

JACKSONVILLE POLICE DEPARTMENT

Policy: 6-7

Effective: 01-01-09

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INVESTIGATIONS: INTERNAL AFFAIRS

PURPOSE: To establish an investigative procedure that provides citizens with a fair and effective venue for redress for their complaints and grievances on employees of this Department, while protecting employees from unfair and untrue accusations.

POLICY: It is the policy of this Department to accept and document all complaints alleging employee or Department misconduct for the following principle reasons: (2.06)

- A. To ensure that complaints alleging employee or Department misconduct are accepted and investigated in a consistent and reasonable manner to uncover the truth of the allegations;
- B. To identify areas of misunderstanding by the complaining citizen;
- C. To identify employees whose attitude, behavior and/or performance is in need of correction and supervisory intervention;
- D. To protect Department employees and the Department from erroneous complaints; and
- E. To identify Department policy, training, and/or practices in need of reevaluation, clarification and/or correction.

The Department operates in a degree of transparency and is responsive to complaints alleging employee misconduct and external concerns regarding the operation of the Department. Members of the public should be provided a reasonable venue for any redress of grievances they may have with service received by Department employees or the conduct of the Department. This policy provides employees of the Department with the procedures for the acceptance of complaints; the initiation of the administrative investigative process; the process for conducting a fair and reasonable investigation; the proper methods for adjudication of fair, reasonable and defensible discipline.

DEFINITIONS:

- I. **COMPLAINTS:** An allegation from any source of an act or omission by a Department employee, which if proven true, would be considered misconduct or a violation of Department policies, rules or regulations.
 - A. **Informal Complaints:** Complaints that allege inadequate public service, discourtesy, offensive language, improper procedure, and other less serious and non-criminal conduct, as determined by the Chief of Police or his designee. These will be assigned to the involved employee's immediate supervisor.
 - B. **Formal Complaints:** Serious or criminal misconduct complaints that allege needless or excessive force, brutality, violations of criminal law, corruption, breach of civil rights, abuse of authority, intentional discrimination, extremely sensitive allegations, and others as determined by the Chief of Police or his designee. These will be assigned to the Office of Professional Standards.
- II. **CITIZEN INQUIRIES:** Complaints which solely question the statutory validity of an arrest or citation or an act performed following Department policies or statute that DOES NOT allege misconduct or wrongdoing, but addresses perceived or actual performance issues on the part of the employee. Inquiries may be resolved by providing the complainant with a brief explanation of the Department policy or statute that justifies the act performed by an employee(s). This does not require supervisory documentation.

- III. SPECIAL EXAMINATION: Is a narrowly related investigation into some specific circumstance involving an employee. It would require specialized training or certification by the examiner to administer in order to determine the physical or psychological fitness for duty or truthfulness. Also, it would reasonably require the employee to disclose personal records to be evaluated for integrity issues.
- IV. INTERNAL REVIEW: Is a preliminary investigation performed on a complaint(s) against an employee(s) which is likely to be resolved by examining audio/visual recordings, electronic data, and documents without interviewing employees and witnesses, but may include obtaining witness and/or employee(s) statements. The allegations are likely to be unfounded or exonerated on the Department or employee(s), but may be upgraded to a Supervisor's Investigation or Internal Affairs Investigation dependent upon the findings. The review is normally conducted in the Office of Professional Standards, but may be assigned to a Lieutenant or Captain by the Chief of Police.
- V. SUPERVISOR'S INVESTIGATION: Are informal investigations performed on a complaint by a supervisor in the chain of command of the accused employee(s). These are likely to be resolved by examining audio/visual recordings, electronic data, documents, obtaining statements and/or interviewing witness(s) and employee(s). The allegations, if found true, are likely to result in performance-based issues or minor misconduct by employees.
- VI. INTERNAL AFFAIRS INVESTIGATION: Are formal investigations performed on complaints by the Office of Professional Standards on the accused employee(s). These are likely to be resolved by examining audio/visual recordings, electronic data, documents, obtaining statements and/or recorded interviewing of witness(s) and employee(s), and if necessary special examinations. These allegations, if true, are likely to result in negligence of performance-based issues and/or misconduct by employee(s).

