

Cocoa Beach Police Department

Standard Operating Procedure



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This order consists of the following numbered sections:

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1. **MISSION**

The Cocoa Beach Police Department Internal Affairs function will act to preserve public trust and confidence in the department by fostering a culture of education and integrity among police personnel. The Department will promote and ensure ethical behavior by thoroughly conducting objective and impartial investigations of alleged members' misconduct, by providing proactive measures to prevent such misconduct, and by always maintaining the highest standards of fairness and respect towards citizens and members.

2. **PURPOSE**

The purpose of this Standard Operating Procedure is to assure the review and/or investigation of all complaints against Police department members in a complete, fair, and timely manner. The Police department encourages constructive comments and/or complaints against its members. A thorough review and/or investigation may be conducted when deemed appropriate by the Chief of Police into any complaints received from inside or outside the Department in order to protect the interests of the public, members and Department.

3. **SCOPE**

This procedure shall apply to receipt, recording, investigation, and disposition of complaints or allegations of misconduct involving members of the Cocoa Beach Police Department.

4. **DEFINITIONS**

- A. Authorization to Use or Disclose Health Information form- a document signed by the complainant to authorize the release of medical information relevant to an internal investigation.

- B. Citizen Allegation of Employee Misconduct- a form used to document an allegation of misconduct that must be sworn to and signed by a police officer or notary public.
 - C. Complaint- an allegation that a member's action may have violated department policy, procedure, directives or State Statute. Complaints may be generated externally by a member of the public or internally via another department member or through supervisory oversight.
 - D. Complaint Investigation Summary- A document used by an investigator to summarize key elements of the complaint and their findings.
 - E. Internal Affairs Checklist- A checklist used by an investigator to ensure required documents and procedures have been accounted for before concluding an investigation.
 - F. Internal Investigative Warning- Also known as "Garrity Warning." A signed document in which the investigated employee acknowledges certain rights afforded to them regarding compelled testimony.
 - G. Members- all agency personnel, including volunteers and part-time personnel.
 - H. Notice of False Report- a document stating that individuals who make a false written statement can be prosecuted by law and subject to civil recourse by the accused officer.
 - I. Notice of Investigation- this document is designed to inform the employee that they have become the subject of an internal investigation that is either administrative or criminal in nature.
 - J. Preliminary Report of Alleged Misconduct (PRAM) - a form used to formally document an employee's alleged misconduct which is forwarded to the Chief of Police for review.
 - K. Statement of Withdrawal- an affidavit in which the signatory indicates they no longer wish to pursue their complaint against a member.
5. **INTERNAL AFFAIRS FUNCTION**
- The Deputy Chief is responsible for the internal affairs function of the Cocoa Beach Police Department and reports directly to the Chief of Police.
- A. Activities of the internal affairs function will include, but are not be limited to, the following:
 - 1. Procedures for ensuring prompt recording, registering, and controlling the investigation of complaints against police personnel.
 - 2. Procedures for ensuring efficient supervision and control of investigations of alleged or suspected misconduct within the Department.
 - 3. Procedures to guarantee the confidentiality of internal affairs investigations and records in accordance with Florida Law.
 - 4. Ensuring that any allegation of misconduct is investigated in an objective manner.
 - B. Inquiries by the Deputy Chief, written or oral, may be directed to any member of the Department and will warrant the same response as if such inquiry were made by the Chief of Police.
6. **CITIZEN COMPLAINT PROCESS**
- A. If any member of the public requests to make a complaint, Department members shall adhere to the following process:
 - 1. All members of the Police department are strictly charged with the responsibility for courteously and willingly receiving all complaints that may be lodged against the Department or any of its members.
 - 2. Department members will not insist that the complainant explain the nature of their complaint first before providing assistance.
 - 3. The Department member receiving the initial contact of complaint will notify the On-Duty Shift Supervisor immediately and inform them that a citizen wishes to make a complaint. The complaint will then be sent to the supervisor via email with a copy sent to the Internal Affairs email group CBPDIA@cityofcocoabeach.com for review and shall serve as record of notification.
 - 4. Supervisors who receive complaints will notify the above email group of the complaint and its disposition by email no later than the end of shift that day. This includes complaints that are resolved with the complainant at the time the complaint is made. The email shall include:
 - a. The nature of the complaint
 - b. Name of the officer /member involved
 - c. Complainant's name, if available
 - 5. It shall be the responsibility of the Deputy Chief, or designee, to log all complaints, to include the receipt, investigation, and determination.
 - 6. The On-Duty Shift Supervisor will promptly respond to the location of the complainant and make personal contact when possible.
 - 7. If the complainant is outside the City of Cocoa Beach, or is unable or unwilling to meet, the supervisor may mail the required documents with directions on how they are to be completed.

