

**CHAPTER TWENTY**

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## CHAPTER TWENTY

### INTERNAL AFFAIRS

#### I. PURPOSE

The purpose of this directive is to establish guidelines for the administration, and operational procedures of the Internal Affairs Unit.

#### II. DISCUSSION

This directive shall apply to all Sheriff's personnel. It is the policy of the Sheriff that all allegations of member misconduct are appropriately investigated and promptly adjudicated. The Internal Affairs component shall record, register, and control the investigation of complaints against members; shall supervise and monitor the investigation of alleged or suspected misconduct with the Office, shall maintain the confidentiality of the internal affairs investigations and records as law permits and are kept in a secured area at 5525 College Road (Internal Affairs), Stock Island, Florida. The procedure shall be in compliance with Section 112.533, Florida Statutes. The Internal Affairs Unit is supervised by the Lieutenant who is supervised by the Undersheriff and has the authority to report directly to the Sheriff on Internal Affairs matters. All or a part of the internal affairs procedure may be superseded by a collective bargaining agreement entered into between the Sheriff and a recognized collective bargaining unit.

#### III. POLICY AND PROCEDURE

##### A. Notification to the Sheriff

1. The Lieutenant of Internal Affairs shall immediately notify the Sheriff in all instances of Criminal Investigations involving arrest or allegations of corruption, brutality, use of deadly force, and/or severe breach of civil rights. The Sheriff will be kept informed of all other complaints during regular briefing times.

##### B. Written Notification to Members

1. In the event of a complaint filed against a member of the office and subsequently investigated by his/her supervisor, a letter will be sent and/or a phone call **(which shall be documented with a memo to the file)** to the complaining witness verifying receipt of the complaint and each thirty days thereafter advising of the progress of the investigation. At the conclusion of the inquiry a final letter will be sent by the investigating supervisor informing the complaining party of the disposition.

2. In the event of a complaint filed against a member of the office and subsequently investigated by the Internal Affairs Division or its designate, (i.e. an outside agency), a letter generated by said division will be sent to the complaining party, if an extension is needed to complete the investigation. At the conclusion of the inquiry, a final letter will be sent by Internal Affairs informing the complaining party of the disposition.

When a member is notified that he/she has become the subject of an Internal Affairs Investigation (non-criminal), the notice shall include the allegation and the member's rights and responsibilities relative to the investigation.

a. Communication with members with legal representation;

1) All communications to members who are the subject of an administrative internal affairs investigation shall be directed to the member and a courtesy copy sent to their attorney, if known.

(revised on 12-17-02)

- 2) If the member is involved in a civil suit as plaintiff or respondent to the Office all correspondence shall be directed to the member's attorney. As such communication should occur between the Office's General Counsel and the member's attorney.

### **C. Receipt of Complaints**

1. All complaints against the Department and its members will be investigated. It will not matter what format these complaints are received in. Complaints can be written, called in or anonymous. All complaints will be addressed.
2. Upon receipt of complaint, the complainant (if known) will be notified in writing as to the investigator assigned and periodically kept up to date as to the status of the case. This will be done either in writing with a copy kept in the work file or by phone and a case note documenting the contact placed in the work file. Additionally, the complainant and the affected member will be informed of the results of the investigation upon its conclusion. This will be done in writing.
3. The Office of Internal Affairs shall maintain a record of all complaints against the agency or employees. Files shall be maintained in a file cabinet inside a file room within a Internal Affairs that is not readily accessible to persons other than Internal Affairs staff the door to the file room is to be locked when staff is absent from the office.
4. Upon receipt by any member of this Office of a complaint against itself or its member(s), the member receiving the complaint shall forward the complainant to the Lieutenant or the appropriate Commander / Director. Should neither be available, the complainant shall be forwarded to the **highest-ranking** member on duty at the time. Should the complaint involve criminal misconduct, allegations of corruption, brutality, use of deadly force, and/or severe breach of civil rights the Sheriff shall be notified immediately. Other complaints shall be forwarded as soon as possible. Internal Affairs will be notified of all complaints in a timely manner.
5. At no time shall any investigation be compromised by providing information to the complaining **party that** is contrary to the guidelines set forth in both state and federal statutes. Furthermore, at no time shall any information be divulged which may jeopardize the progress of the investigation or cause harm to any person.

