	PARADISE VALLEY POLICE GENERAL ORDER	Order Number 52.1
	Investigation of Complaints of Employee Misconduct	Date 09-18-14

52.1 Investigation of Complaints of *Employee Misconduct*

- A. The Police *Department* is committed to maintaining a positive relationship with the community and to correcting any actions, practices, or behavior on the part of *Department employees* that are not professionally acceptable. To ensure that such investigations ("administrative investigations") are conducted in a fair manner, and conducive to good order and *discipline*, the following procedures are established.
- B. Critical to this effort is the Professional Standards function. The sensitivity and impact of these investigations requires that the commander of this function have the authority to report directly to the Chief.
- C. When receiving or investigating a complaint, whether against a sworn employee or professional staff, the agency shall follow all statutory requirements, personnel rules and regulations, and employee agreements.
- D. Note that *critical incidents*, including any *officer* involved shooting, in-custody death, or other incident where the actions of a *Department employee* result in death or *serious injury*, are not to be handled under this General Order, but rather under the procedure set forth in G.O. #46.1.
- E. Anyone accepting a complaint shall comply with [ARS Title 38-1120](#). Before a law enforcement agency accepts a complaint made against a peace officer, the law enforcement agency must provide the person making the complaint with the following notice:

"Pursuant to section [13-2907.01](#), Arizona Revised Statutes, it is a Class 1 Misdemeanor to knowingly make to a law enforcement agency a false, fraudulent or unfounded report or statement or to knowingly misrepresent a fact for the purpose of interfering with the orderly operation of a law enforcement agency or misleading a peace officer."

52.1.1 Receipt and Assignment of Complaints

- A. The *Department* will accept all written and/or verbal complaints of *employee misconduct*, whether from an internal or external source, including anonymous and third-party complaints.
- B. An *employee* who initiates, receives, or is notified of a complaint or allegation of



PARADISE VALLEY POLICE GENERAL ORDER

Investigation of Complaints of Employee Misconduct

Order Number

52.1

Date

09-18-14

employee misconduct *shall* immediately refer the matter to a supervisor. An *employee* who receives or refers a complaint *shall* not discuss the complaint or allegations with anyone other than the *supervisor* to whom the complaint is referred, an internal investigator, or with the *employee's* chain of command.

- C. The *supervisor* who receives the complaint *must* evaluate the complaint or allegation of misconduct and determine whether the complaint is appropriate for investigation by the *supervisor*, or whether the complaint *should* be referred to Command staff for investigation assignment.
1. Serious Misconduct – All complaints involving misconduct which by its very nature would result in suspension, demotion, or termination if the misconduct is proven (for example, excessive force, falsification of *departmental* forms or *reports*, corruption and discrimination and harassment) *shall* be referred by the *supervisor* to the Command Staff for investigation assignment.
 2. Misconduct - All other complaints (misconduct that would not normally result in suspension, demotion, or termination, such as failure to perform duties or maintain equipment, unsafe performance, failure to report for duty or training, minor errors or omissions in the field, procedural errors, or work deficiencies, etc.) *shall* be investigated by the *supervisor*.
- D. The *supervisor shall* verbally report the receipt of a complaint to the *supervisor's commander*, who *must* concur with the assignment of the complaint prior to the initiation of the investigation. In cases requiring an immediate call-out of Detective *personnel* to begin an investigation, the *supervisor shall* receive approval from a command *officer* prior to call-out. In all other cases, the *supervisor shall* review the incident with the *supervisor's commander* within 24 hours to confirm responsibility for investigation of the complaint.
- E. When the allegation involves serious misconduct, the chain of command *shall* make a recommendation whether the *involved employee should* be placed on administrative leave or reassigned pending completion of the investigation. The *Chief*, or if unavailable the *Chief's* designee, *shall* make the determination.
- F. *Supervisors* are cautioned not to interview a sworn *employee* concerning a complaint or allegation of misconduct that either the employer or the sworn employee reasonably believes could result in dismissal, demotion or suspension



PARADISE VALLEY POLICE GENERAL ORDER

Investigation of Complaints of Employee Misconduct

Order Number

52.1

Date

09-18-14

without complying with A.R.S. § 38-1104. A *supervisor* may discuss a complaint with an *employee* without a representative or notice of investigation pursuant to A.R.S. § 38-1104 when:

1. done in the normal course of duty, counseling or instruction or an informal verbal admonishment by, or other routine or unplanned contact with, a *supervisor* or other law enforcement *officer*
2. doing preliminary questioning to determine the scope of the allegations or if an investigation is necessary
3. the questioning is conducted in the course of a *criminal investigation*.

