiness;
 4. Misconduct;
 5. Insubordination;
 6. Job competency; and/or
 7. Neglect of duty.
- D. Whenever practical, supervisors shall take corrective action to resolve minor complaints which result from a misunderstanding, or require minimal or no follow-up investigation to resolve the complaint.
- E. All administrative and/or criminal complaints received by the Department involving the Department or a Department member(s) shall be documented on an Administrative Complaint Form. This includes anonymous complaints, complaints received by telephone, mail or electronically. (CALEA 52.1.1)
- F. Internal Affairs shall review and maintain a record of all complaints filed against the Department and its members. This shall include a case numbering system.

IV. Complaint Classification

- A. Neglect of Duty;
- B. Improper Conduct;
- C. Competency, Job Knowledge, Proficiency;
- D. Unlawful Conduct; or
- E. Insubordination.

V. Citizen Complaints

- A.** In the normal course of Law Enforcement Operations, actions of its members may become the center of citizen criticism. Citizens who have a complaint are encouraged to notify the Department, any member, or by contacting Internal Affairs. Many citizen complaints are procedural misunderstandings between themselves and Department members. It is imperative the complaint is reviewed and every attempt to reinstitute proper citizen/member relations is made. Therefore, the following established procedures are to be used by the Department when taking citizen complaints regarding internal matters.
- 1.** All citizens who seek to file a complaint shall be promptly directed to a supervisor or Internal Affairs in order to record the complaint. Members shall explain the complaint and investigative process to citizens who inquire about filing a complaint.
 - 2.** All complaints, regardless of manner received, with the exception of those associated with pending civil litigation, shall be entered on an Administrative Complaint Form.
 - 3.** If a citizen wishes to remain anonymous, it shall be documented on the form by the receiving member.
 - 4.** When receiving a complaint via telephone, the member shall advise the complainant to come to the Department to file the complaint or refer them to Internal Affairs. If necessary or requested, an Administrative Complaint Form may be mailed to the citizen or an Internal Affairs investigator shall make arrangements to meet with the citizen if they are physically unable to respond to the Department.
 - 5.** When a citizen is found to be physically unable or lacks the minimum writing skills to complete the form, it shall be prepared by the receiving member.
 - 6.** Citizens unable to speak or write in English should be encouraged to submit the complaint in their native language or have an interpreter available.
 - 7.** The complaint shall be forwarded, via the chain of command, to the Deputy Chief of Police for review. After review, the Deputy Chief of Police shall:
 - a.** Forward the complaint to the Internal Affairs Officer for further investigation;
 - b.** Declare the complaint unfounded;
 - c.** Initiate disciplinary procedure without further investigation.
 - d.** Forward the complaint to the supervisor of the affected member for further investigation.
 - e.** If Internal Affairs does not investigate the complaint, a copy of the complaint shall be forwarded immediately to the Internal Affairs Unit for review and assignment of a control number.

- a. A memorandum shall be prepared and directed to the attention of the involved member's Bureau Commander via the chain of command.
- b. The memorandum shall state the member's name, rank, and division assignment; date, time and location of the alleged violation; and full details concerning the allegation. It shall be signed by the member or supervisor reporting the alleged violation and include their rank and division assignment.
- c. The original copy shall be forwarded to the involved member's Bureau Commander. A copy shall be forwarded to the Internal Affairs Unit for review and assignment of a control number.
- d. Upon receipt of the allegation, the Bureau Commander may:
 - 1) Summarily dispose of the matter, reporting the results to the Chief of Police; or
 - 2) Recommend that Internal Affairs assume the investigation.

VI. Duties of Internal Affairs

- A. Internal Affairs investigators are responsible for keeping all complaints and related material confidential until the conclusion of the case. No material shall be left unattended or in an unsecured location. Completed or unattended files shall be secured in locked file cabinets in the Internal Affairs Office or the Office of the Chief of Police. (CALEA 52.1.2) (CFA 20.01f)
- B. Internal Affairs investigators must use imagination, initiative and ability to successfully complete the case. No absolute guidelines can be established to cover investigations, as they are different.
- C. Internal Affairs investigators shall outline the case to determine the most appropriate course of action in scheduling interviews and gathering relevant evidence.

VII. Notification of Members

- A. When a member is to be notified that they are the subject of an internal investigation, the Department shall issue a written statement of the allegations and the member's rights and responsibilities related to the investigation. Where confidentiality is deemed necessary due to the sensitivity of the investigation, the member shall not be notified of the investigation until prior to the initial interrogation. (CFA 20.02)
- B. All members who are subjects of an administrative investigation and their commanders shall be notified in writing by the Chief of Police or their designee of the outcome of the investigation. The notification shall contain the conclusion of fact and disposition in the case with copies sent to the member and their commander.

VIII. Internal Affairs Investigations

- A. All Internal Affairs investigations into allegations of misconduct against a sworn member shall be in accordance with the Florida Law Enforcement Officer's Rights provisions of Florida State Statute 112.