8. All supervisors are required to hear and report all complaints made on Police Department members from any source regardless of the location of the alleged occurrence. Even in instances where the complainant requests to remain anonymous or refuses to provide their name, the complaint will be documented and reported as stated in Section 6(A) (3-4) of this policy.
9. If the complainant does not wish to pursue a written complaint, supervisors may resolve the matter to the complainant's satisfaction.
10. In the event the complaint cannot be resolved to the satisfaction of the complainant and they wish to file a written complaint against the member, the personnel receiving the complaint shall:
 - a. Have the complainant complete a *Citizen's Allegation of Employee Misconduct* form (Appendix A) and *Notice of False Report* (Appendix B). These forms shall be signed by the complainant after being placed under oath and notarized. A photocopy of the *Citizen's Allegation of Employee Misconduct* will be provided to the complainant as a receipt at the time the complaint is made. If the complainant alleges physical injury as a result of a member's action, an *Authorization to Use or Disclose Health Information* form (Appendix F) will also be completed by the complainant.
 - b. The Department member receiving the complaint shall complete the *Preliminary Report of Alleged Misconduct* (Appendix C) and attach this report to those affidavits signed and sworn to by the complainant, along with copies of all other pertinent reports and information regarding the incident. These documents will be forwarded through the chain of command to the Chief of Police without delay. If criminal activity is alleged, then the report will also be made verbally to the Chief of Police via the chain of command as soon as practical.
 - c. After reviewing the complaint, the Chief of Police will determine if an investigation is warranted. If the Chief of Police determines an investigation is necessary, an investigator will be assigned.
7. **CLASSIFICATION OF INVESTIGATIONS**
 The Chief of Police or designee will classify complaint reviews as either Administrative Reviews or Internal Affairs Investigations.
 - A. Administrative Reviews- generally handled as a responsibility of supervisors or Command Staff and may include, but are not limited to, the following types of complaints or incidents: (CFA 20.01MA)
 1. Non-criminal conduct
 2. Discourtesy or rudeness
 3. Complaints of indecent or improper language
 4. Property damage
 5. Vehicle crash involving minor injury to the member
 6. Other circumstances or lesser violations of Department Policy or Procedure
 - B. Internal Affairs Investigation (IA)- the following complaints or incidents, are reviewed and investigated by the Internal Affairs function as designated by the Chief of Police: (CFA 20.01MBC)
 1. Criminal conduct
 2. Immoral conduct
 3. Allegations which if proved true would likely result in discipline up to and including termination
 4. Complaints that require extensive investigation
8. **COMPLAINT INVESTIGATION PROCESS**
 - A. All written complaints will be forwarded to the Chief of Police.
 - B. The Chief of Police or designee will determine if the complaint will be an Administrative Review, Internal Affairs Investigation and/or a Criminal Investigation.
 - C. The Chief of Police will be kept apprised if the investigator believes the complaint may need to be reclassified due to mitigating or aggravating circumstances.
 - D. Once a written complaint has been received, the Chief of Police will ensure the appropriate investigation is completed in a timely manner unless extenuating circumstances exist.
 - E. Depending on the severity of the allegation, the Chief of Police or designee will determine whether to place the accused employee on paid administrative leave until the conclusion of the investigation. Circumstances in which this may be applicable include: (CFA 2.07M)
 1. The member's questionable or psychological fitness for duty,

