


MONROE COUNTY SHERIFF'S OFFICE

General Order

CHAPTER: 020		TITLE: Complaint Investigations
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REFERENCE: CALEA 26.1.5, 26.1.8, 26.2.1, 26.2.2, 26.2.3, 26.2.5, 26.3.2, 26.3.6, 26.3.7 CFA 20.01		RESCINDS:
 Sheriff of Monroe County		

- I. **PURPOSE:** The purpose of this directive is to establish guidelines for the handling of complaints against members, the imposition of corrective action or discipline, and the administration and operational procedures for the Internal Affairs Division.
- II. **DISCUSSION:** This directive shall apply to all Sheriff's Office members and reserve and auxiliary deputies. It is the policy of the Sheriff that all allegations of member misconduct are appropriately investigated and promptly adjudicated. This includes complaints received from anonymous sources. [CALEA 26.2.1]
 - A. The Internal Affairs Division shall record, register, and control the investigation of complaints against members; shall supervise and monitor the handling of alleged misconduct; shall maintain the confidentiality of the Internal Affairs investigations and records as law permits and shall keep such records in a secured area at 5525 College Road (Internal Affairs), Key West, Florida. [CALEA 26.1.8, 26.2.2] [CFA 20.01]
 - B. When applicable, the procedure shall be in compliance with Florida Statutes Section 112.533. The Internal Affairs Division is supervised by a Command Deputy Sheriff who is supervised by the Undersheriff and has the authority to report directly to the Sheriff on Internal Affairs matters. [CALEA 26.2.3] All or a part of this procedure may be superseded by state law and/or any collective bargaining agreement entered into between the Sheriff and a recognized collective bargaining unit.
 - C. It is the policy of the Sheriff that discipline should be characterized as corrective rather than punitive, and that disciplinary actions are utilized as an element of an overall program to educate the members of the Office and to promote proper conduct. However, some misconduct is not correctable through discipline. Certain acts may immediately render a member unsuitable for continued employment. Not all misconduct requires discipline. In some cases, non-disciplinary action may be more appropriate. Supervisors are expected to enforce the disciplinary process.
 - D. Although internal consistency in administering discipline is desirable, numerous factors should be considered in determining the appropriate level of discipline to be assessed. Some of the factors involved include, but are not limited to length of service, time intervals between offenses, the effectiveness of prior corrective or disciplinary actions, willingness to improve, overall work performance, job attitude, and corrective or disciplinary actions previously administered to comparable members for similar offenses. A repetition of the same offense or other serious offense indicates that more severe measures should be administered.

- E. Generally, the action taken should be corrective if the supervisor can reasonably anticipate that the corrective steps will be effective. The steps of progressive corrective action would normally be:
 - 1. Counseling/retraining
 - 2. Written reprimand
 - 3. Suspension
 - 4. Demotion
 - 5. Termination
- F. Some misconduct cannot be corrected using corrective action. This is generally misconduct the member should have reasonably known was unacceptable, including; association with criminals, drug usage, dishonesty, thievery, violence, insubordination, and criminal behavior. In addition to disciplinary action, a member may be subject to the loss of equipment, such as a take home car, uniforms, weapon, etc.
- G. Nothing contained herein shall limit the right, power, and authority of the Sheriff to take whatever action is deemed appropriate under given circumstances. It is further provided that certain offenses are of such serious nature that immediate withdrawal of appointment is applicable on the first offense.

III. POLICY AND PROCEDURE

A. Receipt and Investigation of Complaints

- 1. All complaints against the Office or its members shall be investigated. Complaints may be written or verbal and may be anonymous. [CFA 20.01] Complaint processing and investigation will follow the guidelines outlined in the Complaint Investigation Procedures Manual located in Chapter 20A Complaint Investigations Attachments.
- 2. All Complaints shall receive a case number and the Internal Affairs Division shall maintain a record of all complaints received against the agency or members. Records of all complaints shall be maintained in a secure section of the MCSO computer system. Any paper records shall be maintained in a file room within the Internal Affairs office that is not readily accessible to persons other than Internal Affairs staff. The door to the file room shall be locked when staff is absent from the office. [CALEA 26.1.8, 26.2.2]
- 3. At a minimum, records will be retained/destroyed as per Florida Records Retention Schedule.

B. Notification to the Sheriff: The Command Deputy Sheriff of Internal Affairs shall immediately notify the Sheriff in all instances of allegations of criminal misconduct. The Sheriff will be kept informed of all other complaints during regular briefings. [CALEA 26.3.2]

C. Corrective Action: Upon completion of the investigation and a finding of fact, the following actions may be taken:

1. Corrective Non-Disciplinary Actions

- a. **Letter of Counseling:** The purpose of a letter of counseling is to allow the supervisor to bring to the member's attention the need to improve his/her performance, work habits, behavior or attitude and to serve as a notice against further repetition of the unsatisfactory performance or conduct. The supervisor should utilize the occasion to identify and define the area needing improvement and to inform the member of how such improvement can be realistically achieved and when it can be expected. A letter of counseling is a corrective measure and is not considered to be disciplinary action.

