

# FORT MYERS POLICE DEPARTMENT

## GENERAL ORDER 7.1

**TITLE:** Internal Affairs

**INDEXING:** Preliminary Assessments, Administrative Investigations, Internal Affairs Investigations, Supervisory Action, Vehicle Accidents, Vehicle Pursuits, CJSTC Requirements, Relief from Duty

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### PURPOSE & POLICY

It shall be the policy of the Fort Myers Police Department to investigate all complaints, to include anonymous complaints as further provided herein, made against any employee of this department. **(CALEA 26.2.1) (CFA 20.01)** This general order provides the guidelines and procedures for the prompt, fair, and impartial investigation and disposition of all complaints and allegations, the aim of which is to improve employee competency, productivity, and effectiveness. This policy is based on the principle that discipline is a function of command, and that a well-disciplined Department consists of personnel who willingly conform to all applicable City of Fort Myers and Departmental rules, regulations, policies, and procedures. It is also the policy of the department that inappropriate conduct, substandard performance, and lack of knowledge may be corrected through the use of remedial training, counseling, and discipline, and in some cases, may warrant dismissal. Any action taken must be initiated in a timely manner to achieve a positive outcome.

### SCOPE

These procedures shall apply to all Fort Myers Police Department personnel.

- A. The complaint procedures address allegations of personnel misconduct. The procedures are a part of the traditional disciplinary method to draw administrative attention to problem areas deserving investigation for the purpose of improving training, re-orienting supervision, reevaluating policies, improving efficiency and similar administrative actions.
- B. The integrity and successful operation of the Department depends, in part, upon the manner in which complaints alleging misconduct by its personnel are received, recorded, objectively investigated, and concluded, and, if necessary whether corrective disciplinary action or dismissal results.

- C. To assure the integrity of the Department, and compliance with the laws, rules and standards of the State of Florida, this General Order is adopted for handling complaints against Departmental personnel. The procedures are intended to assure the prompt and thorough investigation of incidents to exonerate or substantiate complaints, and to facilitate appropriate administrative action in the interests of the public, the Department, and the subject of any investigation.
- D. The role of Supervisors is crucial in the disciplinary process. Supervisors have the opportunity to observe the conduct and appearance of personnel and detect those instances when conduct warrants praise and recognition or requires corrective action through the use of supervisory notes or supervisory action, as appropriate. Immediate Supervisors have the opportunity to observe the conduct of their subordinates, understand their personality traits, and determine, within their authority, the most effective methods of correcting substandard performance or behavior. Supervisors at every level of command are accountable for the performance of their immediate subordinates and will act in a manner that is commensurate with their rank and position. Failure of a Supervisor to take action when appropriate can subject the Supervisor to disciplinary action.
- E. Department personnel will perform their duties and assume the responsibilities of their rank during any investigation of complaints or allegations of misconduct against personnel of the Department and will cooperate fully with personnel conducting any authorized investigation.

## **SECTION I: DEFINITIONS**

**Administrative Investigation:** An investigation conducted by authorized personnel and monitored by Internal Affairs into a complaint that involves allegations of minor misconduct or procedural violations.

**Administrative Leave:** Leave with or without pay and without, law enforcement authority, authorized by the Chief of Police or designee for particular and extenuating circumstances affecting members of the Police Department.

**Complaint:** An allegation of expressed dissatisfaction against a member of the Department, which relates to a specific act or omission that, if proven, would constitute employee misconduct. Dissatisfaction with a particular department operation, policy, practice, service level, philosophy, or legal standard of the Department or the City is not a complaint within this General Order.

**Discipline:** A corrective measure to attain satisfactory employee behavior/performance and prevent reoccurrence of policy violations. Discipline includes any of the following: termination, demotion, suspension, transfer, or reassignment (only as a direct result of sustained misconduct), reprimand, or formal counseling.

**Discipline Dispute Resolution Process (DDRP):** An elective process by which an employee may acknowledge (Admit and Move-On) having violated agency policy and accept discipline rather than proceeding with a formal investigation and disciplinary appeal. A DDRP affords the employee and agency an opportunity to quickly resolve minor misconduct or policy violations.

**Final Action Summary (FAS):** A form used in all Internal Affairs Investigation, Administrative Investigations, Supervisory Actions, Vehicle Pursuits, Firearm Discharges, and Vehicle Accidents involving City owned/leased vehicles to document a final disposition.

**Garrity Warning:** The Garrity Rule or Warning stems from the court case *Garrity v. New Jersey*, 385 U.S. 493 (1967). Garrity is a Supreme Court Ruling that states law enforcement officers may be compelled to give statements under threat of discipline or discharge, but those statements may not be used in the criminal prosecution of the individual officer.

Immediate Relief of Duty: Temporary removal of a member from duty status, pending determination of their physical or psychological fitness for duty, or pending the disposition of an administrative review.

Initial Notice of Complaint/Investigation: A written communication from the Internal Affairs Commander or designee to an employee indicating allegations of misconduct have been made against the employee and an investigation has been initiated.

Internal Affairs Investigation: An investigation conducted by authorized personnel and monitored by the Internal Affairs Bureau into a complaint received by the Fort Myers Police Department that involves serious allegations of misconduct. If sustained, Internal Affairs Investigations **could** require notification to C.J.S.T.C. and/or circumstances that may involve complex investigative efforts as determined by the Chief of Police or designee.

Law Enforcement and Correctional Officers' Bill of Rights (Florida Statute 112:532-534): Legislation created to establish conditions for interrogating law enforcement and correctional officers under investigation by the agency for any reason that could lead to disciplinary action, suspension, demotion, or dismissal.

Malfeasance in Office: The performance by a member of an act that is wrongful or unlawful.

Member: Includes all agency personnel, including volunteers and reserve officers.

Misfeasance: The wrongful performance of a lawful action in an illegal or improper manner.