**D. Annual Statistical Summaries - The Office of Internal Affairs, shall publish annual statistical summaries, based on the records of internal affairs investigations, for dissemination to the public and to Office members. These summaries will also include offenses investigated.**

**E. Types of Complaints Investigated by Internal Affairs - Unless otherwise specified under the procedures set forth under the "Use of Force", all complaints against members of the Office with the exception of those listed below, shall be investigated by the member's immediate supervisor with review by Internal Affairs. Internal Affairs shall investigate allegations of:**

1. Criminal misconduct
2. Allegations of corruption
3. Excessive Use of Force or Brutality
4. Violation of Civil Rights
5. Civil Liability suits against members of the Office
6. Use of Deadly Force and Discharge of Firearms
7. Incidents requiring investigation that are extremely lengthy, time consuming, involve multiple units or divisions or when other investigative resources are unavailable.
8. At the direction of the Sheriff, internal investigations for other agencies within the concurrent jurisdiction of the Office.
9. All other administrative investigations assigned by the Sheriff, at his discretion.

(revised on 4-10-01)

**F. Types of Complaints Investigated by Supervisory Personnel – Supervisory personnel are authorized to investigate all violations of Policy and ProcedureS, such as rudeness to citizens, insubordination and tardiness. The investigating supervisor will obtain a Division Action Form (DAF) control number from Internal Affairs upon initiation of the investigation.**

NOTE: Refer to Chapter 13 for procedures for conducting a Division Action investigation.

### **G. Member's Responsibility During Investigation**

1. During any internal investigation, a member may be relieved from duty due to physical and/or psychological unfitness for duty, an action pending disposition of an internal affairs investigation, or whenever it would be in the public interest not to have the member on active duty. Such administrative leave shall be with pay until final disposition is made.
2. During the course of any internal investigation the member(s) involved shall be subject to a polygraph examination.
3. During the course of an internal investigation,
  - 1) An employee may be subject to the following examinations:
    - a. medical or laboratory examinations
    - b. photographs of employee
    - c. participate in a line-up
    - d. may be required to submit financial disclosure statements
    - e. polygraph
  - 2) Under the following circumstances:
    - a. In a criminal proceeding, any examination will be based on the legal requirements of the jurisdiction, and based on case law and precedent.
    - b. For administrative internal affairs investigations, any examination required of the employee will be specifically directed and narrowly focused on the particular internal affairs investigation.
    - c. The examinations will be material to the internal affair investigation.

### **H. Internal Affairs Interview Procedures**

1. An Internal Affairs Investigator is responsible for receiving and investigating complaints. In accomplishing this task, certain general rules apply. The Investigators shall be guided by prudent investigative techniques, current legislation, and dispatch, striving for the highest quality investigation possible.
2. Each investigator assigned to the Internal Affairs Unit should be able to work with a minimum of supervision and a maximum of effort. Every Investigator must use his imagination, initiative, and ability to successfully complete his case. No absolute guidelines can be established to cover all investigations, as they are all different.
3. One Investigator, but never more than two can conduct most interviews. The investigator should maintain a professional, understanding attitude, but where necessary, firm and resolute in obtaining necessary information. Do not give the appearance of "headhunting". Explain the Unit's function and responsibility.

(revised on 4-10-01)

4. Interviews of Office members shall be **recorded**. There will be no unrecorded portions of any interview with an Office member. The **tapes** will be "punched" to eliminate the possibility of

re-recording over any statement. The tapes will become a permanent part of the file. Interviews of citizens, witnesses, etc., shall be recorded. However, should citizens refuse to be **recorded** during an investigation, the Investigator will **note this in** the final report and prepare a synopsis of the statement.

