



Independence Police

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GENERAL ORDER	No. 1994-027	Page 1 of 10
SUBJECT: Internal Affairs	EFFECTIVE DATE: April 1, 1994	
	REVIEW/REVISION DATE: December 16, 2015	
	REFERENCE: FOP Work Agreement Article 12; State Certification Standards 30.1 through 30.7	

PURPOSE

Establish the function and the duties of the Internal Affairs Unit.

POLICY

It is the policy of the Independence Police Department to ensure that the integrity of this department is vigilantly guarded by investigating all complaints alleging misconduct by an employee, sworn, or non-sworn. Complaints may be filed by the public or by employees of the department. All complaints will be investigated thoroughly, fairly, impartially, and expeditiously. In order to ensure public confidence, good order and discipline, while observing and protecting the individual rights of the employee, this order is hereby established.

PROCEDURE

Definitions

- **Complaint:** Action taken by a citizen or employee to focus administrative attention toward any action or inaction by an officer or employee which the complainant considers to be illegal, contrary to proper procedure or conduct, or is in any manner prejudicial to that citizen/employee, the department, or community as a whole. Complaints may be initiated by any person with direct knowledge of an alleged act of misconduct by any member of this department and may file a complaint through the completion of the departmental Citizen Complaint Form #12-0-176. Complaints concerning juveniles may be initiated by a parent or guardian, but the juvenile must be available for interview. In the case of incapacitated individuals, a complaint may be initiated by a third party on the behalf of the complainant until such time as the complainant may be interviewed. Complaints made by department employees will be in written form on the Citizen Complaint Form. **All** complaints will be given full attention.
- **Posting of procedures:** Procedures to be followed in registering complaints against this agency or its employees will be made available to the public on the department webpage.

Complaint Classifications:

- **Complaint Classification:** All complaints received by the department will be classified according to the nature of the complaint. The classification will be either a **Minor Complaint** or a **Major Complaint**. This classification will be utilized for the appropriate assignment of investigative responsibility.
 1. **Minor Complaint:** Complaints which indicate minor infractions of any rules or regulations, procedural infractions, or acts such as rude or discourteous conduct shall be included in the classification. This list is a basic guide but is not all-inclusive. Any complaint may be placed in this classification upon the direction of the Chief of Police.
 2. **Major Complaint:** Any complaint which alleges the misuse of force, deadly force, serious misconduct, criminal conduct, or driving while intoxicated. Brutality, corruption and breach of civil rights shall be included in this classification. This list is a basic guide and should not be considered as all-inclusive. Any complaint may be placed in this classification upon the direction of the Chief of Police.

Investigative Responsibility

- Internal Affairs investigations are to be confidential and conducted in strict conformity with the affected employee's work agreement or contract if applicable.
- Minor Complaints
 1. Investigated by the officer/employee's immediate supervisor.
 2. May be assigned to any appropriate personnel within the division by direction of the Division Commander.
 3. Results of investigation delivered to the Division Commander for review, approval, and necessary administrative action.
 4. Upon completion of investigation and administrative action, the complaint packet is forwarded to the Chief of Police for review and approval and then to the Internal Affairs Unit for filing.
- Major Complaints
 - Investigated by Internal Affairs Unit personnel.
 - Investigative procedures to be utilized in investigations of alleged criminal activity shall be established by the Chief of Police prior to the start of the Internal Affairs investigation.

The procedures will be consistent with departmental procedure and will protect the rights of all persons involved.

- The Internal Affairs Unit Commander will forward the results of the investigation to the Chief of Police for review, approval, and administrative action. The Internal Affairs Unit Commander will report directly to the Chief of Police on Internal Affairs matters.
- Alternative Assignment
- The Chief of Police shall have the authority to assign an investigation outside the previously stated guidelines should the Chief determine a need to do so.

Notification/Routing Time Frame

- After being completed and received by the Department, the complaint form will be routed to the Internal Affairs Unit.
- Assignment of investigative responsibility will be determined by the Internal Affairs Unit Commander. If the complaint is assigned as a Shift Level investigation, written notice of this assignment will be forwarded to the Division Commander and Bureau Commander immediately upon assignment. The Bureau Commander will give verbal notification directly to the Chief of Police.
- The Internal Affairs Unit Commander will notify the Chief upon receipt of all complaints which will be investigated by the Internal Affairs Unit.
- Investigators will be responsible for keeping the complainants aware of the status of the investigation through their investigative contacts with those individuals.
- The Commanders assigning investigations to any individual(s) outside the Internal Affairs Unit will establish a reporting procedure by which they will be kept fully informed of the status of the investigation.
- The primary objective of the department concerning the expedient completion of this investigation will follow the guidelines and procedures in accordance with all current work agreements or contracts.
- Investigations completed by individuals not assigned to the Internal Affairs Unit will be submitted upon completion to the Division Commander from which assigned. The Division Commander will review the investigation, take any necessary action, and document such action. The completed investigative package will then be forwarded to the Bureau Commander who will forward to the Chief of Police for review and then to the Internal Affairs Unit.

