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| SALINA POLICE DEPARTMENT                                      |  |  |  | Number                |
| GENERAL ORDER   |  |  |  | M1107                 |
| SUBJECT: INTERNAL AFFAIRS                                     |  |  |  |                       |
| EFFECTIVE: 10/29/18 ISSUED: 10/29/18 REVIEW: Annual           |  |  |  |                       |
| CANCELS:  |  |  |  |                       |
| AMENDS: M1107 issued 1/31/18                                  |  |  |  | Distribution<br><br>A |
| CALEA References: 26.2.1., 26.2.2., 26.2.4., 26.3.2., 26.3.5. |  |  |  |                       |

## **POLICY**

The Department must provide a formal internal system for the processing of complaints relative to Department operations, policies and procedures, and the conduct of police personnel. The character and the reputation of the Department rest on an adequate program of fair and impartial investigations. The purpose of this order is to establish an Internal Affairs Unit and delineate its authority, duties, and standard operating procedures.

## **INTERNAL AFFAIRS UNIT**

1. Authority - The Internal Affairs Unit shall be under the direct command of the Chief of Police and is acting for the Chief when conducting investigations.
2. Selection - Internal Affairs Unit personnel will be appointed at the discretion of the Chief of Police.
3. Duties - The Internal Affairs Unit will initiate, complete, and maintain records of all investigations relative to complaints against the Department or any of its members. All findings and recommendations made during the course of the investigation will be recorded and forwarded to the Chief of Police for final disposition.
4. For purposes of this General Order, a complaint shall be defined as an act of expressed dissatisfaction which relates to Salina Police Department operations, policies and procedures, or conduct of department personnel.
5. Internal Affairs shall be responsible for any other investigations as directed by the Chief of Police.
6. **Primary Objectives of Internal Affairs Investigations**
  - 6.1. Protection of the Public - The public has a right to expect efficient, fair, and impartial law enforcement. Therefore, any misconduct by Department personnel must be detected, thoroughly investigated and properly adjudicated to assure the maintenance of these qualities.
  - 6.2. Protection of the Department - The Department is often evaluated and judged by the conduct of individual members. It is imperative that the entire organization not be subjected to public censure because of misconduct by one of its members.
  - 6.3. Protection of the Employee - Employees must be protected against false allegations of misconduct. This can only be accomplished through a consistently thorough investigative process.
  - 6.4. Correction of Procedural Problems - The Department is constantly seeking to improve its efficiency and the efficiency of its personnel. Internal investigations occasionally disclose faulty policies and procedures that would otherwise have gone undetected. These procedures can then be improved or corrected.

7. The Internal Affairs Unit or the Chief of Police may refer investigations to the employee's supervisor for investigation.
8. Internal Affairs Unit members or officers temporarily assigned to that unit shall have the authority to interview any member of the Department and to review any record or report of the Department relative to their assignment. Members of the Internal Affairs Unit will come under the direct authority of the Chief of Police.
9. The Internal Affairs Unit will maintain a comprehensive central complaint file on complaints received, whether investigated by Internal Affairs or any other member of the Department.
10. **The Internal Affairs Unit Shall:**
  - 10.1. Maintain liaison with the prosecutor's office in investigations involving alleged criminal conduct by Department members.
  - 10.2. Provide assistance to and close coordination with City/Department defense counsel on civil claims or suits against the Department and its personnel.
  - 10.3. Conduct on scene inspection and investigation of police involved shooting incidents and firearms discharges.
  - 10.4. Appear before legislative and judicial bodies in matters pertaining to the Department's disciplinary policies and procedures.

**PROCEDURE**

11. **Acceptance and Referral of Complaints**
  - 11.1. All members of the Department are charged with the responsibility for courteously and willingly receiving any complaint that may be lodged against the Department or any employee.
  - 11.2. Complaints will be accepted from any source, whether made in person, by mail or by telephone. Anonymous complaints shall be evaluated to determine the extent to which they should be investigated.
  - 11.3. Public access for the procedure to register a complaint against the Department is located on the City of Salina's website. Also located on the City of Salina's website is the official complaint form that must be completed online.
  - 11.4. Complaints will be referred directly to the Internal Affairs Unit (telephone number 826-7225) during normal business hours of 0800 to 1630, Monday - Friday.
  - 11.5. All formal complaints received during other than normal business hours will be referred to the involved member's supervisor (or on-duty supervisor in his absence), who will document the complaint on the Salina Police Department Complaint Form, and forward same to the Internal Affairs Unit. After documenting the complaint, the supervisor shall advise the complainant to contact the Internal Affairs Unit during normal business hours.
  - 11.6. Upon receipt of the following types of complaints, Internal Affairs will notify and brief the Chief of Police or his designated representative immediately.
    - 11.6.1. The following types of formal complaints will be forwarded to and handled by the Internal Affairs Unit:
      - a. Excessive Force
      - b. Discrimination

- c. False Arrest/Imprisonment
- d. Unlawful Search/Seizure
- e. Shooting Policy/Weapons
- f. Sexual Harassment
- g. Drug or Alcohol Use/Intoxication on Duty
- h. Alleged Perpetration of a Criminal Act
- i. Violations of Civil Rights
- j. Internal Theft/Dishonesty
- k. Misconduct, on or off-duty, which brings the department into disrepute or reflects discredit upon the employee as a member of the department.
- l. Any other investigation as directed by the Chief of Police.