PROCEDURES:

I. RECEIVING AND PROCESSING OF COMPLAINTS (2.04; 2.06)

- A. This Department shall investigate both formal and informal complaints. Investigators shall follow proper procedures when interviewing an accused employee and shall uphold and defend the legal rights of employees. The Chief of Police will be notified, as soon as practical, of formal complaints against Department employees and Department volunteers. (2.07)
- B. If it is determined that the accusations may be malicious and false, the Chief of Police may limit the investigation to substantiating a false report.
- C. Employee Responsibilities: Whenever an employee becomes aware of a citizen's complaint or becomes aware of misconduct of another Department employee, they shall:
 - 1. Immediately notify an on-duty supervisor and ensure that follow-up to the complaining person will not be delayed.
 - 2. If a supervisor cannot be made available or the party making the complaint refuses to wait for the supervisor, the employee will gather all available information regarding the complaint and contact information for the complainant.
 - 3. The employee shall ensure that this information is given to a supervisor as soon as practicable.
- D. Supervisor's Responsibilities: Whenever a supervisor becomes aware of a person requesting to make a complaint or an incident which will likely result in a complaint or administrative investigation, the supervisor will conduct an immediate preliminary investigation including:
 - 1. Meet with the complaining party to ascertain the nature of the complaint;
 - 2. Attempt to resolve the issue with the complaining party;

3. If the issue cannot be resolved with the complaining party, a supervisor should provide the complainant with a Citizen Complaint Statement Form.
- E. The complaint initiation process is not incumbent on cooperation of the complaining person. In the event that the complaining person refuses to cooperate with the investigation or there is no identifiable complainant and the information known to the supervisor satisfies the Department's definition of a complaint, the complainant will be listed as Anonymous and signed by the supervisor.
- F. The Department will maintain specific investigative and reporting protocols for each classification of complaint.
- G. Processing the Complaint: The Department will ensure that every complaint is reviewed, processed and where appropriate, assigned for investigation. (2.06)
- H. Investigative procedures by the employee assigned to conduct the administrative investigation shall:
 1. Evaluate and investigate the complaint;
 2. Obtain all related police reports, communications/dispatch records, MDT transmissions, video recordings, and other police documents;
 3. Determine the specific allegations of the complainant and identify any other possible Department violations, whether alleged by the complainant or not, and
 4. Conduct interviews normally in the following sequence:
 - a. Complaining person
 - b. Other public witnesses
 - c. Department witnesses
 - d. Accused employees shall be given notification of intended interview regarding allegations and normally be allowed a reasonable period of time prior to the actual interview.
- I. Employer/Employee Responsibilities:
 1. Prior to any interview or special examination, the employee under investigation will receive written notification of the complaint. Notification may be withheld at the discretion of the Chief of Police based on the sensitive nature of the investigation.
 2. Prior to an interview, personnel under investigation and all witnesses who are Department employees will be advised of their duty to cooperate with the investigator and to answer questions in a truthful manner.
 3. No Officer, while under investigation, will report to the Office of Professional Standards or the Office of Chief of Police without first securing all firearms in the firearm lockers outside of the Temporary Holding Facility.
 4. All interviews will be conducted while the employee is in a paid status.
 5. Officers under investigation shall not be subjected to offensive language, threatened with dismissal or other disciplinary action during the interview. No promises shall be made by the investigator conducting the interview.
 6. Accused officers may contact the assigned investigator and/or designee to receive information on the status of the investigation of a complaint filed against them.
 7. Employees or their representatives will not be permitted to review any portion of the investigatory file during the investigation, unless reasonably necessary in the furtherance of the investigation.
 8. Personnel subject to a complaint investigation are prohibited from contacting the complainant during the course of the investigation.
 9. Garrity warnings will be issued where appropriate.
 10. The employee is not prohibited from bringing a third party into the interview. But, the person shall be a Department employee not involved or likely to become involved in the investigation or the employee's legal representative.