Preliminary Assessment: A preliminary assessment of information received by the Department related to the actions or omissions of a member, which in accordance with policy, may require a preliminary examination of documents, personnel records, or other relevant material to determine whether **or not** the information requires the initiation of an Internal Affairs or Administrative Investigation, or other appropriate action.

Pursuit Report: A report prepared at the conclusion of a vehicle pursuit by the involved officer's supervisor. The report shall be filed in the IAPro System and will detail the circumstances surrounding the pursuit.

Supervisory Action: Is corrective action by a supervisor for minor violations of rules, policies, procedures, or regulations (i.e., late to work, uniforms, etc.).

Supervisory Notes: A non-disciplinary measure to correct a member's conduct, substandard performance, or lack of knowledge through the use of remedial training and/or informal counseling.

Vehicle Accident Report: A report prepared at the conclusion of an member involved vehicle accident by the involved member's supervisor. The report shall be filed in the Blue Team/IAPro System and will detail the circumstances surrounding the accident.

## **SECTION II: INTERNAL AFFAIRS**

Internal Affairs shall be an extension of the Chief of Police. The Internal Affairs function shall report directly to the Chief of Police or designee. **(CALEA 26.2.3)**

### **A. Internal Affairs (I/A) Authority and Responsibilities:**

1. All investigations are performed under the authority of the Chief of Police, with the management responsibility of Internal Affairs assigned to the Internal Affairs Commander. Internal Affairs investigators do not make recommendations as to discipline relative to Internal Affairs or Administrative investigations **with the exception of the Internal Affairs**

***Commander who will make recommendations in cases in which he/she is not the assigned investigator.***

2. Upon being assigned an Internal Affairs or Administrative Investigation, the assigned investigator must attempt to notify the complainant to advise them of the receipt of the complaint and explain the investigation process. **(CALEA 26.3.4)**
3. Internal Affairs has the authority to conduct investigations and make periodic field inspections of personnel activities as authorized by the Chief of Police or designee.
4. All investigations and disciplinary actions shall be governed by this general order, and any applicable Department directives, City policies, collective bargaining agreements and Chapter 112.531-112.535 of the Florida Statutes.
5. Additional allegations may be added to any ongoing investigation if they are learned during the investigation of the original allegation. Written notice of new allegations shall be delivered to the subject employee(s) prior to any subject employee interviews.
6. The Internal Affairs Commander or designee has the authority to assign investigations to be handled by other Department Supervisors not directly assigned to Internal Affairs and to require updates on such investigations.
7. The Internal Affairs Commander or designee shall immediately notify the Chief of Police or designee of any significant complaints of violation(s) of State Statutes, City Ordinances, Department policy, or complaints unusual in nature or of significant public interest. **(CALEA 26.3.2)**
8. In any case where a recommendation for discipline is made that may result in termination, demotion, suspension, transfer or reassignment (only as a direct result of sustained misconduct), or other personnel action that might result in loss of pay or benefits is proposed against a department employee, the subject employee shall be entitled to a pre-disciplinary hearing.
9. Unless otherwise directed by the Chief of Police, the Department will not investigate employees that have separated from the agency prior to an official investigation being launched by Internal Affairs.
10. Investigation continuances/extensions may be granted at the discretion of the Chief of Police or designee. Extension requests and approvals must be made in writing.
11. Internal Affairs will generate a report at the end of each quarter summarizing and categorizing complaints and dispositions. Internal Affairs will also recommend actions to correct any identified issues when appropriate.
12. Internal Affairs will generate an annual report providing a comprehensive review of all data compiled on investigations conducted the previous year. Copies of the report will be made available to the accreditation office, employees, and to the public via the organization's website. **(CALEA 26.2.5)**
13. Internal Affairs will be responsible for maintaining all the following reports:
  - a. Supervisory Notes
  - b. Preliminary Assessment Reports
  - c. Supervisory Actions

- d. Administrative Investigation Reports
- e. Internal Affairs Reports
- f. Discipline Dispute Resolution Process Requests
- g. Use of Force Reports (U.O.F.)
- h. Vehicle Pursuit Reports
- i. Vehicle Accident Reports involving City Vehicles
- j. Discharge of Firearms Report
- k. Citizen Complaint Forms

### **SECTION III: RECEIPT OF COMPLAINTS**

Generally, personnel complaints are based on allegations of misconduct or violations of procedure. A personnel complaint may be filed internally by a department member who wishes to report infractions or violations by another member, or externally by a citizen who complains against a member of the Department. When any member of the agency receives a complaint, they shall be open to the individual's concerns. Listen to the complainant and allow them the opportunity to give their perspective and avoid being argumentative or resistant.

- A. Interagency complaints shall be received in the same manner as external complaints. However, employees are encouraged to address minor interagency complaints with their immediate supervisor. Where this is not practical, an employee may bypass his/her immediate chain of command and report the complaint to the next level, file a complaint directly to Internal Affairs, or he/she may file their complaint with the City of Fort Myers Director of Human Resources. (For procedures concerning Workplace Harassment, see General Order 7.14.)
- B. Personnel complaints reported to supervisors on a Fort Myers Police Department Citizen Complaint Form shall be forwarded to Internal Affairs.
- C. Receiving Personnel Complaints: Complaints shall be accepted from any source, whether made in person, by mail, email, fax, over the telephone, or anonymously. Individuals are encouraged to submit their complaints in person in order to obtain as complete a report as soon as possible after the incident. Any person alleging misconduct on the part of a member shall be directed to an on-duty Supervisor unless Internal Affairs is specifically requested. If the person requests a complaint form prior to speaking with the on-duty supervisor one shall be provided. The Supervisor shall meet with the complainant to discuss their concerns and explain further processing of the complaint. If the concerns cannot be resolved: **(CALEA 26.2.1)**
  - 1. The person will be informed that they may complete the form at the police station or may take the form with them to complete it at a later time.
  - 2. Should the person complete the form at the police station, the receiving member shall review the statement portion of the complaint. The receiving member shall provide the complainant a copy of the form. The receiving member shall complete the intake portion of the form, forward the entire complaint form and any supplemental information to Internal Affairs.
  - 3. Should the person wish to take the form with them, they shall be informed that the complaint form can be mailed or returned to the Fort Myers Police Department. Complaint forms may be picked up by Internal Affairs if necessary. Complaint forms received by any member under these circumstances, shall be forward them to Internal Affairs without delay.

