


<p>Accreditation Standards: 26.2.1, 26.2.2, 26.2.3, 26.2.4, 26.3.1, 26.3.2, 26.3.3, 26.3.4, 26.3.5, 26.3.6, 26.3.7, 26.3.8, 82.1.5; CFA 20.01 TAC 5.13, 5.17</p> <p>Revisions: 08/97; 10/02; 09/04; 03/05; 05/07; 10/07; 08/11; 02/15; 11/15; 05/17; 11/17; 07/19; 09/19; 04/20; 07/20; 08/20; 09/22; 4/24; 7/24; 01/26</p> <p>References: FSS 112.532, 112.533, Chapter 119, Chapter 257, 943.13, 943.1395; GS1-SL Items #98, #206, #371; UF Regulation 3.045, 3.046; DSD 2700, 2705</p>	<p style="text-align: center;">University of Florida Police Department</p>  <p style="text-align: center;">Department Standards Directive</p>	<p>Responsibility: Administration</p> <p>Pages: 11</p> <p>Related Documents: None</p>
TITLE: INTERNAL AFFAIRS AND CITIZEN COMPLAINTS		

1400 Internal Affairs and Citizen Complaints

1400.1 Purpose. The purpose of this directive is to provide guidelines and procedures for the prompt and just disposition of complaints made against Police Department personnel.

1400.2 Discussion. The University of Florida Police Department welcomes, from the people of the community, constructive criticism of the department and valid complaints against its members or procedures. The thorough inquiry into all complaints received, together with fair and impartial evaluations of findings, serves to protect the public against acts of misconduct by police personnel, and the department against invalid charges made by the public. This directive will be in compliance with, Florida State Statute (FSS) 112.533, which requires law enforcement agencies to establish and put into operation a system for the receipt, investigation, and determination of complaints received by such agency from any person, which is the procedure for investigating a complaint against a law enforcement officer and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary.

1400.3 Policy. It is the policy of the department to willingly receive, thoroughly investigate, and promptly resolve all complaints regarding the conduct of employees, department procedures and services. All investigative methods will be consistent with the law, and conducted in a fair and impartial manner, ensuring the rights and dignity of the accused employee.

All employees are responsible and accountable for the internal affairs function of the University of Florida Police Department. The designated internal affairs investigator has the authority to report directly to the Chief on matters involving the status and progress of the internal affairs investigation(s).

1400.4 Procedure.

A. Receiving and Recording Complaints.

1. All employees will courteously and willingly receive any and all citizen complaints.
2. Unless the complainant demands to meet personally with the Chief, the complainant should meet with the Shift Commander and/or the Shift Supervisor.
3. If the complaint is against the person receiving it, the complainant will be referred to the next level of command.
4. Every supervisor will make every effort to resolve any minor allegation of misconduct (rudeness, procedural violations, etc.) to the complainant's satisfaction.
5. If the complaint can be resolved by the line supervisor and the complainant does not wish to file a formal complaint, the supervisor must document the resolution in the RMS Citizen Complaint module and notify the appropriate division Commander and/or the Chief or designee.
6. In the event the allegations demand the knowledge of the Chief, or the complaint cannot be resolved to the satisfaction of the complainant, and the complainant wishes to file a formal complaint against the department or its employees:
 - a. The complainant will submit a digitally signed electronic statement, signed written statement, or verbal statement.
 - b. The supervisor receiving the complaint should complete the RMS Citizen Complaint module, including the supervisor's actions and recommendations and notify the appropriate division Commander and/or the Chief or designee. The supervisor will provide the complainant a copy of the completed complaint module in person, by mail or via email.
7. If a complaint is received and the complainant wishes to remain anonymous, the receiving supervisor should follow the procedures as outlined in the Police Benevolent Association (PBA) collective bargaining agreement.
8. If it is determined by the supervisor taking the complaint that the allegations are of a serious nature (e.g., criminal activity, allegations possibly warranting relief from duty, etc.), the Chief or designee must be notified immediately.
9. After review of the RMS Citizen Complaint Module by the Chief or designee, Internal Affairs will be notified. If the Chief or designee decides to move the citizen complaint forward to an internal investigation, the Investigations Module in RMS will be completed by Internal Affairs. All agency internal investigations will be provided a tracking number in the format of two-digit year – three-digit investigation number.