- a. Any Office member who is interviewed regarding an Internal Affairs Investigation, whether accused or a witness, shall be informed that he/she is required to truthfully answer questions related to any non-criminal internal investigation pursuant to Chapter 13 Disciplinary Procedures, of this Manual.
- b. When interviewing members for an Internal Affairs Investigation (non-criminal), the following shall be done:

- 1) Before an interview is conducted, the member under investigation is allowed to review the complaint and **all written or recorded statements** of the complainant and witnesses immediately prior to the beginning of the investigative interview.

- a. If the witness is incarcerated in a correctional facility and may be under the supervision of, or have contact with, the officer under investigation, only the names and statements of the complainant and non-incarcerated witnesses may be viewed by the officer.

- 2) Get to the point. Ask specific questions and get specific answers. Always ask members if they did what is alleged. The member must be given an opportunity to admit or deny the allegation. Take the statement in the first person.

- 3) Identify who the person is, what they were doing:

"On February 6, 1987, I was working the 11 p.m. to 7 a.m. shift. At 0207 hours, I received a disturbance call at 4107 Floral Street."

- 4) If a member has a written memo regarding the subject he/she is being interviewed about, let him/her read it and include that fact in the heading of the interview.

- 5) If the investigator finds it necessary to re-interview a member, the member then has the right to have access to, and review his/her statement prior to the re-interview.

- 6) Be complete. Do not omit the obvious questions. Make sure the member explains discrepancies between his statements, memos, and other individual's statements or memos. Do not cloud the case by leaving areas of question. Put in nothing other than statements.

- 7) Restrict the statements to the nature of the allegation; do not ramble. Group the statements into paragraphs. Do not imply in the conversation that the Investigator is searching for information not related to the incident. Strive to engender in the minds of members an awareness of their responsibility to cooperate in the investigation.

- 8) After the interview, the investigator will review the substance of the interview, with the member so that no misunderstanding or misinterpretation exists.

- 9) All statements shall be typed with no spelling errors.

(revised on 4-10-01)

- 10) When interviewing citizens, the investigator must strive to obtain all of the facts in a professional manner in order to engender in the citizen the Offices interest in their complaint.

5. The investigator will prepare a final report at the conclusion of an Internal Affairs Investigation

- 1) The completed report with all relevant documents shall be reviewed by the Lieutenant to ensure the case has been thoroughly investigated and it complies with the Operations Manual.

**6. The closure of an investigation shall be predicated upon good and sufficient cause. The most frequent reason for requesting closure of an investigation are withdrawal of the complaint. However, in all cases, good and sufficient reason should exist for terminating the case. If in doubt, the case generally should be completed in order to maintain a complete and accurate record of the incident under investigation. Whenever the Investigator feels that an assigned case should be discontinued or closed with no further action and without completing the case, concurrence must first be sought from the Internal Affairs Lieutenant.**

7. Pursuant to the Operations Manual, members may be directed to submit to a polygraph examination, if there is an issue of truthfulness (see Chapter 13). In the event a member will be required to submit to any type of examination and extenuating circumstances do not exist, the following procedures will be followed:

- a. The member will be given notice in writing of the date, day, time, location, **and type** of examination to be taken at least five (5) days prior to the examination date.
- b. In extenuating circumstances, approval must be obtained from the Lieutenant or the Sheriff to suspend the five (5) day notice requirement.
- c. A member may, at their or the Office's request, waive the **five (5)** day notice requirement by signing a waiver, to be included in the Internal Affairs report file.
- d. All polygraphs conducted for an Internal Affairs Investigation will be **recorded** and/or video taped.

#### **I. Internal Affairs Investigations Review and Dispositions**

1. When an Internal Affairs Investigation is completed and forwarded to the Lieutenant for review:

- a. If the report is found lacking in any area(s) it shall be returned to the Internal Affairs **Investigator** for completion.
- b. **If the investigation is complete the Lieutenant shall forward the investigation to the member's Division Commander/Director to disseminate to the member, who will have five (5) working days to review the file, make any comments they wish, sign, and date the "Member Review Form." The member will then forward the investigation to the next person listed on the Chain of Command letter attached to the investigation.**

2. Upon return from the member, the District Commander / Director will review the file and note their recommendations as to disposition and discipline, if warranted.