4. Should the supervisor feel the complaint is of such a serious nature that it requires immediate attention or assistance, the supervisor shall contact the Internal Affairs Commander or an Internal Affairs Supervisor. **(CALEA 26.1.5) (CFA 20.01 C)**

- D. Reviewing Complaints: Once the complaint has been forwarded to Internal Affairs, the Internal Affairs Commander or designee shall review the complaint and determine whether the complaint shall be designated as a Preliminary Assessment, Administrative Investigation, or Internal Affairs Investigation.

The Chief of Police or designee will have the final authority whether an Internal Affairs Investigation shall be warranted. All complaints will be assigned a case number and will be entered into the IA Pro system.

#### **SECTION IV: ANONYMOUS COMPLAINTS**

It shall be the policy of the Fort Myers Police Department to investigate all complaints, to include anonymous complaints, made against any employee of the department. However, the anonymity of the source requires the establishment of articulable standards when not only weighing the credibility of the information received from anonymous sources, but also determining whether or not the information provided is sufficient to conduct an Administrative Investigation or Internal Affairs Investigation. All anonymous complaints shall be forwarded to Internal Affairs for review. The Internal Affairs Commander or designee, in consultation with Chief of Police, will review the content of each anonymous complaint and make a determination, based upon the following articulated standards, whether the anonymous complaint warrants an Administrative Investigation, Internal Affairs Investigation, or whether the complaint lacks sufficient information to make an investigation practical. The Chief of Police or designee will have the final authority to determine whether an Internal Affairs Investigation shall be warranted. **(CALEA 26.2.1) (CFA 20.01)**

- A. Articulable Standards Requiring an Internal Affairs Investigation or Administrative Investigation: If each of the following standards are met, the Internal Affairs Commander or designee, at the direction of the Chief of Police, will authorize the investigation of anonymous complaints an Internal Affairs Investigation or Administrative Investigation:
  1. The anonymous complaint alleges that a Fort Myers Police Department employee violated an agency general order/policy, procedure, rule of conduct, or criminal misconduct; and
  2. The anonymous complainant provides information that sufficiently identifies the employee involved; and
  3. The anonymous complainant provides information that identifies a witness having personal knowledge of the allegation, other than the identified subject employee, or there is physical evidence which could be analyzed to prove or disprove the allegation; and
  4. The anonymous complainant provides sufficient information related to the approximate date and location of the allegation, in order to ensure the Department is able to comply with the Officer's Bill of Rights and other applicable regulations.
- B. Articulable Standards Preventing an Internal Affairs Investigation or Administrative Investigation: If any of the above (Section A) standards are not met, the Internal Affairs Commander or designee, at the direction of the Chief of Police, may determine that the anonymous complaint lacks sufficient information to conduct an Internal Affairs Investigation or Administrative Investigation.

C. Documentation of Anonymous Complaints:

1. Anonymous complaints that result in an Administrative Investigation or Internal Affairs Investigation will be properly documented as provided for in this policy, to include: the completion of the Administrative or Internal Affairs Investigation report and a Final Action Summary (F.A.S.).
2. Anonymous complaints that, based upon the previously described “articulable standards,” are determined to lack sufficient information to conduct an Internal Affairs Investigation or Administrative Investigation will be documented on a memorandum signed by the Chief of Police. A record of the complaint, along with the Chief’s memorandum will be entered as a Preliminary Assessment into the BlueTeam/IAPro database.

## **SECTION V: PRELIMINARY ASSESSMENTS**

The Internal Affairs Commander or designee has the authority to conduct or assign a Preliminary Assessment of all complaints forwarded to Internal Affairs. The Preliminary Assessment is not a formal investigation concerning the actions of an employee, but involves a preliminary assessment of documents, personnel records, video/audio records, or other relevant material to determine whether to initiate an Administrative Investigation or Internal Affairs Investigation. The Preliminary Assessment shall be used to assess all complaints including but not limited to complaints submitted on the Department’s Citizen Complaint Form, complaints not submitted on the Department’s Citizen Complaint Form, and complaints submitted through the Citizen’s Response System. At the conclusion of the Preliminary Assessment the Internal Affairs Commander or designee, at the direction of the Chief of Police, will take one of the following actions: **(CALEA 26.3.1) (CFA 20.01 C)**

1. Assign the complaint to be investigated as an Administrative Investigation (completing all of the required documentation including the Final Action Summary) because the complaint meets the standards provided in Section VIII, Administrative Investigations of this policy.
2. Assign the complaint to be investigated as an Internal Affairs Investigation (completing all of the required documentation including the Final Action Summary) because the complaint meets the standards provided in Section IX, Internal Affairs Investigations of this policy.
3. Prepare and deliver a memorandum to the Chief of Police, documenting the fact that a Preliminary Assessment of the complaint determined that the allegations presented do not constitute misconduct, misfeasance, malfeasance, or unlawful conduct, or in the case of an anonymous complaint fails to meet the standards in Section IV, so as to require an Administrative Investigation or Internal Affairs Investigation. Enter a complete record of the complaint (including the previously mentioned memorandum) into the Blue Team/IAPro complaint tracking system. Circumstances wherein a Preliminary Assessment may reveal that an Administrative Investigation or Internal Affairs Investigation is not required include, but are not limited to the following:
  - a. The allegation(s) do not include a violation of law, department policies, or procedures.
  - b. The complainant withdraws the complaint, and no further investigation is deemed appropriate. (This is applicable only when the allegation(s) do not constitute a criminal violation.)
  - c. There is insufficient information to objectively investigate the allegation(s).