B. Relief from Duty. Supervisors have the authority to temporarily relieve an employee from duty due to physical or psychological unfitness.

1. The Chief will be notified of all the circumstances prior to relieving the employee from duty.
2. Employee Relations must be contacted as soon as possible thereafter concerning the relief from duty.

C. Complainant Notification.

1. The Chief will prepare a letter to the complainant providing:
 - a. Acknowledgement of receipt of the complaint.
 - b. Assignment of the complaint, including the name and rank of the investigator assigned.
 - c. A Citizen Complaint Process brochure.
2. In cases where the complaint is initiated external to the agency, the investigator will provide written notification of the complaint's status at 90 days after receipt, if still active.
3. The Chief or designee will prepare a letter to the complainant providing the conclusion of fact and the final disposition.

D. Assignment of Complaint. The case assignment will be dependent on the nature and severity of the complaint and is at the discretion of the Chief. Internal Affairs should assign an investigator dependent on the nature of the complaint.

1. If the subject of the complaint is a sworn law enforcement officer, then the employee assigned to conduct the administrative investigation will be a sworn law enforcement officer, preferably of higher rank than the subject of the complaint.
2. If the subject of the complaint is a non-sworn employee, then the employee assigned to conduct the administrative investigation may be a sworn or non-sworn employee, preferably of a higher position level than the subject of the complaint.
3. When the allegation involves both criminal and serious allegations of department procedure or rule violations, the same investigator **will not** be assigned to conduct both. The criminal investigation will be conducted independently.
4. The Chief will request the Internal Affairs Investigator review complaints when warranted. Some allegations may be assigned for supervisory review or as an administrative investigation and/or criminal investigation.

a. Internal Affairs Investigation.

- (1) Information obtained during the administrative investigation **will not** be used in the criminal investigation unless the employee has waived his/her constitutional rights afforded in a criminal investigation.
- (2) Any member assigned to conduct any Internal Affairs investigation of an alleged act of misconduct on the part of an employee of the department must conduct a thorough and impartial investigation. Such investigation will include the taking of sworn, written statements, when deemed necessary, from all involved persons, the gathering and preservation of evidence, and the recording of all information pertinent to the case. The investigation will be conducted strictly in adherence to the Police Officer's Bill of Rights as set forth in FSS Chapter 112.532. These rights apply to investigations originated from within the agency or from outside sources, such as citizen complaints.
- (3) The investigation will be completed within 180 days after the complaint is filed, unless circumstances necessitate a longer period as defined in FSS 112.532.
- (4) The investigator must notify the employee under investigation in writing of the investigation, unless notification is ordered to be withheld by the Chief.
- (5) If it is necessary to relieve an employee under investigation from duty, the Chief will be notified prior to taking any action. The employee will be notified in writing and Employee Relations is contacted prior to relieving the employee if during business hours or as soon as possible the following business day.
- (6) Due to the sensitivity and impact of internal affairs matters on the direction and control of an agency, the investigator assigned should keep the Chief informed of the progress of the investigation at frequent and regular intervals.
- (7) The investigator may maintain tracking notes within the RMS system.
- (8) If, during an administrative investigation, a criminal violation is uncovered, the Administrative Investigation will be paused until the conclusion of the criminal investigation.

b. Criminal Investigation.

- (1) Information obtained during the criminal investigation may be used in the administrative investigation.
- (2) Criminal investigations will be conducted separately from administrative investigations.
- (3) Criminal investigations will be conducted by the Criminal Investigations Division of this agency, unless the Chief requests an outside agency to conduct the investigation.