- J. Disposition
1. The investigating person will prepare the investigative report and submit it to the Chief of Police or their designee for adjudication and disposition.
 2. The Chief of Police or their designee will make a determination regarding the disposition of the complaint using the following categories:
 - a. Sustained: there is a preponderance of evidence sufficient to prove the allegation.
 - b. Inconclusive: there was not sufficient evidence to either prove or disprove the allegation.
 - c. Exonerated: the actions of the employee were consistent with the law and Department policies, rules, regulations and practice.
 - d. Unfounded: the allegation did not occur.
 - e. Policy and/or training deficiency: the allegation occurred but was the fault of deficiencies in Department policy and/or training; therefore, the employee cannot be held accountable.
 - f. When allegations are sustained, the specific official charges and processing will be conducted according to the personnel practices of the Department.
- K. Post Disposition Procedure requires the Office of Professional Standards to:
1. Notify the complainant and employee of the disposition of the investigation;
 2. Review all final complaint investigations to ensure that they are consistent with the practices of the Department;
 3. Maintain records of the process;
 4. Maintain the completed investigative and adjudication files in a secure, confidential manner; and
 5. Conduct an annual audit of the process.
- L. When criminal allegations involving an employee of the Department are identified, the Chief of Police shall be notified immediately of:
1. Crime within Department Jurisdiction: the appropriate criminal investigation unit will investigate the criminal aspect unless the Department elects to have the investigation conducted by an outside entity.
 2. The administrative investigation will be conducted and is not dependent on the conclusion of the criminal investigation. Normally the initiation of a complaint and the start of the administrative investigation will proceed concurrently with the criminal investigation.
 3. When a crime is committed by an employee outside Department jurisdiction the assigned investigator should:
 - a. Develop and maintain liaison with the involved Department.
 - b. Conduct the administrative investigation the same as it would have, had the incident occurred within this Department's jurisdiction.
 4. Complaints of misconduct of employees will not be accepted more than thirty (30) days after the alleged incident, with the following exceptions:
 - a. When the complaint involves a criminal violation, the criminal statute of limitations will determine the time limit for investigating the complaint.
 - b. When the complainant can show good cause for not making the complaint within the specified time limit.
 - c. The Chief of Police shall have the discretion to investigate or order an investigation of any complaint when necessary to preserve the integrity of the Department, regardless of the time reported.
- M. When an officer is terminated as a result of an administrative investigation, the Chief of Police or his designee shall notify the Arkansas Commission on Law Enforcement Standards and Training as prescribed by State Law.
- N. Sources for complaints:
1. Individual aggrieved person;
 2. Third party;

3. Anonymous;
 4. Department employee;
 5. News media;
 6. Governmental department; and/or
 7. Notice of civil claim.
- O. Complaints can be made by members of the public:
1. In person;
 2. By telephone;
 3. By letter; and/or
 4. Email/other electronic media.
- P. Information on procedures for filing a complaint against the Department or its employees, are available to the public through various media outlets (i.e. website, brochures, etc.).
- Q. Informal investigations, conducted by the employee's supervisor, will be completed within thirty (30) days after receipt of the complaint, unless an extension is granted by the Chief of Police. (2.05; 2.06)
- R. Formal investigations, conducted by the Office of Professional Standards, will be completed within sixty (60) days after receipt of the complaint, unless an extension is granted by the Chief of Police. (2.05; 2.06)
- S. Complainants, if known, and accused officers will be given periodic status reports.
1. For formal investigations, the investigator will provide a status update after every thirty (30) days to the complainant. If an extension is granted the complainant will be provided a status update after every fifteen (15) days thereafter, until disposition of complaint is final.
 2. For informal investigations, the investigator will provide a status update after fifteen (15) days to the complainant. If an extension is necessary, and approved by the Chief of Police, the complainant will be provided a status update after every seven (7) days, until disposition of the complaint is final.
- T. When investigations are assigned to a Supervisor outside of the Office of Professional Standards, that person will forward the completed case file to their Division Commander for review. He will then forward it to the Chief of Police, who will approve or disapprove all dispositions. The Chief of Police may discern that a further investigation is needed and he may narrow the investigation to particular points and extend the investigation to determine those facts.
- U. A final disposition will be noted on the official Police-Citizen Complaint Form by the Chief of Police in designated area. Complainants, if known, will be notified of the final disposition of the investigation. (2.10)
- V. Disciplinary action, if necessary, resulting from a formal or informal investigation will be taken within fifteen (15) calendar days with in the final written disposition signed by the Chief of Police. (2.05)
- W. Internal Affairs investigation case files in physical version will be securely filed in the Office of Professional Standards for the most recent twelve (36) months. All other Internal Affairs investigations will be digitized for long term secure storage from this point forward. (2.09) All files are scanned into PDF version, for electronic storage as originals, upon their completion. Physical file versions will be properly disposed of according to city policy.
- X. Human Resources will receive a copy of the paperwork for any disciplinary action taken against an employee. The paperwork will include a reference to the Internal Affairs investigation number for future reference. (2.23)

II. SPECIAL EXAMINATIONS

- A. The Chief of Police may authorize any employee who is the subject of a formal investigation to undergo certain special examinations at the Department's expense. The special examinations must be specifically and narrowly related to a particular administrative inquiry. These special

examinations include, but are not limited to:

1. Any Arkansas approved test for determination of truth or deception, to include, but not limited to, the polygraph technique or the Computerized Voice Stress Analyzer (CVSA);
 2. Medical or laboratory examinations to include: breath or blood chemical analysis, urine testing, and psychological evaluation;
 3. Photographs to include employee's picture in a photographic line-up or actual participation in a physical line-up;
 4. Submission of financial disclosure statements related to the Administrative Inquiry; **and**
 5. Any other non-testimonial procedures as deemed appropriate by the Chief of Police.
- B. An on-duty supervisor or Division Commander is required to direct an employee to submit to a breath, blood, or urine test when inebriation or drug usage is suspected as a factor directly related to duty performance or operation of a departmental vehicle.