- d. The alleged conduct relates to a judicial dispute (e.g., the complainant makes the allegation that he or she was arrested or received a traffic citation for an offense they did not commit).
- e. The officer's audio/video record indisputably disproves the allegation(s).
- f. An anonymous complaint fails to meet the standards of Section IV.

## **SECTION VI: SUPERVISORY NOTES**

Supervisory Notes: Inappropriate conduct, substandard performance, or lack of knowledge identified by a Supervisor, and not involving a third-party complaint, may be corrected through the use of Supervisory Notes. If a Supervisor witnesses such conduct or performance, the Supervisor may handle the incident as Supervisory Notes, which is a non-disciplinary measure. **(CALEA 26.1.4)** In the event the Supervisory Notes is complicated by untruthfulness, or other unforeseen complications, the incident shall be referred to Internal Affairs for handling.

- A. Supervisory Notes may be appropriate for matters which include, but are not limited to:
  - 1. Reporting late for work
  - 2. Failure to wear proper uniform as required
  - 3. Unsatisfactory appearance (hairstyle)
  - 4. Failure to carry and/or maintain official equipment as required by the Department
  - 5. Deficiencies in reports
  - 6. Inefficiency in job performance
  - 7. Discourtesy or rudeness to any third party, internal or external
- B. While not required, a member's request that representation be present during counseling will be granted, as long as it does not delay the immediacy of the counseling.
- C. Counseling: Counseling, whether oral or written, is a non-disciplinary measure when it occurs in a Supervisory Notes incident. Supervisors will notify the member of any counseling.
- D. Remedial Training: If a Supervisor determines there is a lack of knowledge of procedures, rules, regulations, law, or policy, the Supervisor may request training for the member. The purpose of the additional training is to assist the member in correcting and improving their performance level. Training will be conducted on Department time and is a non-disciplinary measure when it occurs in a Supervisory Notes incident. **(CALEA 26.1.4)**
- E. All Supervisory Notes shall be entered into the BlueTeam/IAPro system and maintained by Internal Affairs.

## **SECTION VII: SUPERVISORY ACTIONS**

Supervisory Action: If a Supervisor witnesses minor misconduct or less serious in-house violations of rules, policies, regulations, or procedures, and when the member does not contest the allegation, or when the Internal Affairs Commander and the member's Bureau Commander agree that the alleged misconduct or violation is of a minor nature that can be handled by the supervisor within in the member's chain of command, the supervisor shall handle the incident as a Supervisory Action. (For example, if a Supervisor witnesses that an officer violated a policy such as discourtesy or reporting late for work). Allegations that are not related to matters of a serious nature, such as, but not limited to, corruption, brutality, excessive use of force, breach of civil rights, or criminal misconduct, can be handled by a Supervisor within the chain of command. Supervisory Action Reports are conducted by a Supervisor under the authority of the Chief of Police. (See General Order 7.2 – Disciplinary Process) **(CALEA 26.1.4)**



- A. The final report, the Final Action Summary and all supporting documents shall be forwarded through the officer's chain of command for review by Internal Affairs and approval through the BlueTeam/IA Pro system. Supervisors shall make a recommendation concerning corrective action/discipline, but the final disposition will be determined by the appropriate Bureau Commander or higher authority as outlined in General Order 7.2.III.(C). Any corrective action/discipline shall be documented on a Final Action Summary (FAS). The FAS, Supervisory Action report, and supporting documents will be forwarded to the Internal Affairs Section for electronic filing in IA Pro.

## **SECTION VIII: ADMINISTRATIVE INVESTIGATIONS**

Administrative Investigations: The Internal Affairs Bureau has the authority and responsibility to investigate or delegate the investigation of complaints of misconduct. **(CALEA 26.3.1) (CFA 20.01 C)** An Administrative Investigation is an assessment of information provided to Internal Affairs, which in accordance with policy does not require an Internal Affairs Investigation. The final disposition of any Administrative Investigation rests with the Chief of Police or designee.

Administrative Investigations shall be conducted by Supervisors at the discretion of Internal Affairs, Internal Affairs personnel, or other person authorized by the Chief of Police. **(CALEA 26.3.1)(CFA 20.01 A)**

1. Administrative Investigations shall be reviewed by the Internal Affairs Commander or designee.
2. Only the Internal Affairs Commander, Chief of Police, or designee may initiate an Administrative Investigation.
3. Complaints of the nature outlined below will be considered minor allegations of misconduct and may be investigated as an Administrative Investigation.
  - a. Non-criminal Conduct
  - b. Discourtesy/Rudeness
  - c. Minor procedural violations of departmental General Orders that, if sustained, do not require reporting to C.J.S.T.C.
  - d. Other incidents as deemed necessary by the Internal Affairs Commander or designee.
4. The Administrative Investigation Report, Final Action Summary for each alleged violation, and supporting documents, shall be forwarded to the Internal Affairs Commander for review. The report shall contain:
  - a. A summary of the complaint to include each alleged violation.
  - b. A description of the incident addressing each point of allegation.
  - c. Mitigating and/or aggravating circumstances, if appropriate.
  - d. Any supporting documents.
  - e. Prior disciplinary history on the involved officer(s).
  - f. All statements (written and/or audio recorded)
  - g. Applicable law references when relevant.
5. The report and associated documents shall be reviewed by the Internal Affairs Commander **or designee, if the Internal Affairs Commander is the investigator**. The Internal Affairs Commander **or designee, if the Internal Affairs Commander is the investigator** shall make a written recommended finding of Exonerated, Unfounded, Not Sustained, Sustained, or Other Finding. If the allegation(s) are sustained, the Internal Affairs Commander **or designee, if the Internal Affairs Commander is the investigator**

shall make a recommendation to the suggested action as a result of the finding. (Example: Sustained: General Order 9.1 Section II (A) (21) Conduct Toward the Public; Written Reprimand/Policy Review).