11.6.2. Other types of complaints made that do not fall under those listed in 11.6. will be brought to the attention of the Chief of Police, or his designated representative, in a timely manner during normal business hours: Monday – Friday, 8:00 AM to 5:00 PM, excluding holidays. These same types of complaints will be forwarded to and handled by the Internal Affairs Unit or the Chief's designee.

## **12. Formal Complaints**

- 12.1. Upon accepting a formal complaint from a citizen, the Internal Affairs officer is responsible for notifying the person verifying that the complaint has been received and an investigation will be conducted.
- 12.2. Department employees involved in serious formal complaints will normally be notified of the complaint by letter, unless determined by the Chief of Police or his designee that such notification may jeopardize the investigation. The complaint letter shall state the nature of the complaint and shall reference the employee's rights and responsibilities. The employee's Division Commander shall also be notified by letter. Upon receipt of the letter, the employee must contact the Internal Affairs Unit to set up an appointment for an interview to be held within five working days of the notification. No overtime will be authorized for any off duty employee who appears without a scheduled appointment.
- 12.3. When requested by the Chief of Police or his designee, employees shall submit a written report to the Internal Affairs Unit in regards to the allegation(s) within five working days of the letter notification. The report shall contain the following:
  - 12.3.1. All pertinent information pertaining to the allegation.
  - 12.3.2. A list of all officers and witnesses known.
  - 12.3.3. Any other information that would be of assistance in the investigation.
- 12.4. A thorough, complete and impartial investigation will be conducted by the Internal Affairs Unit. This investigation may include the taking of formal, signed statements, gathering and preservation of physical evidence and any other information relevant to the investigation. All employee interviews shall be recorded and interviews with complainants should be recorded whenever possible.
  - 12.4.1. Whenever an employee is not willing to answer questions concerning matters which may or may not result in a criminal prosecution against him, he shall be given the "Miranda-Garrity" or "Garrity" Warning, whichever is applicable. (See Attachments A and B)
- 12.5. Pursuant to and in congruence with all legal requirements, the Chief of Police may, at Department expense, require an employee to submit to a medical or laboratory examination and provide a sample of blood, breath, or urine, when such examination is specifically directed and narrowly related to a particular investigation. For example: This process may be used in determining alcohol and/or illicit drug use by an employee.

In addition, upon order of the Chief of Police, an employee may be required to be photographed; to participate in a line-up; submit to a financial disclosure statement; submit to a polygraph, psychological and/or physical examination, provided that 1) such actions are material to a particular investigation, and 2) such actions are specifically directed and narrowly related to said investigation.

- 12.6. Failure to follow a direct order requiring employee participation in the above constitutes a separate infraction, and may result in disciplinary action up to and including termination.
- 12.7. When the investigation is completed, a copy of the investigative reports will be forwarded to the Chief of Police for review. These reports will include a recommendation as to the findings.
- 12.8. The following findings are available to the Internal Affairs Unit:
  - 12.8.1. Unfounded - The investigation conclusively proved that the act complained of did not occur. This finding also applies when an individual employee named in the complaint was not involved in the act which may have occurred.
  - 12.8.2. Exonerated - The act which provided the basis for the complaint or allegation occurred; however, the investigation revealed that the act was justified, lawful and proper.
  - 12.8.3. Not Sustained - The investigation failed to disclose sufficient evidence to clearly prove the allegation made in the complaint or to conclusively disprove such allegation.
  - 12.8.4. Sustained - The investigation disclosed sufficient evidence to clearly prove the allegation made in the complaint.
  - 12.8.5. Sustained Against Policy - The investigation revealed a faulty policy and/or procedure.
- 12.9. The Chief of Police shall approve each formal investigation and may, at his discretion, make a new and separate finding as to appropriate Department action.
- 12.10. Any investigation disapproved by the Chief of Police shall be returned to the Internal Affairs Unit for required action necessary for approval.
- 12.11. All Internal Affairs investigations should be completed within 30 days after receipt of the complaint. The Internal Affairs Unit shall provide the Chief of Police with status reports at seven day intervals until the investigation is complete. If for any reason the investigation cannot be completed within allotted time, the Internal Affairs officer shall request an extension from the Chief of Police and notify the complainant of a new completion date.

### **13. Informal Complaints**

- 13.1. The following types of complaints may be handled by the involved employee's immediate supervisor:
  - 13.1.1. Complaints of demeanor,
  - 13.1.2. Neglect of duty, and
  - 13.1.3. Minor rules and regulations, or policy and procedure violations.
- 13.2. All informal complaint investigations shall be documented and, upon completion, forwarded to the Internal Affairs Unit for control and statistical purposes.