- The Commander of the Internal Affairs Unit will be responsible for the written notification provided to each complainant and subject officer advising the complainant and the officer of the results of the investigation. This notification must be forwarded following the receipt of the completed report by the Internal Affairs Unit.

Use of the Complaint Form

- The department form for the filing of complaints against members/employees of the department will be maintained within each Division by Unit Commanders. Additional forms will be stored according to department guidelines.
- Persons completing the form shall adhere to the basic guidelines for completion which follow:

Who is to complete the Form

- The supervisor receiving the complaint.
- The acting supervisor who receives the initial complaint (Only when a supervisor is not available).
- The complainant, but only if they request to do so. (If the form is completed by the complainant, it must be read completely by the supervisor taking the complaint to be certain that it is legible and understandable).
- Internal Affairs Unit personnel may also receive the initial complaint.
- The complaint form may be downloaded off the Department website and emailed to the Internal Affairs Unit.

How the Form is to be completed

- Each block is to be completed, if information is available.
- All information entered on the form must be neatly written and clearly legible or the information should be typed. Once received by the Internal Affairs Unit, the complaint will be signed and dated by the complainant at the time of the initial interview with the Internal Affairs Unit investigator.

Use and Routing of the Form

- The Citizen Complaint Report should be read to the complainant if there is any doubt as to their being able to understand the form.

- The Citizen Complaint Report is then completed and the complainant is advised to read the complete form before it is signed by the complainant and witnessed by the supervisor taking the complaint.**

****Note - The affirmation section at the bottom of the page must be read to the complainant prior to acquiring their signature on the form.**

- If requested, the Complainant shall be given a copy of the report as a receipt.
- Upon completion and signing of the Citizen Complaint Report, the report shall be sent to the Internal Affairs Unit Commander.

General Information

- **Persons wishing to file a complaint may:**

1. Request a complaint form from Police Service Desk Personnel. When possible, persons requesting a complaint form will be directed to an on-duty supervisor who will assist in completing the form. Persons requesting a complaint form but who do not wish to talk with a supervisor will be provided the form along with an envelope addressed to the Internal Affairs Unit. They will be directed to return the complaint in the sealed envelope to the Police Service Desk, or to mail the completed form to the Internal Affairs Unit. Desk Clerks are not to sign the “Witness” section of the complaint. If the complainant has signed and dated the form, the “Witness” section will be completed by the Internal Affairs Unit investigator.
2. Contact an on-duty supervisor. The on-duty supervisor will complete the complaint form and forward the complaint to the Internal Affairs Unit.
3. Contact the Internal Affairs Unit. Persons wishing to make a complaint may contact the Internal Affairs Unit, either by phone or in person. Persons wishing to speak in person with a representative from the Internal Affairs Unit should schedule an appointment in advance.
4. Go to the Department website: Complete the Internet complaint form located on the Department’s website and submit the form electronically.

- Once a complaint is received, no member of the Department will contact the complainant unless specifically assigned to the investigation. Any attempt to make unauthorized contacts with the complainants may result in disciplinary action.

- All interviews with complainants are to be conducted in the confines of an office and under no circumstances are we to discuss a complaint in the reception area or any location which allows uninvolved persons to observe.

- Under no circumstances will it be acceptable to refuse to hear a complaint nor will we take any action which requires the complainant to return at another time. The initial completion of the form must always be undertaken. This applies to complaints received by telephone and anonymous complaints received in any manner.
- Complainants may remain anonymous. However, before being investigated, complaints involving matters submitted by an anonymous source will follow the guidelines and procedures in accordance with the applicable work agreements or contracts. Complainants should be encouraged to provide contact information in order that follow up interviews can be conducted.

Organization and Responsibility

- The Internal Affairs Unit shall consist of a Captain as officer in charge and such personnel as is necessary to carry out assigned responsibilities and functions.
- The Internal Affairs Unit shall come under the direct supervision of the Chief of Police.
- The primary responsibilities of the Internal Affairs Unit shall be to investigate all allegations of misconduct by a member of the Department or any other complaint as may be assigned by the Chief of Police.