E. Expedited Corrective Action Process (ECAP). ECAP is available for employees who acknowledge they committed a policy violation and wish to expedite disposition of the matter. A

department member who is the subject of a complaint may agree to participate in ECAP for an administrative inquiry as outlined in the PBA collective bargaining agreement (CBA).

F. Investigative Procedures of Internal Affairs. Whenever a law enforcement officer is under investigation or subjected to interrogation for any reason which could lead to disciplinary action, demotion, dismissal or criminal charges, such interrogation is conducted under the following conditions:

1. Prior to any interrogation, the employee under investigation must receive in writing:
 - a. Notification of the investigation.
 - b. Notification of the complainant(s) and the complaint.
 - c. A list of allegations.
 - d. All documents required to be presented to the subject officer as directed by the PBA Contract.
 - e. The employees' rights and obligations.
2. The interrogation should take place at the department, when practical.
3. The interrogation will be conducted at a reasonable hour, preferably at a time when the employee is on duty, unless the seriousness of the investigation is of such a degree that immediate interrogation is required.
4. At the request of any law enforcement officer under interrogation, he/she has the right to be represented by counsel or any other representative of his/her choice who may be present at all times during such interrogation when the interrogation relates to the employee's continued fitness for law enforcement service. When requested, an employee will be allowed 24 hours to contact, consult with, and secure the attendance of a representative.
5. If the employee under interrogation is under arrest or is likely to be placed under arrest as a result of the interrogation, he/she will be completely advised of his/her rights prior to the commencement of the interrogation.
6. The employee under investigation will be advised of the name and rank of the interrogating officer, and all persons present during the interrogation.
7. All questions directed to the employee under interrogation must be asked by and through one interrogator at a time.
8. Interrogation sessions will be for a reasonable period and timed to allow for such personal necessities and rest periods as are reasonably necessary.

9. The employee under interrogation will not be subjected to offensive language or be threatened with transfer, dismissal, or disciplinary action. No promise or reward may be made as an inducement to answer any questions.
10. The complete interrogation of the employee, including all rest periods, will be recorded on audiotape and there may be no unrecorded questions or statements. Upon the request of the employee, a copy of any such recording of the interrogation session must be made available to the employee no later than 72 hours, excluding holidays and weekends, following the interrogation.
11. As provided by law, an employee will answer all questions openly and honestly concerning an investigation and may be disciplined up to and including termination for his/her refusal to do so.
12. Questions directed to the employee under investigation should be narrowly related to the investigation.
13. Employees under investigation can be compelled to submit to physical characteristic evidence tests when such tests are germane and narrowly related to the investigation. Such tests may include, but not be limited to, hair, skin, bodily fluids, breath tests and fingerprints and will be conducted at department expense. Employees will be advised that evidence obtained in this manner can only be used for administrative investigation purposes.
14. Photographs may be taken of the employee under investigation, or the employee may be compelled to participate in a line up, for the purpose of identification, when relevant to the investigation.
15. Employees under investigation may be compelled to disclose financial statements when such information is material to the investigation.
16. As provided by the PBA CBA, employees may not be compelled to submit to a detection of deception examination.
17. Employees can be compelled to submit to a search of department property such as vehicles, offices, lockers, and desks under their control. A warrant for such a search is not required and employees who do not comply may be subject to disciplinary action. Employees should be advised that evidence found can only be used for administrative investigation purposes.
18. An employee will not be subject to having his or her residence, place of private business or private vehicle searched unless a valid search warrant has been obtained or he/she voluntarily agrees to such a search.