- b. **Remedial Training:** If the supervisor has, through counseling, defined an area needing improvement, the supervisor may provide qualified instruction to assist members in overcoming the noted deficiency. This instruction must be appropriate and not detract excessively from other supervisor capacities. The member may be required to successfully complete a training program. The program shall be designed to fit specific job requirements or individual needs. When possible, the Sheriff's in-service training program should be used. Assignment of the training and completion of training shall be documented by memorandum. Remedial Training may also be required in disciplinary actions.
- c. **Administrative Suspension/Relief From Duty:** If the supervisor determines that the needs of the member and/or the best interests of the agency require a temporary relief from duty, the supervisor will notify the member's division command. An administrative suspension may be affected in such circumstances by the member's division command, or the duty commanding officer, and shall continue until otherwise ordered by the Sheriff. An administrative suspension may be implemented prior to the completion of an investigation. An administrative suspension under these circumstances is not considered to be discipline. [CALEA 26.3.7]

2. Corrective Disciplinary Actions

- a. **Written Reprimand:** In situations in which counseling and/or remedial training has not resulted in the expected improvement, or in which a member commits a more serious offense, a written reprimand should be given to the member. This shall include a complete description of the incident(s) of misconduct, and refer to specific dates, times, locations, personnel involved, and rules violated.
- b. **Disciplinary Suspension:** In the event offenses are continued or repeated by a member who has already received a letter of counseling/retraining or written reprimand, or if the nature of the offense is serious, a member may be placed on disciplinary suspension without pay for a period of time, or be subjected to loss of accrued vacation or compensatory leave.
- c. **Disciplinary Demotion:** In certain cases demotion may be used.
- d. **Disciplinary Withdrawal of Appointment/Termination:** In cases of serious conduct violations the member's appointment may be withdrawn and the member may be terminated.

3. Authority to Discipline: [CALEA 26.1.5] The Sheriff or his designee shall be briefed and must concur with the recommended discipline prior to its imposition except in emergency or exigent circumstances: The following authorities to issue discipline shall apply:

- a. Letter of reprimand: Lieutenant or above.
- b. Suspension up to five work shifts: Captain, Director or above.
- c. Suspension over five work shifts, recommended demotion and/or Termination: Bureau Chief or above.
- d. Demotion and/or Termination: Sheriff or designee.

4. Member's Responsibility During Investigation: The member shall follow all directives from superiors and/or Internal Affairs during the investigative process.

- a. During any internal investigation, a member may be reassigned or relieved from duty due to unfitness for duty, pending disposition of the investigation, or whenever it would be in

the public interest not to have the member on active duty. Such administrative leave may be with or without pay, depending on the circumstances and seriousness of the allegations, until final disposition is made.

- b. During any internal investigation, a member may be subject to medical or laboratory examinations; may be required to participate in a line up; may be photographed; and may be required to submit financial records when such are material to the particular investigation at hand. [CALEA 26.3.6]
- c. Members have a continuing duty to be truthful during the investigation. Untruthfulness during the member's sworn interview may subject the member to prosecution for perjury. Garrity Rights do not protect against perjury. Note: The Sheriff considers untruthfulness a serious conduct violation that presumptively results in termination.

5. Discipline Implementation

- a. All imposed discipline shall be implemented and completed immediately following the discipline being imposed. If for any reason it cannot be completed immediately, the date for implementation must be set and approved by the imposing supervisor.
- b. Documentation must be provided to Internal Affairs by the member's commander confirming the discipline has been completed immediately following its imposition.
- c. Should the investigation result in the member's dismissal, the Human Resources Division will notify the 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.
- d. 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 member's right to submit information to their personnel file to refute or explain the reasons for the dismissal.

6. Appeal Process

- a. **Collective Bargaining Unit Members** The appeal process shall be as outlined in the relevant collective bargaining unit contract.
- b. **Non collective bargaining unit Members:** Pursuant to Monroe County Sheriff's Office Career Service Bill (Florida Law 97-345), Sheriff's Office members who are members of "classified service" and not covered by a collective bargaining agreement, may appeal discipline in accordance with MCSO general orders Chapter 24, Career Service Provisions. And/or General Orders Chapter 14, Grievance Procedures.

7. Reporting Sustained Allegations to Florida Criminal Justice Standards and Training

- a. In accordance with the Department of Law Enforcement, Criminal Justice Standards and Training Commission, Chapter 11B-27.0011(5) all sustained allegations of moral misconduct as defined in 11B-25.0011(4), will be reported to the Standards and Training Commission within forty-five (45) days from the date the allegation was sustained.
- b. The Command Deputy Sheriff of the Internal Affairs Division shall ensure that the Florida Department of Law Enforcement Internal Investigation Report form is completed as required by Section 943.1395 (5), of the Florida Statutes.

8. **Annual Statistical Summaries:** The Office of Internal Affairs shall compile an Annual Statistical Summary to include offenses investigated. A copy of this report may be obtained with a public request using the link on the Internal Affairs page on the MCSO website. Sheriff's Office members will be made aware of this via email. [CALEA 26.2.5]