

# **PALM BEACH GARDENS POLICE DEPARTMENT**

## **INTERNAL AFFAIRS FUNCTION**

### **POLICY AND PROCEDURE 4.3.2**

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**PURPOSE:** To establish the Internal Affairs Function and procedures for investigating complaints and allegations of misconduct against the Department and its members.

**SCOPE:** This policy and procedure applies to all members.

**REVIEW RESPONSIBILITY:** Chief of Police, Internal Affairs Authority

**POLICY:** The Department, through delegated authority of the Chief of Police, and in accordance with its rules, regulations, policies and procedures, will investigate all complaints made against the Department or its members. The Department hereby establishes an Internal Affairs/Professional Standards function as a specialized function of the Administrative Support Bureau to provide for the investigation of complaints and allegations of member misconduct of a serious nature or complexity and to maintain control and security of internal affairs files. The Administrative Support Bureau Major is designated as the Internal Affairs/Professional Standards authority. The Department recognizes that complaints of minor inappropriate behavior or actions may best be handled or investigated by a member's supervisor and authorizes those supervisors to investigate those types of complaints.

## **PROCEDURES**

### **1. FUNCTION AND ADMINISTRATION**

- a. The Internal Affairs Authority will be responsible for:
  - i. Establishing a system of receiving, recording, registering, controlling and filing all complaints whether investigated by Internal Affairs or by chain of command supervisors.
  - ii. Conducting, supervising and/or controlling the investigation of alleged or suspected misconduct within the Department.
  - iii. Maintaining the confidentiality and security of Internal Affairs investigations and records.
    1. All Internal Affairs and complaint records shall be maintained in a secure area in a locked file cabinet.
  - iv. Preparing an annual statistical summary of Internal Affairs Investigations.
    1. These summaries shall be available to the public and to agency members.

- v. Ensuring information is made available to the public regarding procedures for making complaints against the agency or a member.
- b. The Internal Affairs Authority shall report directly to the Chief of Police and shall investigate or cause to be investigated the following types of complaints (in some cases, a criminal or administrative investigation may be conducted by an outside agency and the Internal Affairs role will be to monitor the investigation):
  - i. Excessive or unnecessary use of force.
  - ii. Corruption.
  - iii. Civil rights violations.
  - iv. Conduct involving moral turpitude or unethical conduct.
  - v. Criminal misconduct.
  - vi. In-custody deaths or death or serious bodily injury resulting from the actions of a member.
  - vii. Intentional discharge of a firearm at a person.
  - viii. Any complaint likely to have a serious impact on the Department or City.
  - ix. Any complaint assigned by the Chief of Police or City Manager.
- c. Supervisors shall be responsible for investigating minor complaints against their subordinates, including, but not limited to:
  - i. Rudeness and discourtesy
  - ii. Complaints of traffic violations committed by a member
  - iii. Minor violations of Department policy and procedure or rules and regulations.
- d. The Chief of Police shall have the authority to refer Internal Affairs investigations to outside agencies when warranted by the circumstances of the case, and shall have the final authority as to the assignment of an investigation, either to Internal Affairs or chain of command supervisors or to an outside agency.

## **2. RECEIPT OF COMPLAINTS**

- a. Complaints shall be handled in accordance with the Department's Complaint Process policy and procedure.
- b. All external complaints, regardless of how received, shall be documented on the Citizen Complaint and Inquiry Form.
  - i. In addition, when the complainant wishes to make a formal written complaint, or in the case of serious allegations as defined in Section 1.b., the receiving supervisor should make every attempt to obtain a written statement from the complainant.
- c. If the supervisor is able to resolve the complaint with the complainant, that will be documented on the Citizen Complaint and Inquiry Form.
  - i. The complainant will be provided with the pink copy of this form as a receipt.
  - ii. The yellow copy shall be provided to Professional Standards for review and filing.
  - iii. The original (white) copy will be submitted to the Chief of Police via the chain of command.
- d. If an external complaint is not resolved with the complainant at the time it is made, the receiving supervisor shall provide the complainant with the pink copy of the Citizen Complaint and Inquiry Form as a receipt and shall forward the yellow copy and copies of any related documents to Professional Standards for review.