G. Confidentiality of Investigations.

1. All employees are responsible for maintaining confidentiality in compliance with FSS 112.533.

2. As provided by FSS 112.533), a complaint filed against a law enforcement officer with a law enforcement agency and all information obtained pursuant to the investigation by the investigation of such complaint is confidential and exempt from Section 119.07(1), FSS, until the investigation ceases to be active, or until the agency head, or the agency head's designee provides written notice to the officer who is the subject of the complaint, either personally or by mail, that the agency has either:
 - a. Concluded the inquiry or investigation with finding not to proceed with disciplinary action or to file charges, or
 - b. Concluded the inquiry or investigation with a finding to proceed with disciplinary action or to file charges.
3. An investigation will 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.
4. As provided by FSS 112.533, any person who is a participant in an internal investigation, including the complainant, the subject of the investigation and the subject's legal counsel or a representative or his or her choice, the investigator conducting the investigation, and any witnesses in the investigation, who willfully discloses any information obtained pursuant to the identity of the officer under investigation, the nature of the questions asked, information revealed, or documents furnished in connection with a confidential internal investigation of an agency, before such complaint, document, action, or proceeding becomes a public record commits a misdemeanor of the first degree.

H. Non-Sworn Employees.

1. Non-sworn employees of the department are accorded those rights applicable under federal and state law and university rules that are not specifically applicable to law enforcement officers.
2. The provisions of this directive, not specifically applicable to law enforcement officers, will apply to non-sworn employees of the department.
3. All allegations of misuse of DAVID and FCIC/NCIC will be forwarded to the Office of Professional Standards for review and possible investigation.
4. Non-sworn employees who violate a department directive, which is handled by the employee's supervisor through a written counseling, will have the paperwork related to the non-disciplinary counseling forwarded to UFPD HR to be placed in the employee file.
5. For non-sworn employees whose conduct warrants official disciplinary action, the employee's supervisor will notify the Chief via chain of command. If appropriate, the Chief will request an official internal investigation. All discipline issued will be forwarded to Internal Affairs for tracking purposes.

I. Complaint Disposition.

1. Upon conclusion of the inquiry or investigation, the assigned investigator, will prepare a written report which should contain a conclusion of fact and be forwarded to the Chief for review, approval, and action, as necessary. Conclusions of fact can be identified as:
 - a. **Exonerated (Proper Conduct):** Allegation unsubstantiated. The act or incident did occur, but the actions were justified, lawful and/or proper.
 - b. **Sustained (Improper Conduct):** Allegation substantiated. The act or incident did occur and was inconsistent with policy or law.
 - c. **Not Sustained (Insufficient Evidence):** Insufficient evidence to prove or disprove the complaint or incident.
 - d. **Unfounded:** Allegation demonstrably false or lacks credible evidence.
 - e. **Not Involved:** Alleged subject of the complaint was not involved.
 - f. **Policy Failure:** The act or incident did occur, but no policy exists that addresses conduct of this nature.
2. The complainant and the affected member(s) will be notified separately by letter from the Chief that the inquiry or investigation has been completed and informed regarding the results of the investigation.
3. The Chief will affect the appropriate final action.
4. When the findings of the allegation are sustained:
 - a. The Chief may:
 - (1) Take necessary corrective action; or
 - (2) Forward the report to the employee's Division Commander for corrective action; and
 - b. Corrective action taken may include:
 - (1) Counseling;
 - (2) Retraining;
 - (3) Oral reprimand;
 - (4) Written reprimand;
 - (5) Suspension;

- (6) Transfer;
- (7) Reassignment;
- (8) Demotion;
- (9) Dismissal; and/or
- (10) Criminal prosecution.

J. Disciplinary Action and Appeal.

1. Except as provided in FSS 112.532, disciplinary action, suspension, demotion, or dismissal may not be undertaken by an agency against a law enforcement officer for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within 180 days after the date the agency receives notice of the allegation by a person authorized by the agency to initiate an investigation of the misconduct. If the agency determines that disciplinary action is appropriate, it will complete its investigation and give notice in writing to the law enforcement officer of its intent to proceed with disciplinary action, along with a proposal of the specific action sought, including length of suspension, if applicable. Notice to the officer must be provided within 180 days after the date the agency received notice of the alleged misconduct, except as provided in FSS 112.532,.
2. As provided by FSS 112.532,, no dismissal, demotion, transfer, reassignment, or other personnel action which might result in loss of pay or benefits which might otherwise be considered a punitive measure will be taken against any law enforcement officer unless such law enforcement officer is notified of the action(s) and the reason(s) therefore prior to the effective date of such action.
3. A law enforcement officer who is subject to disciplinary action may appeal the action:
 - a. Under the terms of the PBA collective bargaining agreement if applicable, or
 - b. Under the University grievance procedure. Refer to Department Standards Directives 2700 "Complaint/Grievance Procedures" and 2705 "Standards of Conduct".
4. Other employees who are subject to disciplinary action may appeal such action under University of Florida Regulation 3.045 for USPS employees or University of Florida Regulation 3.046 for TEAMS employees.