- B.** The allegations specified by the complainant shall be thoroughly investigated.
- C.** Contacts with the complainant shall be made no later than two days after receipt of the case by the investigating member.
- D.** When an investigation reveals possible criminal action may result against a member, the Chief of Police shall be advised immediately. The Chief will decide when a criminal investigation shall commence and who shall conduct it. Criminal investigations against a member shall be guided by the standards for the conduct of any criminal investigation. Internal Affairs members shall not conduct criminal investigations. (CALEA 11.4.5)
- E.** The investigating member must determine, as soon as possible, whether the investigation is administrative or criminal to avoid compromising any member's constitutional rights.
- F.** The investigation shall not be broadened into areas not a part of the original allegation. If information of a serious nature comes to light, that information shall be forwarded to the Chief of Police for a decision on what course of action will be followed.
- G.** Members under administrative investigation are required to answer truthfully and fully all questions related to the performance of their duties. Failure to answer questions related to the performance of duties may result in disciplinary action. However, no information obtained through the compelled statement may be used in any future criminal prosecution.
- H.** No participant in an internal affairs investigation, including the complainant, the officer(s) under investigation, the Internal Affairs Investigator or any witnesses in the investigation shall disclose any information obtained during the Department's investigation, until such investigation becomes public record, including, but not limited to: (CFA 20.01g)
 - 1.** The identity of the officer(s) under investigation.
 - 2.** The nature of any questions asked.
 - 3.** Any information revealed.
 - 4.** Any documents furnished in connection with the confidential internal investigation.

IX. Conclusions to Internal Investigations

- A.** Each internal investigation shall contain one of the following conclusions, which are based on the facts of each investigation. (CFA 20.04)
 - 1.** UNFOUNDED - Allegation is false or the incident as alleged did not occur.
 - 2.** EXONERATED - Incident occurred, but actions were lawful and proper.
 - 3.** NOT SUSTAINED - Insufficient evidence to prove or disprove the allegation.
 - 4.** SUSTAINED - The allegation did occur.

5. PARTIALLY SUSTAINED - The incident has two or more allegations and at least one of the allegations is sustained.
6. POLICY FAILURE - The allegation is true, but the investigation reveals policy or procedural changes are necessary.
7. OTHER - The evidence supports a sustained violation for some other matter discovered during the investigation.

X. Relief from Duty (CFA 2.07, 20.03)

- A. At any stage of an Internal Affairs investigation, commensurate with the seriousness of the action/conduct involved in the case, the concerned member may be relieved from duty at their place of assignment. Such relief from duty may be due to physical or psychological unfitness, and action pending disposition of an internal investigation, or when it is not in the best interest of the public interest not to have the member on active duty. In lieu of relief from duty, members may be assigned administrative positions pending the outcome of an investigation.
- B. Authority for relief from duty rests solely with the Chief of Police. However, under certain exigent or unique circumstances, a Bureau Commander or the immediate Officer in Charge may relieve a member from duty as outlined in General Order 26.1
 1. Whenever a member is placed on suspension with pay, they shall ensure their prompt availability to the Department during normal work hours between 8 a.m. and 5 p.m., Monday through Friday, until investigation of the incident is complete.

XI. Required Examinations

- A. When an examination is specifically directed and narrowly related to an administrative investigation being conducted by the Department, the members of the Department shall adhere to the following guidelines:
 1. Members shall submit to all testing methods for the detection of illegal drugs when directed. Tests for members shall be conducted in accordance with Florida State Statute 440.102, and the City of Winter Haven's Drug and Alcohol Policy.
 2. A member shall be required to be photographed or participate in a lineup if it is material to an administrative investigation. (CFA 20.03b, c)
 3. Members may be required to submit financial disclosure statements if the investigation involves questions of a financial nature relating to an administrative investigation. (CFA 20.03d)
 4. Department issued or assigned property shall be subject to a warrantless search based on reasonable suspicion.
 5. Members may be required to submit to other types of medical or laboratory procedures related to administrative investigations. (CFA 20.03a)
 6. No member shall be required to submit to a device measuring truth response during questioning. However, there shall be no restriction on the right of a member to submit to such device on a voluntary basis. (CFA 20.03e)

XII. Annual Report

- A. The Inspector shall prepare an annual statistical summary report of all complaints against the Department and its members. This report shall be forwarded to the Chief of Police through the chain of command.

XIII. Reporting to FDLE/CJSTC

- A. Pursuant to state regulations, the Officer in Charge of Internal Affairs is responsible for reporting to the Florida Department of Law Enforcement/Criminal Justice Standards and Training Commission all sustained violations of Florida State Statute 943.13(4) and (7); violations of felony statutes or moral character. This regulation mandates reporting regardless of the discipline imposed by the Department for the sustained violation.

XIV. Definitions

- A. *Administrative Investigation* – The systematic, objective and impartial method of investigating certain complaints of inappropriate behavior resulting in a violation of the Department’s administrative rules, orders, directives and procedures by Department members.
- B. *Allegation* – A statement offered without proof; as assertion made by a party that must be proved or supported with evidence.
- C. *Complaint* – An allegation made to the Department in person, writing or by telephone. Violations of criminal offenses punishable under the laws of the United States, the State of Florida, Polk County, any municipality, or any Department order, procedure, directive or lawful command.
- D. *Discipline* – Administrative action taken against a member for violation of Department rules and regulations.
- E. *Internal Affairs* – An investigating section under the staff authority of the Chief of Police, with the responsibility for overseeing or directly investigating all allegations of internal violations against members.
- F. *Members* – Any persons employed by or affiliated with the Winter Haven Police Department.

APPROVED 
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