2. Alleged criminal or immoral acts committed by the member
 3. In every instance in which an officer uses deadly force and where such force results in death or serious bodily injury to another person, whether intentional or not, the officer will be immediately relieved of normal duty. *SOP 240.20 Response to Resistance*
 4. Officers shall assure availability to the Department during administrative suspension.
 5. Failure to adequately complete remedial training in critical tasks as discussed in *SOP 080.00 Training*.
- F. Whenever any member's action, deliberate or accidental, results in death or serious bodily injury, the On-Duty Shift Supervisor will forward a written report detailing the circumstances of the incident to the Chief of Police. (CFA 15.15MA) The member will be removed from duty until the conclusion of a preliminary administrative review is conducted by the Chief of Police or designee. (CFA 15.15MBC)
 - G. The same investigator shall not be assigned to conduct both the Internal Affairs and Criminal Investigation.
 - H. In all instances the office of the Chief of Police will forward a letter of receipt to the complainant indicating the matter is under review.
 - I. The complainant shall be contacted by the Criminal Investigator and/or the designated Internal Affairs Investigator concerning the status of the investigation within five days of assignment of the case by the Chief of Police. The designated investigator(s) will contact the complainant as often as is necessary and again at the conclusion of the investigation.
 - J. Any member who is assigned to conduct any investigation of an alleged act of misconduct on the part of an employee of the Police department shall conduct a thorough and impartial investigation.
 - K. Law enforcement officers designated to conduct investigations against other law enforcement officers that may result in disciplinary measures will adhere strictly to the *Police Officer's Bill of Rights* as set forth in *Chapter 112.532, Florida Statutes*. These rights apply regardless of whether the investigation originated from within the Police Department or from outside sources such as citizen complaints.
 - L. If the employee being investigated is a Law Enforcement Officer, the employee assigned to conduct the investigation shall be a Law Enforcement Officer.
 1. Administrative Review
 - a. Once the complaint has been classified as an Administrative Review, the Deputy Chief will consult with the Chief of Police who will then make the assignment of the review.
 - b. The assigned investigator will complete the review 30 days from having received the complaint packet. If for some unforeseen circumstance the investigator is unable to complete the review within the time allotted, the investigator will request an extension via memorandum to the Chief of Police.
 - c. The Administrative Review will be conducted as follows:
 - 1) The investigator will make contact with the complainant for a sworn statement if it has not already been taken.
 - 2) The investigator will ensure that sworn statements are taken for all known witnesses.
 - 3) The investigator will collect and review any supporting evidence (reports, documents, radio and telephone tapes, physical evidence, surveillance tapes, etc.).
 - 4) The investigator will then review all information and write his/her findings in memorandum format to the Chief of Police.
 2. Internal Affairs Investigation
 - a. Once the complaint has been classified as an Internal Affairs Investigation, the Chief of Police will consult with the Deputy Chief and the complaint packet will be assigned to an investigator.
 - b. The Investigator assigned to conduct the Internal Affairs Investigation cannot provide any information (obtained from the Law Enforcement Officer under any investigation as a result of that investigation) to the investigator conducting the Criminal Investigation into the same alleged incident(s) of misconduct unless the Law Enforcement Officer has waived Constitutional Rights.
 - c. The investigator conducting the Internal Affairs Investigation may obtain information from the Investigator conducting the Criminal Investigation.
 - d. Criminal investigations will be completed prior to the initiation of administrative investigations whenever possible.
 - e. When conducting an Internal Affairs Investigation concerning possible violations of criminal law, the investigator will maintain close contact with State Attorney's Office. This

liaison may include but is not limited to legal advice as well as assistance in case preparation.

f. The internal affairs investigation will be conducted as follows:

- 1) The IA investigator will complete and deliver the *Notice of Investigation* (Appendix D) to the employee under investigation notifying them of their rights and responsibilities relative to the investigation. A copy of the signed notice will be provided to the employee under investigation. (CFA 20.02M)
- 2) The IA investigator will make contact with the complainant for a sworn statement if it has not already been taken.
- 3) If the complainant no longer wishes to pursue their complaint against the employee at any time in the investigation, the investigator shall have the complainant complete the *Statement of Withdrawal* (Appendix H) and notify the Chief of Police in writing in memorandum format.
- 4) The IA investigator will ensure that sworn statements are taken for all known witnesses.
- 5) The IA investigator will collect and review any supporting evidence (reports, documents, radio and telephone tapes, physical evidence, surveillance tapes, etc.). Statements will be transcribed as needed.
- 6) If physical injury is alleged to have occurred as a result of the employee's misconduct, the investigator may request the complainant complete the *Authorization to Use or Disclose Health Information* (Appendix G).
- 7) The IA investigator will then coordinate with the employee under investigation for a mutually agreed upon time for the taking of a statement.
- 8) If the employee under investigation is a police officer, the employee will be provided the opportunity to review any and all witness statements, evidence, photos, etc. prior to making a statement.
- 9) After the employee's statement has been taken, the IA investigator will submit the recorded statement for transcription.
- 10) The IA investigator will then review all information to include completion of the *Internal Affairs Checklist* (Appendix I) and write his/her findings in the *Complaint Investigation Summary* (Appendix F) and submit it to the Chief of Police.
- 11) The Chief of Police will determine final disposition for Internal Affairs Investigations.