52.1.2 Complaints Assigned to Detective Bureau

When appropriate, the Detective Sergeant *may* recommend to the *Chief* that a serious misconduct complaint be handled by an outside agency. If the *Chief* determines that an outside agency *will* handle the investigation, the *Chief* or *Chief's* designee *will* contact the selected outside agency and coordinate the transfer of the investigation to that agency.


- A. A Professional Standards complaint that is not assigned to an outside agency for investigation *will* be assigned to an IA investigator, who *will* complete the investigation.

52.1.3 Complaints Investigated by a Supervisor

All misconduct complaints which are not assigned to an outside agency or to the Detective Bureau *shall* be investigated by the affected *employee's supervisor* unless otherwise assigned.

52.1.4 Sequence of Criminal and Administrative Investigations

- A. When an incident results in both criminal and *administrative investigations*, it is important that all involved investigators be fully aware of the legal requirements regarding the need to establish and maintain separation between the *administrative investigation* and the *criminal investigation*. To avoid these complications, criminal and *administrative investigations* *will* generally be done in

	PARADISE VALLEY POLICE GENERAL ORDER Investigation of Complaints of Employee Misconduct	Order Number 52.1
		Date 09-18-14

sequence, with the interviews of witnesses and involved *employees* in the criminal *investigation* being completed prior to the initiation of the *administrative investigation*.


- B. In situations involving locations or scenes where *evidence may* be observed or collected, it *may* be appropriate for both criminal and administrative investigators to be present at the scene. Criminal investigators are in charge of the scene and *shall* direct all of the collection of *evidence* and documentation of the scene. Administrative investigators *may* observe the work of criminal investigators.
- C. Administrative investigators may be present during a criminal interview but shall not ask any questions during the interview. If the officer declines to speak with the criminal investigators, or after the criminal investigators indicate that they are done interviewing the involved *officers* and *will* not need to conduct further interviews, those *officers may* be questioned (outside of the presence of the criminal investigators) by the administrative investigators.
- D. Following the administrative interviews, if any, administrative investigators *may* become aware of additional *evidence*. If the criminal investigator(s) do not collect this *evidence*, the collection *shall* be done by the administrative investigators once the criminal investigators have left the scene.
- E. Administrative investigators *shall* not accompany criminal investigators during a crime scene walk-through with an *officer* who was directly involved in an incident that is being investigated for possible criminal activity.

52.1.5 Criminal Investigations

Generally, *criminal investigations will* be completed by an assigned criminal investigator and *will* follow the ordinary investigative path for the investigation of crimes not committed by a *Department employee*. *Department employees* have the same rights, in a *criminal investigation*, as non-*Department employees*. The *employee may* agree to an interview or *may* decline to speak with an investigator. *Miranda Rights* need not be read to an *employee* unless the *employee* is in custody and is to be interrogated.

52.1.6 Administrative Investigations

- A. The person assigned to complete the investigation *will* conduct a thorough

	PARADISE VALLEY POLICE GENERAL ORDER	Order Number
	Investigation of Complaints of Employee Misconduct	52.1
		Date
		09-18-14

investigation, when possible, making contact with the reporting party first to gather all pertinent information. All witnesses and any other parties *will* be contacted and interviewed, if available. Investigators *shall* comply with the requirements of *Arizona law* (see below) when contacting and interviewing *Department employees*.

- B. Upon completion of the investigation, the investigator *shall* make findings of fact and appropriate violations. The investigator shall recommend discipline, based on the findings and seriousness of the incident and the employee's disciplinary history, and in accordance with Town and Department disciplinary policy. The investigator shall complete the *Department's Investigation Form* on all complaints. The completed investigation will be sent to the Chief through the chain of command for review and final determination of discipline.