- i. The supervisor will forward the white copy of the complaint form and copies of any related documents to the accused member's Bureau Major.
  - 1. The Bureau Major of the accused member shall review the complaint and determine if it warrants referral to Internal Affairs or can be handled by a chain of command supervisor.
- e. Complaints generated within the Department shall be documented in memorandum form and provided to the accused member's Bureau Major with a copy provided to Professional Standards for review.
  - i. The Bureau Major of the accused member shall review the complaint and determine if it warrants referral to Internal Affairs or can be handled by a chain of command supervisor.
- f. Complaints that can be handled by a chain of command supervisor will then be referred by the Bureau Major to the appropriate supervisor for investigation or other action.
  - i. It is the responsibility of the Bureau Major to inform the appropriate Assistant Chief of any complaints handled in this manner.
- g. The Bureau Major will forward to the appropriate Assistant Chief any complaints that the Major believes should be referred to Internal Affairs.
  - i. The Assistant Chief will review those complaints with the Chief of Police and the Chief will make the final determination as to whether the complaint will be assigned to Internal Affairs or returned to the Bureau Major to be handled by a supervisor.
- h. Emergency complaints such as an officer involved shooting or the arrest of a member should be immediately relayed verbally to the Chief of Police for the assignment of an Internal Affairs Investigation.
- i. Any complaints against a Bureau Major shall be referred directly to the appropriate Assistant Chief of Police.
  - i. Complaints against an Assistant Chief of Police shall be referred to the Chief of Police.
  - ii. Complaints against the Chief of Police shall be referred to the City Manager.
- j. Complaints and allegations of misconduct to be personally reported via the chain of command to the appropriate Assistant Chief and the Chief of Police; then immediately followed with the written complaint form or other written documentation are as follows:
  - i. In-custody deaths,
  - ii. the discharge of a firearm at a person,
  - iii. complaints involving death or serious injury to any person,
  - iv. the arrest of a member,
  - v. or any other complaint likely to have a serious impact on the Department or City
  - vi. Other minor complaints will be reported to the appropriate Assistant Chief and Chief of Police by the Bureau Major via the submission of the complaint form or other written documentation through the chain of command.

### **3. INVESTIGATIVE PROCESS**

- a. Internal Affairs investigations are administrative investigations intended to determine if the subject member has violated any Departmental policy, procedure, rule, or regulation.

- i. A parallel criminal investigation may be conducted, but care must be taken to ensure that any statement a subject member is ordered to provide in an administrative investigation is not used in a criminal investigation in violation of the member's Constitutional rights.
- b. All Internal Affairs investigations will be conducted in accordance with Department policy and procedure, applicable collective bargaining agreements, and any other applicable rules, regulations, and laws, including Florida State Statute chapter 112.
- c. Prior to being questioned, the subject member will be provided with notice of the complaint or allegation.
  - i. In the case of minor complaints being investigated by a supervisor, verbal notice shall be sufficient.
  - ii. If the investigation is being conducted by Internal Affairs or may involve disciplinary action as defined in this policy, the member will receive written notice via the Member/Officer Notification Form and/or by being provided with a copy of the Citizen Complaint and Inquiry Form, and shall be informed of his/her rights and responsibilities relative to the investigation.
- d. No member of the Department may in any way interfere with an Internal Affairs investigation.
- e. In all internal investigations, members shall answer all questions truthfully and completely.
  - i. Members shall volunteer any pertinent information whether or not specifically asked by the investigator.
  - ii. A refusal to answer questions specifically, directly and narrowly related to the member's performance of his/her duties will result in additional charges of insubordination.
    - 1. Should such charges be substantiated, the member will be subject to termination.
  - iii. Untruthfulness by any member to the investigator will result in charges of lying during an Internal Affairs investigation.
    - 1. Should such charges be substantiated, the member will be subject to termination.
- f. All members involved in an Internal Affairs investigation, whether as the subject member, witness, or investigator, shall keep all information and documents regarding the investigation confidential.
- g. No member will be ordered to submit to a truth verification test such as a polygraph or CVSA.
  - i. The Department may offer such tests, however, refusal of the member to submit to such a test will not form a basis for disciplinary action.
  - ii. Any use of such tests will be in compliance with state and federal law.
- h. A member may be ordered to submit to a medical or laboratory examination, including drug testing, at the Department's expense when the examination is specifically directed and narrowly related to a particular investigation.
  - i. Reasonable suspicion must exist to require such a test.
  - ii. No member will be required to submit to testing for AIDS or HIV.
- i. A member may be required to be photographed and/or participate in a line-up when there is reasonable cause to believe that a Department member was involved in an incident and the complainant or a witness can identify the suspect member.
- j. A member may be required to submit a financial disclosure statement when such is material to an internal investigation.
- k. All internal affairs and supervisory investigations shall be completed within 45 days of the receipt of the complaint, absent extenuating circumstances.