6. The Chief of Police in consultation with the Internal Affairs Bureau Commander **or designee, if the Internal Affairs Commander is the investigator** will determine the final disposition.
7. The Internal Affairs Bureau Commander or designee will review the report to address training needs or deficiencies.
8. All Administrative Investigations will be concluded and shall contain an official disposition, in accordance with Florida Administrative Code (11B-27.003), even if the affected employee terminates his/her employment with the department prior to the conclusion of the investigation. **(CALEA 26.3.8)**

## **SECTION IX: INTERNAL AFFAIRS INVESTIGATIONS**

**Internal Affairs Investigations:** Internal Affairs Investigations shall be conducted by authorized personnel assigned to Internal Affairs or other person authorized by the Chief of Police. All Internal Affairs Investigations shall be conducted under the authority of the Chief of Police. **(CALEA 26.3.1) (CFA 20.01C)** The final disposition of any Internal Affairs Investigation rests with the Chief of Police or designee.

1. Internal Affairs complaints are those complaints that, if true, are serious policy violations, violations of state statutes and/or any violation contrary to C.J.S.T.C. Rule 11B-27.005. The Internal Affairs Office has the responsibility to investigate and review the following types of complaints subsequent to any criminal investigation. **(CALEA 26.3.1) (CFA 20.01C)**
  - a. Commission of a crime, whether on or off duty
  - b. Immoral conduct as outlined in C.J.S.T.C. Rule 11B-27.0011
  - c. Acceptance of a bribe or other illegal compensation-corruption
  - d. Malfeasance in office
  - e. Excessive use of force under color of authority
  - f. Release of confidential information without authority
  - g. Death of a person in custody
  - h. Intoxication on duty
  - i. Harassment (sexual and/or workplace)
  - j. Breach of civil rights
  - k. Any allegations deemed serious by the Chief of Police or designee
2. The Internal Affairs Investigation Report, Final Action Summary for each alleged violation, and supporting documents, shall be reviewed by the Internal Affairs Commander for appropriate action. The report shall contain:
  - a. A summary of the complaint to include each alleged violation.
  - b. A description of the incident addressing each point of allegation
  - c. Mitigating and/or aggravating circumstances, if appropriate.
  - d. Any supporting documents.
  - e. Prior disciplinary history on the involved officer(s).
  - f. Transcripts of all statements.
  - g. Applicable law references when relevant.
3. The report and associated documents shall be reviewed by the Internal Affairs Commander **or designee, if the Internal Affairs Commander is the investigator**. The

Internal Affairs Commander **or designee, if the Internal Affairs Commander is the investigator** shall make a written recommended finding of Exonerated, Unfounded, Not Sustained, Sustained, or Other Finding. If the allegation(s) are sustained, the Internal Affairs Commander **or designee, if the Internal Affairs Commander is the investigator** shall make a recommendation to the suggested action as a result of the finding. (Example: Sustained: General Order 9.1 Section II (A) (21) Conduct Toward the Public; Written Reprimand/Policy Review)

4. The Internal Affairs Investigation report and associated documents shall then be forwarded to the Chief of Police for final disposition.
5. The Internal Affairs Commander or designee will review the report to address training needs or deficiencies.
6. All Internal Affairs Investigations will be concluded and shall contain a final disposition, in accordance with Florida Administrative Code (11B-27.003), even if the affected employee terminates his/her employment with the Department prior to the conclusion of the investigation. (CALEA 26.3.8)

## **SECTION X: DISCIPLINE DISPUTE RESOLUTION PROCESS**

A. Discipline Dispute Resolution Process (DDRP) is an elective process by which an employee may acknowledge having violated agency policy and accept discipline (Admit It and Move On), rather than proceeding with a formal investigation and disciplinary appeal. With approval of the Internal Affairs Commander, the DDRP affords the employee and agency an opportunity to quickly resolve minor misconduct or policy violations.

1. A formal investigation and disciplinary appeal can consume considerable time and resources. In some situations, the employee may wish to acknowledge having violated agency policy and then accept discipline, rather than proceeding with a formal investigation and disciplinary appeal.
2. The Chief of Police or his designee shall assess the complaint and associated documents, including body worn camera, to determine if it is suitable for a DDRP. The Chief reserves the right to deny an employee's request to resolve the allegations pursuant to this process.
3. If the allegation is considered a minor misconduct or policy violation, the Internal Affairs Commander will review the employee's IA history. If the complaint qualifies and the Internal Affairs Commander or designee determines the matter can be resolved by counseling, training, or other corrective action up to a written reprimand, information regarding the DDRP option will be included in the written notification of the complaint to the subject officer.
4. If the complaint qualifies for the DDRP process, this option may be available to an employee throughout the process.
5. To accept the DDRP option, the employee must deliver their DDRP Request Form directly to the Internal Affairs Bureau by hand or via email. The employee may also submit a statement of mitigation along with their request. Note: A statement of mitigation is for the purpose of attempting to decrease the harshness of the discipline the subject officer will face as a result of the DDRP disposition and/or to show remorse. It is not an opportunity to defend against the allegation.

**DDRP Form:** <https://powerdms.com/link/FMPOLICE/document/?id=2438186>

6. An investigation will continue unless the Internal Affairs Bureau has received the employee's written request.
7. If an employee accepts the DDRP option, the Internal Affairs Commander shall make a written recommended finding of Sustained and shall make a recommendation to the suggested action as a result of the finding (Example: Sustained: General Order 9.1 Section II (A) (21) Conduct Towards the Public: Written Reprimand/Policy Review). The investigative report and associated documents shall then be forwarded to the Chief of Police for final disposition.
8. When an employee accepts the DDRP, the employee agrees to toll the limitations period specified in the Law Enforcement Officers Bill of Rights for the applicable case and waive their rights to grieve or appeal the disposition.
9. In the event of an investigation involving more than one subject employee, the investigation and interviews will continue unless all subject employees accept the DDRP option. Any employee who accepts a DDRP option pursuant to this policy must still participate in a witness interview concerning the same investigation involving another employee.