Procedural Process of Investigation

- This process is not to be confused with the normal supervisor/employee relationships which deal with performance and disciplinary matters that occur on a regular basis.
- The Internal Affairs Unit will conduct investigations into all allegations of criminal acts, use of deadly force, misuse of force, or serious misconduct. Also, any complaint assigned by the Chief of Police will be investigated.
- Shift Level investigations assigned through the Internal Affairs Unit will be investigated in accordance with the bargaining unit member/employee's current work agreement or contract.
- All investigations relating to improper action or conduct will be conducted in accordance with the following procedures:
 - The supervisor first receiving a complaint, whether originating externally or internally, will complete a Citizen Complaint Report, #12-0-176. The Citizen Complaint Report will be forwarded to the Internal Affairs Unit Commander for investigative assignment. Written notice of investigative assignment will be forwarded by the Internal Affairs Unit Commander to the Chief, Bureau Commander, Division Commander and Unit Commander. This notice may be in the form of an email to the Chain of Command.

- If the complaint can be resolved at the lowest supervisory level, it shall be done. The supervisor will submit a department memo or an email through the appropriate Division Commander. The report will contain the processing, investigation, and disposition of the complaint. The Division Commander will then forward the memo and the copy of the complaint to the Internal Affairs Unit Commander for filing.
- The complainant will be contacted by the Internal Affairs Unit or designee regarding the complaint as well as periodic status reports and notification upon conclusion of the investigation.
- The Chief of Police will be notified verbally or in writing of all complaints received against the department or employees.
- All investigations will be confidential. The results of any internal investigation will be released **only** by the Chief of Police. All investigative records will be maintained in a secure area within the Internal Affairs Unit and will be accessible only by Internal Affairs Unit personnel, the Administrative Services Division Commander, and the Chief of Police. A record of all complaints against the department or employees will be maintained by the Unit.
- When a department member or employee is under investigation or subjected to questioning for any reason which could lead to demotion, dismissal, or suspension, such investigation or questioning shall be conducted under the following conditions and requirements:
 - The Unit Commander shall be notified prior to a subordinate being questioned by members of the Internal Affairs Unit.
 - When department members or employees are notified that they are the subject of an investigation by the Internal Affairs Unit for an alleged violation or as the result of a citizen complaint, the Internal Affairs Unit Commander will provide the member or employee with a written notification of the nature of the complaint, name of the complainant, location the violation or complaint occurred, unless the notification would jeopardize the investigation.
 - The member/employee under investigation shall be informed of the name and rank of the officer in charge of the investigation, and all persons to be present during questioning sessions. A bargaining unit member being interviewed shall have the right to be represented in accordance with all current recognized work agreements or contracts. The interview shall be suspended for a reasonable time until representation can be obtained, if necessary. Any investigation involving a bargaining unit member will be conducted in accordance with current recognized work agreements or contracts. All questions shall be asked through one interviewer. If it is known that the members/employees being questioned are witnesses only, they shall be so informed. All questioning shall occur in the office of the Internal Affairs Unit investigator or in a private area away from public

sight and sound. While questioning the member/employee, the entire conversation will be recorded mechanically or by stenographer. There will be no "off-the-record" conversation. All pauses in the questioning shall be noted in the record. Upon request at anytime during the investigation, the member/employee may be given a copy of any statement they have given or a copy of their recorded conversation. Questions in all instances will be pertinent to the issue and no threats or abusive language will be used during questioning. Prior to any member/employee being questioned and/or giving a statement, they will be advised of Supreme Court doctrines set forth in *Garrity vs. New Jersey*, 385, U.S. 493 (1967) and *Spevak vs. Klein*, 385, U.S. 551 (1956), Form #12-0-179 (Garrity Statement). It shall be required that the member/employee under investigation cooperates fully and answers all questions. In the event the members/employees refuse to answer questions or give a statement, their supervisor will be contacted and they will be ordered to do so. If they still refuse to do so, their supervisor will suspend them with pay pending further action by the Chief of Police.