52.1.7 Administrative Interviews with *Department Personnel*

- A. When so *ordered* by the *Police Chief* or the *Chief's* designee, *employees shall* submit to an interview during any *administrative investigation* into alleged misconduct. All *employees* are required to fully and truthfully participate in, and cooperate with, any *administrative investigation* to which they are a party, witness, or *may* have useful information. *Employees shall* provide all complete and truthful relevant information, whether specifically requested or not. Any and all acts of intentional untruthfulness and/or purposeful omission of relevant information *shall* result in *discipline*. *Employees shall* comply with all directions given by the investigator. All *administrative investigations* are confidential.
- B. The interview of any *Department employee shall* be conducted when the *employee is on duty*, unless the urgency of the investigation dictates otherwise. If the interview occurs when the *employee is off duty*, the *employee shall* be compensated for this time in accordance with regular *Department* procedures. The interview *will* not be conducted at the *employee's* home without authorization of the *Police Chief*.
- C. The interview session *shall* be for a reasonable duration. The investigating *officer will* allow for reasonable interruptions of the interview to allow the *employee* to attend to personal or physical necessities, including telephonic or in person consultation with a representative, attorney, or other person.
- D. During the course of the interview, the scope of the questions presented to the



PARADISE VALLEY POLICE GENERAL ORDER

Investigation of Complaints of Employee Misconduct

Order Number

52.1

Date

09-18-14

employee shall be limited to the specific allegations of misconduct. All interviews *will* be conducted in a professional manner. No threats or intimidation *will* be used or tolerated. The *employee* being interviewed *will* not be subjected to any offensive or abusive language.

- E. The interview *shall* be recorded by the *Department*. A copy *will* be provided to the *employee* upon request.
- F. The *employee*, at the conclusion of the interview, is entitled to a period of time to consult with the *employee's* representative, if any, and *may* make a statement not to exceed five minutes addressing specific facts or policies that are related to the interview.
- G. An *employee shall* not discuss the investigation, including the *employee's* interview, with any unauthorized person. Other than the investigators, the only persons an *employee may* speak with concerning this investigation are the *employee's* attorney, minister, representative, or spouse.

52.1.7.1 Completion of a Notice of Investigation (NOI)

- A. Prior to the interview, the investigator *shall* complete a written NOI. The notice *shall* include:
 - 1. the alleged facts that are the basis of the investigation,
 - 2. the specific nature of the investigation,
 - 3. the *officer's* status in the investigation,
 - 4. all known allegations of misconduct that are the reason for the interview,
 - 5. the *officer's* right to have a representative present at the interview,
 - 6. copies of all complaints that contain the alleged facts that are reasonably available (except for copies of complaints that are filed with the employer and that include allegations of unlawful discrimination, harassment or retaliation or complaints that involve



PARADISE VALLEY POLICE GENERAL ORDER

Investigation of Complaints of Employee Misconduct

Order Number

52.1

Date

09-18-14

matters under the jurisdiction of the Equal Employment Opportunity Commission),

7. an explanation of the *employee's* rights under Garrity,
8. the date, time, and location of the allegations, if known.

- B. Investigators are required to give the *employee* specific notice of the allegations of misconduct that are being investigated. General, catch-all statements included in the NOI *will* not meet the requirements of *Arizona law*; investigators *should* be as specific as the allegations allow.
- C. The NOI need not disclose any fact to the *employee* that would impede the investigation.

52.1.7.2 Service of a Notice of Investigation

- A. The completed notice of investigation (NOI) *will* be given to the *employee* prior to any interview in an *administrative investigation*.
- B. The investigator *shall* go over the form with the *employee* paragraph by paragraph. Both the investigator and the *employee will* review the form, sign it, and be provided a copy of the form prior to the interview. If the *employee* refuses to sign the document, the interviewer *should* note on the form that signature was refused and that the document was served, serve the document, and proceed with the interview.
- C. The investigator is not required to stop an interview to issue another notice of investigation for allegations based on information provided by the *employee* during the interview.