**B. General Provisions for Discipline Dispute Resolution Cases.**

1. Nothing in this policy precludes the agency from pursuing additional violations gleaned from a DDRP request.
2. If a DDRP request is approved, the Internal Affairs Bureau shall complete the Final Action Summary. All original DDRP documents will be included in the investigative file and forwarded to Internal Affairs Bureau for records retention purposes.

Acceptance of a DDRP disposition by an employee will not establish binding precedent on the Chief of Police in other cases. Discipline imposed by the DDRP pursuant to this policy may be used for purposes of progressive and cumulative discipline for future disciplinary action.

## **SECTION XI: FIREARM DISCHARGES**

- A. Firearm Discharges that result in injury to a person(s) will be investigated under the authority of Internal Affairs. Intentional firearm discharges shall be handled procedurally the same as Internal Affairs Investigations. **(CALEA 26.3.1) (CFA 20.01C)**
- B. Firearm Discharge Reports without injury or involving an animal are conducted by a supervisor under the authority of the Chief of Police. Subsequent to a firearm discharge the supervisor will prepare a report in the BlueTeam system detailing the circumstances surrounding the incident. The supervisor will determine if Department policy was followed.
  1. The final report, the Final Action Summary (FAS) and all supporting documents shall be forwarded through the officer's chain of command for review through the BlueTeam/IA Pro system. Supervisors shall make a recommendation concerning corrective action/discipline but the final disposition will be determined by the appropriate Bureau Commander **or** higher authority as outlined in General Order 7.2.III.(C). Any corrective action/discipline shall be documented on a FAS. The FAS coversheet, Firearm Discharge Report, and supporting documents will be forwarded to Internal Affairs for filing.

## **SECTION XII: VEHICLE ACCIDENTS INVOLVING CITY VEHICLES**

- A. Vehicle Accidents: A traffic accident/crash involving a department and/or City owned or leased vehicle will be investigated according to General Order 25.2 Police Vehicle Management & Assignments. Subsequent to the crash investigation, a supervisor will prepare a report in the BlueTeam system detailing the circumstances surrounding the accident. The supervisor will determine if Department policy was followed during the operation of the city owned vehicle and if the employee was at fault for the crash. Vehicle Accident Reports are conducted by a Supervisor under the authority of the Chief of Police.
- B. The final report, the Final Action Summary and all supporting documents shall be forwarded through the officer's chain of command for review through the BlueTeam/IA Pro system. Supervisors shall make a recommendation concerning corrective action/discipline, but the final disposition will be determined by the appropriate Bureau Commander or higher authority as outlined in General Order 7.2.III.(C). Any corrective action/discipline shall be documented on a Final Action Summary (FAS). The FAS coversheet, Vehicle Accident Report, and supporting documents will be forwarded to Internal Affairs for filing.

## **SECTION XIII: VEHICLE PURSUITS**

- A. Vehicle Pursuits: Whenever an officer engages in a vehicle pursuit, the pursuit supervisor shall file a Vehicle Pursuit Report in the BlueTeam System according to General Order 25.1 Police Vehicle Operations and Pursuits. Subsequent to the pursuit, the appropriate supervisor will prepare a report in the BlueTeam System detailing the circumstances surrounding the pursuit. The supervisor will determine if department policy was followed. Vehicle Pursuit Reports are conducted by a supervisor under the authority of the Chief of Police.
- B. The final report, the Final Action Summary and all supporting documents shall be forwarded through the officer's chain of command for review through the BlueTeam/IA Pro system. Supervisors shall make a recommendation concerning corrective action/discipline, but the final disposition will be determined by the appropriate Bureau Commander or higher authority as outlined in General Order 7.2.III.(C). Any corrective action/discipline shall be documented on a Final Action Summary (FAS). The FAS coversheet, Pursuit Report, and supporting documents will be forwarded to Internal Affairs for filing.
- C. Police vehicle crashes involving serious injury or death that occur during vehicle pursuits shall be investigated by an outside agency and reviewed internally by Internal Affairs.

## **SECTION XIV: ADDITIONAL INVESTIGATIVE TOOLS**

- A. If a Department Supervisor has reasonable suspicion, due to allegations or observed behavior, that an employee is under the influence of drugs or alcohol while on duty, the Supervisor should proceed as follows:

**(COFM Drug-Free Workplace Policy link)**

<https://powerdms.com/link/FMPOLICE/document/?id=1790276>

- 1. "Reasonable suspicion drug testing" means drug testing based on a belief that an employee is using or has used drugs in violation of Fort Myers Police Department policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Reasonable suspicion drug testing shall not be required except upon the recommendation of a supervisor who is at least one level of supervision higher than the immediate supervisor of the employee in question. (i.e. If an officer is suspected, a Lieutenant would make the recommendation.) **(CALEA 26.3.6 a)(CFA 20.03 A)**

- a. Notify the on-duty Shift Commander or Bureau Commander, if unavailable.
  - b. The on-duty Shift Commander, rank of Lieutenant or above will notify the respective Bureau Commander.
  - c. The Bureau Commander will notify Internal Affairs Commander or designee.
  - d. Internal Affairs will determine if a breath, blood or urine test should be required.
  - e. If the employee is suspected to be under the influence of narcotics, a blood test is mandatory.
  - f. Internal Affairs will document the times when the allegation was received and/or behavior was witnessed and when the test was conducted.
  - g. The employee shall be placed on paid administrative leave pending the results of the investigation.
2. Department members may be ordered to submit to a breath test, blood test, urinalysis, handwriting exemplars, psychological examination, audio or video recordings, or other test or examination that is specifically related to a particular Internal Affairs Investigation. Examinations conducted at the direction of the Fort Myers Police Department, shall be at the expense of the Fort Myers Police Department. **(CALEA 26.3.6) (CFA 20.03 A)**
  3. A member may be required to submit monthly statements from personal cellular phones/communication devices if the investigation involves questions of their usage while on-duty during alleged misconduct. The documentation shall be redacted and depict only on-duty time frame information.
  4. The need for financial disclosure statements should only occur in conjunction with investigations of a criminal nature. Criminal investigations requiring financial disclosure statements will be coordinated with the investigating agency and the appropriate records subpoenaed. **(CALEA 26.3.6 e) (CFA 20.03 D)**
  5. A member may be required to be photographed or participate in a line-up, if it is material to a particular offense or investigation. **(CALEA 26.3.6 d) (CFA 20.03 B, C)**
  6. No member shall be compelled to submit to a truth verification examination (CVSA or polygraph), nor will a refusal to submit to an examination be a determinant in the finding of fact in the case. **(CALEA 26.3.6 f) (CFA 20.03 E)**
  7. Searches and Seizures:
    - a. Personal property brought onto or stored in Police Department property or vehicles may be subject to search without prior notice and under conditions permitted by law.
    - b. Police Department and/or City owned property may be searched under conditions permitted by law, even if the property is exclusively assigned and/or used by an individual member.
    - c. Police Department and other communications may be monitored any time under the conditions permitted by law.