- Questioning sessions shall be for reasonable periods, if possible. The sessions will be scheduled during the member/employee's normal duty hours and there shall be times allowed for personal necessities and rest periods as necessary. If questioning does occur during the member/employee's off-duty time, they shall be compensated for that time at the rate of one and one-half (1½) times their normal rate of pay.
- When a complaint is filed and an internal investigation is initiated, the member/employee may be required to submit to medical or laboratory examinations, photographs, lineups, financial disclosure statements, CVSA examinations, polygraph examinations, searches of any locker, desk, or other assigned storage area on City property. Members/employees shall be notified at the conclusion of any search of assigned storage space. Refusal to submit to any of the investigative aids could result in disciplinary action up to and including dismissal.
- If a member/employee is the target of a criminal investigation or is under arrest, the criminal investigation will be conducted and completed prior to the initiation of the Internal Affairs investigation. In some cases, at the discretion of the Chief of Police, the criminal investigation and the Internal Affairs investigation may be done in conjunction with each other. The member/employee will be advised of the protection afforded them under the doctrine set forth in *Garrity vs. New Jersey*, 385 U.S. 493 (1967) and *Spevack vs. Klein*, 385 U.S. 551 (1956) prior to being questioned by the Internal Affairs Unit investigator. The purpose of an Internal Affairs investigation is to determine if departmental policy has been violated, not to enter into any criminal investigation.
- Individuals who make false or unfounded criminal complaints against members/employees may be prosecuted by the City. Members/employees shall have the right to file civil suits against these individuals.
- A department member/employee who is the subject of an investigation for misconduct may be suspended from duty as a temporary administrative action. Such suspension may be

due to his physical or psychological fitness for duty or an action pending disposition of Internal Affairs investigation. Return to duty by the member/employee will be at the discretion of the Chief of Police. Any Police Department supervisor may temporarily relieve from duty an employee under the provisions of Article VII of the Policies and Procedures Manual of the City of Independence. The Chief of Police will be notified via the chain of command in writing within 24 hours of any such action taken by a supervisor. The relieved employee will return to duty at the discretion of the Chief of Police.

- Should an investigation show the potential for the filing of criminal charges against a member/employee, the commander of the Investigations Unit or a designee of the Chief of Police will maintain necessary liaison with State Prosecutors Office.
- The Internal Affairs Unit will maintain a records system of complaints. Based on the records of Internal Affairs Unit investigations, an annual statistical summary report shall be produced for public and agency dissemination.
- A report will also be produced and forwarded to the Training Unit which identifies areas of concern which might be addressed through the training process. The areas of concern will have been discovered through investigations of citizen's complaints of members/employees conduct.

Disposition of Investigation

- Once a complaint has been received by the Internal Affairs Unit and assigned to an investigator, a letter of notification will be sent to the complainant requesting a formal interview and to sign the complaint. If the complainant has failed to contact the investigator within 15 days and there have been several attempts to notify the complainant either by phone, Email or mail, the case may be "Closed: No Cooperation" by the investigator. If a case has been closed, the Chief of Police may authorize the case to be re-opened if it is within allowed timelines per work agreements.
- In accordance with the bargaining unit member/employees' work agreement or contract, upon completion of an internal investigation, the Internal Affairs Unit will submit a written report as to the findings. The investigating officer in all internal investigations shall be a finder of fact and shall not make any form of recommendation as to disciplinary action. The Chief will send the file to the member/employee's Division Commander. The Division Commander will forward the file to the appropriate unit for recommendations. After receiving recommendations from employee's immediate supervisor, the Unit Commander will make his recommendation and return the file to the Division Commander. The Division Commander will make his recommendation and forward the file to the appropriate Bureau Commander for his review and recommendations. The Bureau Commander will then present the file to the Chief of Police for final disposition. Upon final disposition, the file will be returned to the Internal Affairs Unit for filing.

- All department members involved in an Internal Affairs Unit investigation must be advised, in writing, of the final finding of such investigation as pertaining to them personally.
- One of the findings listed below will be included in the report of investigation of an alleged act of misconduct:
 1. **Unfounded:** [The investigation indicates that] the act(s) complained of did not occur, the complainant admits false allegations, or the member was not involved.
 2. **Exonerated:** Acts did occur, but actions were justified, lawful and proper.
 3. **Not Sustained:** Investigation fails to disclose sufficient evidence to clearly prove or disprove the allegations made in the complaint.
 4. **Sustained:** The investigation disclosed sufficient evidence to clearly prove the allegations.
 5. **Closed:** The complainant failed to cooperate with the investigation.

Discipline

- The authority to discipline members/employees is exclusively that of the Chief of Police. Disciplinary decisions will be rendered in accordance with rules and regulations as governed by the affected employee's current work agreement or contract.
- Members/employees (excluding probationary members/employees), shall only be disciplined or terminated for just cause. Discipline or termination for cause shall include, but not be limited to, violation of Department Rules and Regulations, General or Special Order, City Personnel Rules, and State Laws.

Grievance Procedure

- Any disciplinary action taken as a result of an internal investigation is subject to review utilizing the City Grievance Procedure or applicable work agreement.