52.1.7.3 Employee Representative

- A. The *employee may* request to have a representative present during the interview at no cost to the *Department*. The representative *must* be available on reasonable notice so that the interview is not unreasonably delayed. The representative *shall* participate in the interview only as an observer. The representative *shall* be from the *Department* and *shall* not be an attorney. The representative shall be allowed to take written notes.



PARADISE VALLEY POLICE GENERAL ORDER

Investigation of Complaints of Employee Misconduct

Order Number

52.1

Date

09-18-14

- B. The *Department* shall not *discipline*, retaliate against or threaten to retaliate against an *employee* for requesting a representative or for acting as a representative.

52.1.8 Use of Polygraphs

The *Department* may not administer a polygraph examination to a sworn employee in an administrative investigation (A.R.S. § 38-1108). The Department may administer a polygraph examination to professional staff in an administrative investigation with the approval of the Chief or the Chief's designee. The complete polygraph procedure shall be audio recorded and a copy of the recording shall be provided to the employee.

52.1.9 Gathering of Evidence

During an *administrative investigation*, if related to the investigation, an *employee* may be required to:

- A. Submit to being photographed or to participate in a line-up.
- B. When *reasonable suspicion* exists, submit to a test for alcohol or drug use while *on duty*.
- C. Complete financial disclosure statements or provide financial records.
- D. When reasonable suspicion exists, submit to other medical or laboratory exams, at the agency's expense.
- E. Provide records related to the use for business purposes of any personally owned electronic equipment or provide the equipment itself for examination (including cell phones, recording devices and computers).

52.1.10 Duration of Investigations

- A. Once a *supervisor* who is authorized to initiate an investigation of *employee* misconduct receives notice of an allegation of *employee* misconduct, the *Department* shall make a good faith effort to complete any investigation of the misconduct within one hundred eighty (180) calendar days. The investigation is considered complete, for purposes of the 180-day limit, on the date the *employee*



PARADISE VALLEY POLICE GENERAL ORDER

Investigation of Complaints of Employee Misconduct

Order Number

52.1

Date

09-18-14

is served with a notice of *discipline* or the notice of findings of the investigation. If the *Department* determines that *disciplinary action* is appropriate, the *Department shall* give specific notice of any proposed *discipline*, including the length of suspension, if any, within the same time frame.

B. No investigation *may* continue beyond 180 calendar days without the written permission of the *Chief*. Any investigation continuing beyond 180 calendar days requires written explanation of the delay to the *employee*. The 180-day limit:

1. is suspended during the time that any criminal investigation or prosecution is pending in connection with the act, omission or other allegation of misconduct.
2. is suspended during the period of time in which an officer who is involved in the investigation is incapacitated or otherwise unavailable.
3. may be suspended for a period prescribed in a written waiver of limitation by the officer.
4. may be suspended for emergencies or natural disasters during the time period in which the governor has declared a state of emergency with the jurisdictional boundaries of the Department.
5. in a multijurisdictional investigation, may be extended for a period of time reasonably necessary to facilitate the coordination of the involved Departments.

52.1.11 Completion of the Investigation; Final Report

Upon completion of the investigation, the investigator and investigator's *supervisor will* sign off on the written investigative *report*.

52.1.12 Dispositions

Each allegation *shall* be resolved with one of the following dispositions:

EXONERATED: The incident occurred, but the conduct was lawful and within policy.



PARADISE VALLEY POLICE GENERAL ORDER

Investigation of Complaints of Employee Misconduct

Order Number

52.1

Date

09-18-14

UNFOUNDED: It is found that the reported misconduct did not occur or did not occur as alleged.

NOT SUSTAINED: There is insufficient evidence to either prove or disprove the allegation.

SUSTAINED: The allegation is supported by sufficient *evidence* to justify a reasonable conclusion that the alleged misconduct occurred.

POLICY FAILURE: It is found that the alleged conduct was based on a policy issue rather than misconduct.

COMMENDATION: The reported misconduct did not occur and the *employee's* conduct was found to be exemplary.