## SECTION XV: RELIEF FROM DUTY

### A. Relief of Duty & Administrative Leave: (CALEA 26.3.7)

1. The Chief of Police or designee may relieve any member from duty, pending determination of their physical or psychological fitness for duty, or pending the disposition of an investigation. At the discretion of the Chief of Police or his designee, a member may be reassigned to duty that is not related to the particular investigation.
2. In instances in which an employee's use of force or actions in an official capacity result in death or serious physical injury, the employee shall be immediately removed from line-duty assignment, pending a documented review of the incident. **(CALEA 4.2.3)**
3. Emergency Suspension: Supervisors have the authority to temporarily suspend a subordinate member from duty. A suspension may be made for a violation of law, or a violation of a Department directive where an endangerment to the public or other member is created by the member's actions (mental instability, intoxication, illness, etc.). The member's affected Bureau Commander and the Internal Affairs Commander shall be notified as soon as possible. Emergency suspensions will be with pay pending review. **(CALEA 26.3.7)**
4. Employees placed on administrative leave at the discretion of the Chief of Police, for allegations of misconduct, pending investigative or disciplinary purposes, shall be notified in writing and be under the direct supervision of the Internal Affairs Commander or designee until such time as determined by the Chief of Police. The employee will sign the memo acknowledging receipt. **(CALEA 26.3.7)**
5. When a sworn employee has been relieved of duty for alleged misconduct, paid or unpaid, the employee shall be required to turn in the following department issued equipment, which shall be retained by the **Supply and Logistics Specialist** or other appropriate location. An inventory form shall be filled out by the issuing officer. The officer receives a copy, and the original is placed into the investigative file.
  - a. Uniform shirt badge
  - b. Employee security disc
  - c. Employee identification card and wallet badge
  - d. Duty weapon & ammunition
  - e. ECW (Taser)
  - f. Portable radio
  - g. Department computer
  - h. Vehicle and vehicle keys
  - i. Department cellular telephone at the discretion of the Internal Affairs Commander
  - j. Any other City/Department property identified by the Internal Affairs Commander or the Chief of Police
6. When a non-sworn employee has been relieved of duty for alleged misconduct, paid or unpaid, the employee shall be required to turn in the following department issued equipment, which shall be retained by the **Supply and Logistics Specialist** or other appropriate location. An inventory form shall be filled out by the issuing officer. The employee receives a copy, and the original is placed into the investigative case file.
  - a. Uniform shirt badge, if applicable
  - b. Employee security disc
  - c. Employee identification card

- d. Portable radio, if applicable
  - e. Computer, if applicable
  - f. Department cellular telephone at the discretion of the Internal Affairs Commander
- 7. All employees must honor all subpoenas and other court related requests while on paid administrative leave.
  - 8. All employees shall be required to attend any assigned or required Department business in accordance with General Order 7.9 Uniforms Appearance and Grooming, Section V(A) Business Attire, and shall not be permitted to wear a uniform, carry a weapon, or display any Department identification while relieved of duty for alleged misconduct. All employees shall be groomed according to General Order 7.9 Uniforms Appearance and Grooming.
  - 9. Extra-duty details or off-duty police jobs shall be suspended when relieved from duty.
  - 10. Any employee who has felony criminal charges filed against him or her by the controlling legal authority may be immediately placed on unpaid administrative leave by the Chief of Police, pending the outcome of the Internal Affairs Investigation and/or the criminal investigation. (United States v. Homar, 520 U.S. 924 (1997)). Being placed on unpaid administrative leave under these circumstances is not disciplinary in nature but is an interim measure pending further investigation. If after investigation, no disciplinary action is taken, the employee will be eligible for back pay and other benefits, as applicable, and as determined by the Chief of Police.

#### **SECTION XVI: NOTIFICATIONS**

- A. Investigators or Supervisors must attempt to contact a complainant advising them of the receipt of a complaint and explain the investigation process. Complainants will be notified in writing, unless circumstances prevent written notification (e.g., no address provided) of the receipt of a complaint by Internal Affairs. **(CALEA 26.3.4 a)**
- B. In both Internal Affairs Investigations and Administrative Investigations, an initial notice of complaint/investigation shall be provided in writing to an affected member including a written statement of the allegations. The notice will include the employee's rights and responsibilities relative to the investigation. Based on the nature of the complaint, the notification will include an option for the employee to participate in the Discipline Dispute Resolution Process outlined in Section X of this General Order, which will be included in the notification. **(CALEA 26.3.5) (CFA 20.02)**
- C. In both Internal Affairs Investigations and Administrative Investigations, the complainant and the affected member shall receive written notification of the complaint conclusion and disposition concerning the allegation(s) of misconduct. **(CALEA 26.3.4 c) (CFA 20.04)**
- D. In both Internal Affairs Investigations and Administrative Investigations, the complainant and affected member shall receive notification of any extension requests approved by the Chief of Police during the investigation, thus providing an update to the status of an investigation. **(CALEA 26.3.4 b)**

#### **SECTION XVII: CJSTC REQUIREMENTS**

- A. CJSTC Requirements & Notification: The Internal Affairs Commander or designee shall notify the Criminal Justice Standards and Training Commission whenever an **Administrative Investigation** or Internal Affairs Investigation is sustained, as per Florida State Statute. The employing agency must forward a report to the Commission as specified by Florida State Statute



943.1395. Form CJSTC 78, shall be completed and forwarded to the Commission, along with the complete investigative report. This will be completed within 45 days of the date the allegation was sustained. C.J.S.T.C. will not be notified when allegations are sustained and are violations of agency policy only, or other agency level disposition.