III. WORKPLACE SEARCH/PRIVACY

- A. The Department retains the rights to seize, access or inspect any item issued and for use by its employees. Department property includes city property, but is not limited to city owned vehicles, workstations/desks, electronic data/files, non-electronic files/materials, storage lockers/containers, bags/backpacks, equipment/tools, computers, phones, etc. A department employee's expectation of privacy is limited by the operational realities of the workplace, and whether an employee has a reasonable expectation of privacy must be addressed on a case-by-case basis. Employees should have no expectation of privacy in the workplace regarding this.
- B. Any employee owned or rented cabinet, container, locker, computer, phone, electronic storage device, bag, backpack, etc. the employee uses to store work related records, materials, or equipment/tools being used in the workplace may be subject to a search, access, or inspection where reasonable. Employees should have a low expectation of privacy in the workplace regarding this.
- C. Employees should not expect privacy regarding the monitoring of their work activity in areas open to the public or not controlled access on department or city property as security cameras are in use indoors/outdoors, in-car, and with body worn cameras, and available to consistent monitoring by designated department personal, and in part by the Department of 911 Communications.

IV. EMERGENCY RELIEF FROM DUTY

- A. Any Supervisor may, as a temporary administrative action, relieve an employee from duty on an emergency basis when it is deemed to be in the best interest of the Department. Examples of behavior that may be used to invoke emergency relief from duty include, but are not limited to the following:
1. Indication of substance abuse;
 2. Involvement in a shooting or other serious/sensitive incident;
 3. Severe insubordination;
 4. Physical and/or psychological distress; and/or
 5. Any other condition that, in the Supervisor's opinion limits the employee's ability to perform his duty to the public.
- B. Such relief from duty (Administrative Leave with Pay) will remain in effect until 0900 hours on the next business day, unless otherwise directed by the Chief of Police. At that time, the relieved employee and the immediate supervisor effecting the relief shall report to the Office of the Chief of Police for a preliminary review of the circumstances. The Chief of Police will then initiate a

formal investigation to fully investigate the case.

- C. The Chief of Police may elect to place an employee on "Administrative Leave with Pay" until the conclusion of the investigation. This compulsory leave is intended for use when the employee's continued presence in the workplace may be detrimental to the employee, the Department, the investigation, or the public. The employee will be provided documentation which provides the effective date of the compulsory leave and the reason for said compulsory leave. This form of compulsory relief from duty shall not exceed ten (10) working days for the affected employee unless a continuance is found reasonably necessary by the Chief of Police.
- D. During periods of emergency relief from duty, an employee shall not engage in off-duty law enforcement employment.
- E. The employee shall remain available and respond to phone calls or text messages (if applicable) within thirty (30) minutes of being received during the administrative office hours of 8:00 a.m. to 4:00 p.m. Monday through Friday. All in-person visits by a supervisor or commander of this Department to the employee's residence during these times will be responded to promptly by the employee.

V. OFFICE OF PROFESSIONAL STANDARDS RESPONSIBILITIES

- A. Records and tracks all complaints in a permanent record and assigns a tracking number. Complaint records include the following information. (2.23)
 - 1. Name of complainant, unless anonymously made;
 - 2. Name of the accused employee;
 - 3. Date received;
 - 4. Type of complaint, either internal or external;
 - 5. Policies corresponding to the allegations
 - 6. Investigator's name;
 - 7. Dispositions of complaint; and
 - 8. Method of notification to complainant, In Person, Letter, Email, Telephone, etc. (2.10)
- B. Provides information contained within an internal investigation to employees that have written authorization from the Chief of Police. Access will be limited to only that which was authorized for the employee to review.
- C. Reviews and analyzes all complaints filed against the Department or its employees and provides an annual statistical summary to the Office of the Chief of Police identifying any conduct or conditions which may be indicative of, but not limited to, the following:
 - 1. Need for policy formulation, clarification, or modification;
 - 2. Need for basic, in-service, or remedial training;
 - 3. Patterns of individual or group misconduct.
- D. The annual report will be available to the public and all Department employees.
- E. All files maintained by the Office of Professional Standards will be considered confidential in nature and will only be released under the specific guidelines for disclosure contained within Department policies, state law, or other legal requirements. (2.09)

ALEAP: 2.04, 2.05, 2.06, 2.07, 2.09, 2.10, 2.23



Brett C. Hibbs
Chief of Police