3. Criminal Investigation

- a. In the event the alleged misconduct is criminal and the complainant wants to pursue criminal charges, a member of the Criminal Investigations Division will conduct the Criminal Investigation. Nothing herein shall preclude criminal investigations from being conducted by other law enforcement agencies with jurisdiction to do so.
- b. The criminal complaint and investigation can always be made available to the State Attorney or other Law Enforcement/ Agency conducting a lawful investigation. This would not include compelled statements taken while conducting an Internal Affairs Investigation.

- L. Once the Internal Affairs Investigation has concluded, both the complainant and the subject employee will be notified of the disposition in writing by the office of the Chief of Police.

9. STATEMENTS

A. General Guidelines

1. Internal Affairs personnel as well as Departmental supervisory staff shall be aware of the content and applicability of the Law Enforcement Officers Rights under F.S.S. 112.532(1) and adhere to its conditions.
2. During the taking of statements from any person, time shall be allowed for such personal necessities and rest periods as are reasonably needed. All recess periods shall be recorded.
3. There are no "off-the-record" questions or comments.
4. No personal audio, video, or stenographic recording equipment of any type will be allowed to be brought into the interview session by persons rendering statements.
5. Names of other persons present will be read into the record (i.e. employee's counsel or bargaining unit representative).
6. Any representative of an employee who disrupts, interferes with, or otherwise impedes the normal process of the interview or statement taking should be asked to refrain from doing so. If the disruption continues, then the representative will be asked to leave and an

appropriate entry will be noted in the record. The employee should then be given the option to continue with the statement or to suspend it until another representative can be obtained.

7. During the course of the statement taking, only one investigator will ask questions at a time pursuant to F.S.S. 112.532(1)(c).

B. Witness Statements

1. Department members providing witness statements are not entitled to a representative, but if requested, may be permitted.
2. If a member is considered a witness in an investigation and he/she makes self-incriminating statements that could lead to disciplinary action or criminal charges, the IA investigator shall cease the questioning until the provisions of F.S.S. 112.532 are met and/or the rights and privileges afforded to a subject officer are applied.
3. If a civilian is considered a witness in an investigation and he/she makes self-incriminating statements of a criminal nature, the IA investigator will cease all questioning and a criminal investigation will commence. A criminal investigator will be summoned, if available.
4. Witnesses may be asked at the end of the statement if they wish to make any additional remarks.

C. Subject Statements

1. Criminal investigators will not be present during administrative interviews conducted by IA investigators.
2. The IA investigator shall provide the subject of an Internal Affairs Investigation with the *Internal Investigative Warning* (Appendix E).
3. If the employee is the subject of a Criminal Investigation, the investigator shall advise the employee of their *Miranda Rights*.
4. The subject officer will be allowed to review any and all witness statements, evidence, photos, etc. prior to making an administrative statement.
5. According to F.S.S. 112.532, sworn personnel are entitled to representation when rendering a subject statement during the course of a formal administrative investigation whenever the interview relates to the officer's continued fitness for law enforcement services.
6. Non-sworn personnel who are members of a recognized collective bargaining unit may also request representation according to the terms of their bargaining agreement.
7. The interrogation shall be conducted at a reasonable hour, preferably at a time when the Law Enforcement Officer is on duty unless the seriousness of the investigation is of such a degree that immediate interrogation is required.
8. The Law Enforcement Officer under investigation shall be informed of the rank, name, and command of the officer in charge of the investigation, the interrogating officer, and all persons present during the interrogation. All questions directed to the officer under interrogation shall be asked by and through one interrogator.
9. The Law Enforcement Officer under investigation shall be informed of the nature of the investigation and they shall be informed of the names of all complainants.
10. The employee under interrogation shall not be subjected to offensive language or threatened with transfer, dismissal, or disciplinary action. No promise or reward shall be made as inducement to answering any questions.
11. Employees shall truthfully and completely render material and relevant sworn statements to the designated departmental authority when so directed.
12. If the employee under investigation declines to give a statement or answer any questions, a direct order shall be issued to do so.
13. If the employee still declines, he/she shall be relieved of duty and the Chief of Police or designee shall be notified.
14. Employees shall not be questioned during an administrative statement regarding crimes or incidents not being investigated as part of the administrative investigation.
15. The IA investigator shall not be present during any criminal investigations of a subject employee unless directed to do so by the Chief of Police.
16. Brief consultation periods with counsel or representative are allowed but the tape recorder shall continuously run during these consultation periods.
17. F.S.S. 112.532 gives those officers under formal investigation the right to be represented and have the representative present during questioning. The representatives are not permitted to ask questions nor are they allowed to interject any comments into the record except the representative may make an official statement upon conclusion regarding the manner in which the statement was taken.