- i. An investigation is considered complete when the subject member has been notified that the Chief of Police has made a finding not to proceed to disciplinary action or to file charges, or has decided to proceed to disciplinary action or file charges.
- ii. In the event there is a demonstrated need to extend the investigation beyond 45 days, the investigator or supervisor shall advise the Chief of Police in writing of the reasons an extension is needed and obtain approval from the Chief of Police.
  1. The investigator or supervisor shall also notify the complainant of the delay and the reason(s) for the delay, within the bounds of confidentiality.

#### **4. REPORTING**

- a. All internal investigations shall be documented in writing.
  - i. For supervisory investigations of minor complaints and allegations, documentation on the Citizen Complaint and Inquiry Form of the findings and any relevant information will be sufficient.
    1. The supervisor completing the investigation will make the finding of fact and document such on the Citizen Complaint and Inquiry Form.
    2. The supervisor will then route that form to the Chief of Police via the chain of command for review and approval.
  - ii. After reviewing the form, the Chief will forward it to Professional Standards for logging and filing.
  - iii. The supervisor shall be responsible for notifying the member of the results and findings of the investigation.
- b. For investigations of formal complaints and serious allegations, an Internal Affairs Investigation Report will be completed.
- c. The Internal Affairs Investigation Report shall include, at a minimum:
  - i. the name of the accused member,
  - ii. the name of the complainant,
  - iii. the nature of the allegation,
  - iv. a summary of the incident and investigation
  - v. a listing of the findings of the investigation with a conclusion as to whether or not the member violated Department policy, procedure, rules, or regulations.
    1. The Chief of Police will make the final finding of fact in a formal investigation and will indicate such in writing.
      - a. The accused member will be notified with the finding(s) of fact.
- d. The standard of proof for making a finding of fact shall be a preponderance of the evidence, however, in termination cases, the standard of proof shall be clear and convincing evidence.

#### **5. NOTIFICATION TO COMPLAINANT**

- a. When the investigation is complete, the investigator or supervisor conducting the investigation shall notify the complainant of the outcome.
  - i. This notification shall include the findings of the investigation and the disciplinary action given, if any.
- b. For supervisory investigations of minor complaints, such notification may be made verbally.

- c. For investigations conducted by Internal Affairs, such notification shall be made in writing.

## **6. ADMINISTRATIVE LEAVE, RESTRICTED DUTY AND EMERGENCY SUSPENSION**

- a. Whenever a preliminary or initial investigation shows that a death or serious bodily injury was the result of the use of force or other actions by a member or that the member discharged a firearm (other than a less-lethal projectile weapon) at a person, or when a member is arrested and charged with a crime, that member shall be placed on Administrative Leave pending a review of the incident by the Chief of Police and City Manager.
  - i. The purpose of the review by the Chief of Police and the City Manager is to determine if the member can or should be brought back to work on full or restricted duty or should remain on administrative leave pending the completion of an administrative and/or criminal investigation.
    - 1. The decision is at the discretion of the Chief of Police with the approval of the City Manager.
  - ii. If the member is arrested or is otherwise the subject of a criminal indictment or information, that member shall be placed on administrative leave without pay pending the results of the internal investigation and/or criminal proceedings.
  - iii. Prior to any member returning to work after a use of force or other incident resulting in death or serious bodily injury, that member may, at the discretion of the Chief of Police, be required to have a psychological fitness for duty evaluation to be cleared for returning to duty.
    - 1. If appropriate, the member shall also be advised of the availability of the Employee Assistance Program.
- b. In the case of other allegations or complaints of inappropriate conduct, a member may be placed on administrative leave in instances where there is a need for the member to be excluded from the police station so as to avoid tampering with evidence or witnesses or when doing so is in the best interests of the Department, the City, and/or the member.
  - i. This decision shall be at the discretion of the Chief of Police with the approval of the City Manager.
- c. Whenever a member is placed on administrative leave that member shall be available between 9:00 AM and 5:00 PM during normal city workdays via his/her home phone and/or cell phone.
  - i. The member shall make himself/herself available for interviews and other activities as directed during those hours.
  - ii. This section shall not prohibit conducting interviews or other activities outside of those hours and days when such is done for the benefit and with the consent of the member.
- d. A member who is the subject of an internal affairs and/or criminal investigation and who is not placed on administrative leave can be placed on restricted duty at the discretion of the Chief of Police.
  - i. The restrictions can include where the member is assigned and what duties the member may or may not perform.
    - 1. A member on restricted duty may be assigned to work in another City Department with the approval of the City Manager and the affected Department head.