K. Retaliation for Exercising Right. As provided by FSS 112.532,, no law enforcement officer may be discharged; disciplined; demoted; denied promotion, transfer, or reassignment; or otherwise discriminated against in regard to his/her employment or appointment, or be threatened with any such treatment, by reason of his/her exercise of rights granted by law.

L. Complaint Report Distribution.

1. Maximum security should be maintained over completed internal investigation reports. Until final disposition, the internal investigation report will be retained in a secure file by the Chief, Division Commander, or Investigator as applicable.
2. Upon final disposition, the internal investigation report will be saved by the Office of Internal Affairs for retention in a secure confidential file.
3. The Final Discipline documentation will be placed in the employee's personnel file.
4. A copy of the internal investigation report will be provided to the employee upon request.
5. As provided by Section FSS 943.1395(5), when the investigation sustains that an officer is not in compliance with or has failed to maintain compliance with Section 943.13(4) or (7), FSS, the Department will submit the investigative findings and supporting information and documentation to the Florida Department of Law Enforcement (FDLE) Criminal Justice Training Commission (CJSTC).
6. The department will complete the CJSTC Internal Investigation Report Form (CJSTC-78) and forward it along with a copy of the report file to the FDLE CJSTC.
7. All internal affairs records are in a secure module within the records management system. Access is required through RMS and must also be granted at the file level. Additionally, permitted users require installation of a key on the device which will access those files.

M. Public Access. As provided by Chapter 119, FSS, internal affairs investigation files are available to the public, upon request, at the conclusion of the investigation.

N. Record Retention. The retention of the internal investigation files will be in compliance with Florida Records Retention Law.

O. Statistical Summary. An annual statistical summary of internal affairs investigations will be made available to department employees and the public.

P. Public Information. Information is available throughout the department explaining and delineating the procedures for filing citizen complaints against the department and its employees. The department may provide citizen complaint procedure information to the community through several methods, including but not limited to, paper information sheets, electronic publication on the agency website, or as a response to an email or hardcopy request.

1400.5 Glossary.

Criminal Investigation – An investigation conducted to determine whether the involved conduct or act(s) may be the basis for filing criminal charges.

Gardner v. Broderick 392 U.S. 273 – Court ruling which held that officers have the same rights as any other citizen against self-incrimination during an investigation of alleged criminal conduct.

Garrity v. New Jersey 385 U.S. 493 – Court ruling which held that rights of a law enforcement officer that apply in criminal proceedings do not apply during investigations into allegations of non-criminal misconduct because police departments have a legitimate obligation to maintain discipline within the agency to ensure the integrity of individual employees and protect the public trust. The Garrity Rule requires that before a law enforcement agency questioning one of its officers can discipline the officer for refusing to answer questions, the agency must: (1) Order the officer to answer the questions under threat of disciplinary action; (2) Ask questions which are specifically, directly and narrowly related to the officer's duties or the officer's fitness for duty; and (3) Advise the officer that the answers to the questions will not be used against the officer in criminal proceedings.

Interrogation (for purposes of this directive) – An investigatory interview in response to a complaint in which the information to be obtained from an employee by management during the interview will be the basis for a decision as to whether to take disciplinary action against the employee.

Police Benevolent Association (PBA) – The exclusive representative for the purposes of collective bargaining with respect to wages, hours, and terms and conditions of employment for all employees included in the State University System Law Enforcement bargaining unit.

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