18. Whenever the employee under investigation is a General Employee or non-sworn officer, the person assigned to conduct the investigation of that employee may be a civilian supervisor or a Law Enforcement Officer. General employees of the Police Department are **not** covered by the rights afforded Law Enforcement Officers by F.S.S. 112.532-112.534; however, employees shall be advised of Miranda Rights in the case of criminal allegations during a criminal investigation.
 19. Those employees under investigation will be offered the opportunity to make additional remarks at the conclusion of their statements.
10. **EMPLOYEE RESTRICTIONS**
- A. Department members having knowledge of or involved as a subject or witness in a complaint shall not:
 1. Independently participate in the investigation.
 2. Be present during any investigative contact with the complainant or complainant's witnesses.
 3. Contact the complainant or complainant's witnesses concerning the allegations.
 4. Disclose or discuss the existence of facts of a complaint with anyone except designated departmental authorities conducting the investigation until such information becomes public record.
 5. Nothing in these restrictions shall be construed to prohibit any employee from discussing any aspect of a complaint with their attorney or bargaining representative.
11. **INVESTIGATIVE AIDS**
- A. Instruments for the detection of deception (CFA 20.03E)
 1. An employee under investigation for allegations shall not be compelled to submit to a polygraph or any other instrument designed to detect deception. An employee under investigation may, however request to voluntarily submit to such an examination.
 2. A member of the Cocoa Beach Police Department who is the subject of an internal affairs investigation may at any time prior to the conclusion of the investigation submit a written request to the Chief of Police requesting an examination with the use of instruments for the detection of deception and the results of such examinations be taken under advisement in the decision making process. The fact that the member failed to request such an examination shall not be utilized in the summary of facts or for the finding of guilt of the member.
 3. In the event an officer's denial of allegations are reinforced and supported through the use of instruments for the detection of deception, the preponderance immediately turns in favor of the officer.
 4. Only a qualified independent examiner in the use of instruments for the detection of deception will be authorized to conduct examinations.
 - B. Other tests
The Chief of Police may require an employee, at the agencies expense, to submit to tests or examinations when such information or actions are specifically directed and narrowly related to an officer's fitness for duty. Failure to follow any direct order of this nature shall constitute a separate infraction and may result in discipline up to and including termination. The following may be included:
 1. Submit financial disclosure statements which are required whenever there is an issue of theft or questionable income.
 2. Submit to a medical or laboratory examination whenever there is reasonable belief that an employee is under the influence of drugs and/or alcohol.
 3. To be photographed when an initial, impartial identification is needed to establish probable cause (CFA 20.03B)
 4. Participate in a lineup for employee identification and/or elimination purposes
 - C. Conditions of use
 1. In the event an investigation requires a financial disclosure by an employee, the employee will be ordered to submit a statement concerning their financial status. The member will be advised of their Constitutional Rights and/or Law Enforcement Officers Bill of Rights, if applicable. (CFA 20.03D)
 2. Extreme care must be taken in cases where medical and/or laboratory examinations are to be part of an internal investigation. These procedures will only be conducted under the review of a licensed medical review officer. (CFA 20.03A)
 3. Photographs of members (CFA 20.03B)
 4. When conducting photo lineups, a minimum of six photographs will be used depicting individuals who are of the same race, sex, and similar characteristics. (CFA 20.03C)

5. Individuals required to appear in a line-up should be shown with others of similar height, age, hair color, eye color, etc. Prior to the line-up, the individual should be advised of their Constitutional Rights and/or Law Enforcement Officers Bill of Rights, if applicable.
6. Instruments for the detection of deception may be used in an attempt to determine deception or truthfulness on the part of any complainant, witness, or accused employee. No one shall be compelled to submit to an examination involving instruments for the detection of deception against their will. (CFA 20.03E)