The results of an informal investigation may be reviewed by Internal Affairs if so directed by the Chief of Police or his designated representative.

**14. Disposition of Investigation Results**

14.1. Approved investigations shall be processed in the following manner:

14.1.1. Sustained Cases

- a. The involved employees shall be notified by letter as to the completion of the case and of the findings.
- b. A letter indicating the finding shall be sent to the employee's Division Commander.
- c. An administrative hearing, attended by the involved employee, his immediate supervisor and Division Commander the Internal Affairs Officer, and the Chief of Police, will be held within ten days of the completion of an Internal Affairs case. The purpose of this hearing is to explain the case findings and give the involved employee a meaningful opportunity to present his position prior to final disposition by the Chief of Police.
- d. Following the aforementioned administrative hearing, a letter indicating the finding and disposition will be sent to the complainant.
- e. All copies of the reports shall be retained by the Internal Affairs Unit.

14.1.2. Other than Sustained Cases

- a. The involved employees shall be notified by letter as to the completion of the case and of the findings.
- b. A letter indicating the finding shall be sent to the employee's Division Commander.
- c. A letter indicating the finding and disposition will be sent to the complainant.
- d. All copies of the reports shall be retained by the Internal Affairs Unit.

**15. Internal Affairs Files**

- 15.1. In order to maintain the confidentiality of Internal Affairs' files, access to the files within the Department will be restricted. Only persons with a need to know the content of the files, based on some part in the Internal Affairs or the discipline process, will be allowed to examine those documents. Access shall be granted only by order of the Chief of Police.
- 15.2. Excepting a court order, or unless specifically authorized by the Chief of Police, no portion of an investigative Internal Affairs report shall be given to, or maintained by, anyone outside the Department.
- 15.3. The Internal Affairs officer shall compile annual statistical summaries, based upon records of internal affairs investigations, and provide same to the Chief of Police and other Department personnel, as directed by the Chief of Police. This statistical summary may be made available upon request to agency employees and the public.

**16. Commendations**

- 16.1. Commendations for employees will be accepted from any source, whether made in person, by mail, or by telephone.
- 16.2. Public access for the procedure to register a commendation for an employee is located on the City of Salina's website. Also located on the City of Salina's website is the official commendation form that must be filled out online.

BY ORDER OF

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CHIEF OF POLICE

## INTERNAL AFFAIRS - ATTACHMENT A

### MIRANDA-GARRITY WARNING

(To be used when a member is being questioned about matters which could result in criminal prosecution against him and no decision has been made as to whether or not the member's statements will be used against him in a criminal prosecution.)

At this time I would like to question you concerning (state the general nature of the matter under investigation). This questioning concerns criminal matters. You (are) (are not) under arrest. (If the person being questioned is suspected of committing a crime, he should be informed of the specific offense for which he is suspected, unless such disclosure would endanger the investigation.)

I am now going to advise you of your rights as established by the Supreme Court in the cases of Miranda v. Arizona and Garrity v. New Jersey.

First, you have the right to remain silent. You are not required to say anything at any time or to answer any questions. If you do make a statement or answer questions, anything you say can be used against you in a court of law.

Second, you have the right to talk to a lawyer for advice before making a statement or answering any questions, and you may have a lawyer present with you during questioning if you wish. If you do want a lawyer but cannot afford one, a lawyer will be provided for you. If you want to answer questions now without a lawyer present, you still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer

Third, even though you are an employee of the Salina Police Department and ordinarily you would be required by regulations to answer questions put forth to you by a superior officer regarding your official duties, in this instance those regulations do not apply, and you will not be required to answer. If you do not wish to answer any of these questions, your refusal to answer alone will not subject you to disciplinary action by the Salina Police Department.

Do you understand that I want to question you about criminal matters?

Do you understand that you do not have to make a statement or answer any questions?

Do you understand that if you do make a statement or answer questions, anything you say which incriminates you can be used against you in a court of law?

Do you understand that you have the right to talk to a lawyer and have one present during questioning?

## INTERNAL AFFAIRS - ATTACHMENT B

### "GARRITY" WARNING

(To be used only when a member is being questioned about possible criminal matters and it has been officially determined that any self-incriminating statements that the member makes will not be used against him in a criminal prosecution.)

At this time I am going to question you about (state the general nature of the matter under investigation.) This questioning concerns administrative matters relating to the official business of the Police Department. I am not questioning you for the purpose of instituting a criminal prosecution against you. During the course of this questioning, even if you do disclose information which indicates that you may be guilty of criminal conduct, neither your self-incriminating statements nor the fruits of any self-incriminating statements you make will be used against you in any criminal legal proceedings.

Since this is an administrative matter and any self-incriminating information you may disclose will not be used against you in a court of law, you are required to answer my questions fully and truthfully. If you refuse to answer my questions, this will be considered insubordination and you will be subject to disciplinary penalties.

Do you understand what I have just explained to you?

Do you have any questions concerning what I have just explained to you?

I now order you to answer the following questions.