- ii. The restrictions may include limitations on access to all or part of any Police Department or City building or facility.
- iii. For officers, the restrictions may include a prohibition on carrying a firearm and on wearing a police uniform or any indication of sworn status.
  - 1. If an officer is prohibited from being armed, that officer may only be assigned to duties that do not involve personal public contact in a police context.
- iv. A member on restricted duty shall not have his/her pay and benefits reduced as a result of being on restricted duty, nor shall he/she be eligible for out of classification pay.
  - 1. Certain benefits that accrue to a member solely due to his/her normal assignment, such as motorcycle pay or shift differential, shall not apply if the member is not working in that assignment.
- e. Notwithstanding the foregoing sections, all Department supervisors shall have the authority to place a member on emergency suspension with pay when circumstances require such action.
  - i. Examples of when a supervisor may use emergency suspension include, but are not limited to:
    - 1. a member who reports to work under the influence of alcohol or drugs
    - 2. a member refusing to perform assigned duties
    - 3. a member otherwise not able to perform his/her duties
  - ii. Placing a member on emergency suspension does not preclude the supervisor from exercising his/her authority to require that the member submit to alcohol/drug testing based on reasonable suspicion.
  - iii. Whenever a supervisor determines there is a need to place a member on emergency suspension, the supervisor shall first attempt to contact and notify the member's Bureau Major or Assistant Chief.
    - 1. If the Bureau Major or Assistant Chief cannot be contacted, the supervisor may proceed with the emergency suspension.
    - 2. The supervisor shall ensure that a message describing the circumstances is left for the member's Bureau Major, either via voice mail or email.
  - iv. The supervisor placing the member on emergency suspension shall document the facts and circumstances on a Department memorandum form, submitting the original to the member's Bureau Major and providing a copy to the Administrative Support Bureau Major.
    - 1. The report and copies shall be provided prior to 8:00 AM on the next business day.
  - v. A member placed on emergency suspension shall be directed to be available via his/her home phone or cell phone beginning at 9:00 AM on the next business day.
  - vi. The member's Bureau Major, after reviewing the documentation provided by the supervisor who placed the member on suspension, shall contact the member on that day and provide further direction which may include requiring the member to come in to discuss the incident.
  - vii. The member's Bureau Major shall be responsible for taking further action as appropriate, which may include, but is not limited to:
    - 1. assigning a supervisor to investigate the incident
    - 2. recommending the member be placed on administrative leave
    - 3. recommending an Internal Affairs investigation

- viii. An emergency suspension with pay shall not be considered to be disciplinary action. It is a temporary action taken for the well-being of the member and/or Department.

## 7. ADJUDICATION OF INTERNAL AFFAIRS CASES

- a. The Chief of Police or his designee will have the final authority to decide the disposition of alleged misconduct.
- b. The Chief of Police may draw upon the information of command personnel including the internal affairs designee, in determining whether the case falls into one of the following categories:
  - i. Unfounded complaint;
  - ii. Exonerated (proper conduct);
  - iii. Not Sustained (insufficient evidence);
  - iv. Sustained or Partially Sustained (improper conduct);
  - v. Policy failure: and/or
  - vi. Other misconduct not based on original complaint.
- c. All final disciplinary actions resulting from the complaint shall be reviewed by the Chief of Police.
  - i. No opinion and/or recommendations regarding discipline are rendered by the Internal Affairs investigator in the summaries presented to the Chief of Police.
- d. The accused member will be notified in writing as to the final disposition after determination is made by the Chief of Police.
- e. The person conducting the investigation will ensure that complainants are informed, preferably in writing, regarding the results of the investigation.

## 8. GLOSSARY

**Disciplinary Action:** includes suspension with loss of pay, demotion, and termination. Corrective Actions are considered non-punitive and are not disciplinary action for the purposes of invoking the protections of F.S.S. 112.532.

**Finding of Fact:** a determination of whether a complaint or allegation is sustained, partially sustained, not sustained, unfounded, or the member is exonerated, the incident was the result of a policy failure, or the member was found to have committed other misconduct.

**Sustained:** The allegation was found to be true and the action of the member was in violation of Department policy, procedure, rules, or regulations.

**Partially Sustained:** the incident had two or more allegations and at least one was sustained.

**Not Sustained:** There is insufficient proof or evidence to either confirm or refute the allegation.

**Unfounded:** the allegation is demonstrably false or there is no credible evidence to support it.

**Exonerated:** The member did commit the alleged, act, but the action of the member was proper and consistent with Department policy, procedure, rules, and regulations.



**Policy Failure:** The action of the member may have been improper, but was not covered by Department policy, procedure, rules, or regulations.

**Misconduct Not Based on Original Complaint:** as a result of the investigation, the member was found to have engaged in substantiated misconduct not related to the original complaint.

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**APPROVED:**

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Stephen J. Stepp  
Chief of Police

07/30/2015  
Date