12. ADMINISTRATIVE INVESTIGATIVE DISPOSITIONS

- A. When determining the disposition of allegations concerning Internal Affairs Investigations or Administrative Reviews, the following conclusion of fact classifications will be utilized:
 1. Unfounded: The allegation(s) was found to be false or not factual.
 2. Exonerated: The actions of personnel were found lawful and proper.
 3. Non-sustained: The allegation(s) could not be proven or disproven.
 4. Sustained: The allegation(s) were supported by a preponderance of evidence.
 5. Other Misconduct: The conduct sustained not identified in original complaint.
 6. Policy Failure: Action taken or not taken was result of policy failure.
 7. Training Failure: Action taken or not taken was result of training failure.
- B. Upon conclusion of an internal investigation, the complainant and affected member will receive written notification of the conclusion of facts. (CFA 20.04M)

13. ADMINISTRATIVE TYPES OF DISCIPLINARY ACTION

- A. Suspension without Pay
- B. Demotion
- C. Dismissal

14. DISCIPLINE RESOLUTION PROCESS

- A. Bargaining unit members notified they are the subject of an Administrative Internal Investigation may request a discipline resolution conference to discuss potential discipline and administrative charges and to determine if a proposed consensus can be reached on the appropriate charge and discipline.
- B. The request may be made at any time prior to conclusion of the Administrative Internal Investigation by submitting a *Request to Initiate the Discipline Resolution Process* form (Appendix K) to the Chief of Police. The written request includes a waiver tolling the limitations period specified in Florida Statute 112.532(6), Police Officer Bill of Rights. Delivery pursuant to this paragraph may be accomplished by hand delivery or attaching the signed written request to an email. In the event of an investigation involving more than one employee, the investigation and interviews may continue unless all accused employees submit a *Request to Initiate the Discipline Resolution Process* form referenced above.
- C. If the Chief of Police approves the Discipline Resolution Process, the Administrative Internal Investigation will be suspended until the Chief of Police schedules and conducts a conference with the subject employee and/or the union representative. The conference shall be conducted no later than ten (10) business days (Monday through Friday) from the approval.
- D. The Chief of Police has the discretion to deny an employee's request to use this process. Factors that will be considered include, but are not limited to, seriousness of the allegations/charges, situations involving complex investigations or when multiple employees are involved in the investigation. Denial of the request or failure to reach an agreement, will result in the matter progressing pursuant to Article 31 and Department and City policy.
- E. The parties must still work within the parameters for recommended discipline that are outlined in City and Department policy when deciding what discipline a subject employee should receive.
- F. If the parties reach a proposed consensus, that consensus will be reduced to writing. The subject employee shall sign and forward a *Discipline Resolution Agreement* (Appendix L) to the Chief of Police for implementation. Upon implementation of a signed Agreement, the investigation and any and all grievance processes will be considered complete.
- G. By signing an Agreement reached pursuant to this procedure, the subject employee waives all further appeals pursuant to policy or law, including contractual grievances concerning the investigation and discipline. Any employee who signs an Agreement pursuant to this procedure must still participate in a witness interview concerning the same investigation involving another employee. Furthermore, this policy and any Agreement reached between the Department and the employee concerning a specific allegation shall not preclude the Department from initiating an investigation into additional charges or allegations based on facts learned through ongoing investigations involving other employees.

- H. No statements made at any meeting held pursuant to this procedure shall be binding upon any party until a final Agreement is signed by the subject employee and the Department and nothing discussed at the meeting shall be used by either the employee or the Department in any investigation of the subject employee or appeal if a resolution is not implemented. An Agreement reached between the subject employee and the Department shall not establish binding precedent on the Chief of Police in other cases.