## **SECTION XVIII: RECORD KEEPING**

- A. Custodian of Internal Affairs Investigations Records: Internal Affairs is the custodian of all investigative reports relating to alleged misconduct and discipline. Records pertaining to ***Complaint Inquiries***, Preliminary Assessments, Administrative Investigations, Internal Affairs Investigations, Supervisory Disciplines, Supervisory Notes, the Discipline Dispute Resolution Process, Firearm Discharges, Vehicle Pursuits, Vehicle Accidents involving City vehicles, and a member's disciplinary history, will be securely maintained in Internal Affairs. **(CALEA 26.1.8) (CFA 20.01 D)**
1. Maintenance of disciplinary records: All disciplinary records shall be maintained by Internal Affairs utilizing the BlueTeam/IAPro system in accordance with the requirements set by Florida State Statute 257 and the General Records Schedule as provided in that statute.
  2. Maintenance of Supervisory Notes: Supervisory notes shall be maintained by Internal Affairs utilizing the BlueTeam/IAPro system and shall remain for a period of at least one year unless there is a same or similar incident. In this event, the Supervisory Notes will be retained for a period of at least one year from the date of issuance of any additional supervisory notes.
- B. Retention of Internal Affairs Investigations Records: When a particular record has met the retention guidelines in accordance with the Florida Department of State General Records Schedules, GS1-SL and S2, such records may be destroyed. The Internal Affairs Commander or designee will be responsible for submitting the Records Disposition Document to the Records Management Liaison Officer requesting approval to destroy the record(s). Upon approval, the records will be appropriately destroyed. Internal Affairs will purge these records within sixty (60) days of the signed order. **(CALEA 26.1.8) (CFA 20.01 D)**

## **SECTION XIX: SECURITY & CONFIDENTIALITY, AND TIME LIMITS**

- A. Internal Affairs investigations and any information regarding these investigations, shall be kept confidential until such time as the case becomes public record, pursuant to Florida Statutes 119 and 112.532-112.535.
- B. All investigations will be completed within the time limits allowed by Florida State Statute 112.532(6). Sec. 112.532 affords law enforcement agencies one hundred and eighty (180) days to undertake disciplinary action based upon a complaint filed against a law enforcement officer. The law provides for a limited number of specific exceptions which can be used to toll the running of the one hundred and eighty (180) days. Additionally, the running of the limitations period may be tolled for a period specified in a written waiver of the limitation by the law enforcement officer. **(CALEA 26.3.3)**
- C. Under F.S. 112.533, an investigation shall be considered active as long as it is continuing with a reasonable, good faith anticipation that an administrative finding will be made in the foreseeable future. An investigation shall be presumed inactive if no finding is made within 45 days after the complaint is filed. **(CALEA 26.3.3)**
1. PBA Contract Article 4 - Rules and Regulations 4.2 Under normal circumstances, all internal investigations shall be completed within forty-five (45) days, unless a written

extension is granted by the Police Chief. The employee under investigation shall be advised of the extension in writing.

- D. Disclosure of Public Record: Unless exempted by law, the records of completed investigations arising from complaints against the department or its members are considered public record and subject to applicable departmental and state regulations governing public disclosure and may be reviewed upon request.
- E. Security of the Internal Affairs and Citizen Complaint Files: (CALEA 26.2.2) (20.01 F)
1. To ensure completeness of closed cases, all reports and documentation pertaining to a particular case must be included when it is returned to Internal Affairs.
  2. All notes, reports, statements, or other material involved in the investigation of all complaints shall be maintained in Internal Affairs Office and shall remain confidential in accordance with applicable State law, with access limited to the Internal Affairs staff, authorized personnel, and the Chief of Police or designee. For the purposes of the General Order, a case shall be concluded and subject to public records inspection and copying when the conditions provided in Chapter in 112, F.S. are met.
  3. The Internal Affairs Commander is responsible for maintaining the security of all PSS/Internal Affairs Investigation files.

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**References:**

Bureau of Archives, General Records Schedule #GS-2  
Bureau of Archives, General Records Schedule #GS1-SL  
Law Enforcement and Correctional Officers' Bill of Rights (Florida Statutes 112.532-112.535)  
Florida State Statutes 119.07  
Florida State Statutes, Chapter 257  
Florida State Statute 943.1395  
Collective Bargaining Agreement (City of Fort Myers and the Gulf Coast Chapter of the Police Benevolent Association (PBA))  
General Order 6.1 – Use of Force & Response to Resistance  
City of Fort Myers Drug-Free Workplace Policy-  
<https://powerdms.com/link/FMPOLICE/document/?id=1790276>

**Related Forms:**

Garrity Warning  
Final Action Summary  
Initial Notice of Investigation Memorandum  
Disposition Notification Letter  
Extension Request Memorandum  
CJSTC-78 Form, Internal Affairs Investigation Reporting Form  
Request to Initiate the Discipline Dispute Resolution Process  
Agreement Pursuant to Discipline Dispute Resolution Process:  
<https://powerdms.com/link/FMPOLICE/document/?id=2438186>

**APPROVED:**

**[Electronic Signature on File]**

**08/23/2024**

\_\_\_\_\_  
**Jason Fields, Chief of Police**  
**Fort Myers Police Department**

\_\_\_\_\_  
**Date**