52.1.13 Review

- A. Investigations where the recommended action is a verbal reprimand *will* be reviewed and approved by the chain of command through the division *commander* who shall make the final decision and approve the counseling, retraining, or reprimand. This does not pertain to coaching/counseling sessions.
- B. Investigations where the recommended action is a formal written reprimand, suspension, demotion, termination or *commendation will* be reviewed by the chain of command through the *Police Chief*, who *shall* make the final decision.
- C. At the conclusion of the review, the employee shall be provided with a copy of the final investigative report, with the proposed personnel action (if any) attached. If the disciplined employee is sworn, the Department shall also provide either a basic summary or copies of the disciplinary case files for any discipline ordered against any other Department officer of generally similar rank and experience within the previous two years for the same or a similar violation.
- D. In addition, the *Chief* or the *Chief's* designee *shall* write a Complaint Response Letter, explaining the results of the investigation to the original complaining party. Specific *disciplinary action* is generally not disclosed in the Complaint Response Letter.



PARADISE VALLEY POLICE GENERAL ORDER

Investigation of Complaints of Employee Misconduct

Order Number

52.1

Date


09-18-14

52.1.14 Professional Standards Analysis of Complaints, File Maintenance and Security

- A. The *Police Chief or the Chief's designee*, shall prepare an analysis of complaints annually. This analysis shall include any patterns or trends that could indicate training needs and/or recommended policy modifications.
- B. All *administrative investigations* files *will* be segregated from all other *Department* files and maintained in a locked file cabinet located in the office of the Records Department. If the files are maintained electronically, they *shall* be kept in a manner that is secure.
- C. All files *will* be maintained as specified by the approved retention schedules published by the Arizona State Archivist and purged pursuant to *Department* destruction schedules.

52.1.15 Release of Reports

- A. Generally, *administrative investigations* files are considered confidential, and access is limited to the following:
 - 1. the *Police Chief*,
 - 2. Professional Standards Detective Sergeant and other *personnel* assigned to complete an internal investigation *may* have limited access when necessary, as determined by the Command Staff
 - 3. the accused *employee* and/or the *employee's* legal counsel *shall* be provided a copy of the file upon written request and in compliance with the Peace Officers Bill of Rights,
 - 4. other law enforcement agencies completing background investigations,
 - 5. *AZ POST* as required to perform its statutory duties, and
 - 6. a prosecutor in compliance with *Brady v. Maryland*.
- B. In addition, *administrative investigations* files are, like all other files of the *Department*, official *Department* records. As such, they *may* in certain

	PARADISE VALLEY POLICE GENERAL ORDER Investigation of Complaints of Employee Misconduct	Order Number 52.1
		Date 09-18-14

circumstances be subject to release in response to public records requests, subpoenas, and court orders.

All persons or agencies, other than those listed above, requesting copies of *administrative investigations reports* shall be asked to make the request in writing. The *Town Attorney* shall be consulted regarding requests from outside entities for copies of these records and *reports*.

- C. A.R.S. § 38-1109 prohibits the release of investigative files until the investigation is complete or it has been discontinued by the *Department*. If the *employee* appeals a *disciplinary action*, the investigation is not complete until the conclusion of the appeal process.
- D. Information *will* not be released when it is not subject to release under the Arizona Public Records Act or other applicable statutes or court orders. The release of records and their redaction prior to release, is discussed in G.O. #82.3.
- E. Only the *Police Chief*, or designee, *may* access completed Internal Investigations files. Whenever copies are made of an Internal Investigations file, the date the file was copied and the name and contact information of the individual to whom the copy was provided *shall* be entered into the file. Whenever an internal investigation file is redacted and released, the redacted copy and any notes related to the redaction *shall* be maintained in the internal investigation file.

52.1.16 Administrative Investigation File

This file *shall* contain a completed Professional Standards investigation, including a record of the complaint investigated, witnesses identified and interviewed, and *evidence* gathered. If completed, the investigation *shall* include the final *report* and recommendation from the investigator as well as the chain of command review and the final action taken regarding the complaint.

52.1.17 Completion of a Notice of Admonishment

A Notice of Admonishment is to be completed for associated employees who are not the subject of an internal administrative investigation but are being ordered/admonished not to discuss their involvement in the investigation as a witness, employee representative, or otherwise. N.O.A.'s are completed and served in the same manner as N.O.I.'s.