15. DISCIPLINARY ACTION AND APPEAL (CFA 7.06)

- A. NOTICE OF DISCIPLINARY ACTION: No dismissal, demotion, transfer, reassignment, or other personnel action which might result in loss of pay or benefits or which might otherwise be considered a punitive measure shall be taken against any employee unless such employee is notified of the action and the reason(s) thereof five (5) working days prior to the effective date of such action.
- B. If the recommended discipline includes: loss of pay, suspension without pay, demotion (reduction in pay), or termination, the Chief of Police will set a pre-disciplinary meeting (Loudermill Hearing) with the affected non-probationary employee:
 - 1. The purpose of this hearing is to provide the employee an opportunity to offer facts and circumstances to mitigate, negate or reduce the impact of the actions.
 - 2. Employees are entitled to have a representative of their choice present during this hearing.
 - 3. Sworn and non-sworn employees who are the subject of the disciplinary hearing may not have a firearm in their possession while they attend the hearing or any related meetings.
 - 4. Employees are under no obligation to attend a predetermination hearing. They may choose to respond to the allegations in writing within a specified time.
 - 5. Employees may also choose to respond by memorandum via the chain of command to the Chief of Police of their intent to forego this opportunity altogether.
- C. The Law Enforcement Officer/Employee who is the subject of the disciplinary action may pursue the following two options:
 - 1. A Law Enforcement Officer/Employee may grieve the discipline under provisions outlined in the current labor contract, if the Law Enforcement Officer is a member of a bargaining unit under contract. If no such labor contract is in place or the employee is not a member of the bargaining unit, the City Rules and Regulations shall provide the means to grieve the discipline.
 - 2. Accept the discipline.
- D. If the discipline results in dismissal, the following information will be provided to the affected employee in writing: (CFA 7.04A-C)
 - 1. Reason for the dismissal
 - 2. Effective date of the dismissal
 - 3. A statement outlining the employee's rights
- E. Members who are dismissed may submit information to their personnel file to refute or explain the reason(s) for dismissal.

15. INVESTIGATIVE FILES AND DISCIPLINARY ACTION RECORDS

- A. Security and Confidentiality (CFA 20.01MD-G)
 - 1. Once the internal investigation has been completed or the complaint has otherwise been resolved, the file will be maintained by the Records Division and will be distributed in accordance with Florida Public Records Law. Disciplinary action records resulting from investigative files will be maintained in secure storage in the Personnel Office of the City of Cocoa Beach and purged in accordance with the State of Florida's General Records Schedule. (CFA 7.05M)
 - 2. Information permitted to be released will be released in copy form only; no originals will be released.
 - 3. Only those in the Internal Affairs chain of command are permitted access to current, active investigations. An investigation is considered to be active as long as it is proceeding with a reasonable expectation that a finding will be made in the foreseeable future. This period is usually considered to be 45 days; however, due to the complexity of some investigations, the period may be extended if the investigation is proceeding in good faith.
 - 4. In all cases, confidentiality shall be preserved until the investigation is concluded and a finding is reached.
 - 5. Review of closed investigation case files and disciplinary action records are permitted only when accompanied by the Records Custodian, a member of Command Staff, or the Chief of Police.

B. Reporting

1. The Deputy Chief will perform administrative duties as required to facilitate the gathering and preparation of statistical reports and other documentation necessary for internal audits, periodic reviews, legal investigations, matters pertaining to court orders, public requests, and to fulfill requirements in accordance with F.S.S. 943.1395.
2. Any sustained allegation that is a violation of Florida Statute 943.13 (4) or (7) or Rule 11B-27-.0011 will be reported to the Florida Department of Law Enforcement, Division of Criminal Justice Standards and Training (CJSTC) using a *CJSTC Form #78*. (CFA 20.01M)

16. APPENDICES

- A. [Citizen Allegation of Employee Misconduct](#)
- B. [Notice of False Report](#)
- C. [Preliminary Report of Alleged Misconduct](#)
- D. [Notification of Investigation](#)
- E. [Internal Investigative Warning](#)
- F. [Authorization to Use or Disclose Health Information](#)
- G. [Statement of Withdrawal](#)
- H. [Complaint Investigation Summary](#)
- I. [Internal Affairs Checklist](#)
- J. [FDLE CJSTC Form #78](#)
- K. [Request to Initiate the Discipline Resolution Process](#)
- L. [Discipline Resolution Agreement](#)

17. REFERENCES

- A. Florida Senate (2021). Florida Statute 112.532. Retrieved September 30, 2021 from <https://www.flsenate.gov/Laws/Statutes/2021/112.532>
- B. Florida Senate (2021). Florida Statute 112.533. Retrieved September 30, 2021 from <https://www.flsenate.gov/Laws/Statutes/2021/0112.533>
- C. Florida Senate (2021). Florida Statute 112.534. Retrieved September 30, 2021 from <https://www.flsenate.gov/Laws/Statutes/2021/0112.534>
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