(revised on 4-10-01)

3. At the completion of this review, the member's District Commander or Director shall forward the file to Internal Affairs.

4. The file will then be forwarded to the General Counsel for review.

5. After legal review, the file will be forwarded the Under Sheriff for final disposition and discipline if warranted.
  - a. When discipline is to be imposed, the member will receive a written "Notice of Intent to Discipline" from the appropriate Commander or Director. This will be used only in cases where the member faces the loss of pay, (i.e., suspension) of forty (40) or more hours.
  - b. The written "Notice of Intent to Discipline" shall include a description of the incident(s) of misconduct, the rule(s) violated, and the intended disciplinary action.
  - c. The member shall have five (5) working days from the day he/she receives the written "Notice of Intent to Discipline" to decide whether to accept the discipline or appeal to the Sheriff. Should the member fail to respond within the time period specified, he/she is considered to have waived his/her appeal.
6. Should the member accept the discipline and/or fail to respond, he/she will then be served with a written memorandum imposing the discipline.
7. Should the member desire to appeal, he/she shall, within the five (5) working days, as specified above, notify the Sheriff in writing of his/her request to appeal. The request for appeal shall include all pertinent information, evidence, circumstances, etc., for the Sheriff's consideration.
8. Once the Sheriff receives the request for appeal, he will review the materials and render his decision by notifying the member.

#### **J. Completion of Investigations**

1. Administrative Internal Affairs investigations (non-criminal) shall be completed within thirty (30) days from the original complaint unless extension is approved by the Lieutenant in writing, with a copy sent to member.
2. There are no time constraints with a Criminal Internal Affairs Investigation.
3. During a Criminal Internal Affairs Investigation of a member, the Office shall maintain liaison with the States Attorneys in investigations. Upon the completion of a Criminal Internal affairs investigation, the investigation is given to the State Attorneys office for their review before an arrest is made.
4. Should the investigation result in the member's dismissal, the Human Resources Division will notify Division of Employee Benefits for Monroe County. They in turn will notify the employee of any fringe and retirement benefits to which she/he may be entitled after dismissal.
5. Should the investigation result in the member's dismissal, she/he shall be provided a memorandum indicating **the reason(s) for dismissal, effective date of dismissal, and a statement related to the employee's right to submit information to their personnel file to refute or explain the reasons for the dismissal.**  
(Effective 06-30-2006)

(revised on 12-17-01)

#### **K. Member Notification of Request for Records**

1. Any time a person, agency, or other entity not a member of the Monroe County Sheriff's Office request, in person or in writing, to review and/or a copy of any record, file, or investigation, which is maintained in the Office of Internal Affairs, the Sheriff's Office member who is the subject of the request, shall be notified by office e-mail to the member's mailbox. The e-mail notification shall include the identity of the person, agency, or entity inquiring, the day, date, and time of the inquiring, and the reason for the inquiry if volunteered by inquiring party. Law does not require this **and it is strictly a courtesy provided by the Internal Affairs Office.**
2. The Executive Assistant of the Office of Internal Affairs shall initiate and maintain a records inquiry request form and file on all requests for review and/or copy of any record or file from the Office of Internal Affairs; however, by law such request form is not required.

#### **L. Florida Department of Law Enforcement Internal Investigation Report**

1. The Florida Department of Law Enforcement Internal Investigation Report form **will** be completed anytime an Internal Affairs Investigation has been completed.
2. This Florida Department of law Enforcement Internal Investigation report form is used to report to the Division of Criminal Justice Standards and Training Commission any sustained allegation(s) of Section 943.13(4) or (7), of the Florida Statute.

(revised on 4-10-01)