



WEST PALM BEACH POLICE DEPARTMENT

Standard Operating Procedure IV-22

INTERNAL AFFAIRS FUNCTION

Revised: November 17, 2020

I. POLICY:

The West Palm Beach Police Department is committed to serving the citizens of West Palm Beach with integrity and honor. Such service can only be accomplished through fostering and encouraging trust between the police and the community it serves. Allegations of misconduct by members of the West Palm Beach Police Department must be thoroughly investigated and the results of the investigations made available for review.

This policy was developed to ensure all allegations of improper police conduct are systematically, objectively, and impartially investigated. The Department has identified the types of incidents requiring documentation and investigation.

Commanders (lieutenants and above or civilian equivalent) are responsible for documenting citizens' complaints. The Internal Affairs Commander is ultimately responsible for the timely completion of all investigations and notification to the complainant of the final outcome.

Tracking of all citizens' complaints will be completed by the Internal Affairs Unit. The Internal Affairs Commander can assign cases involving minor infractions to the Shift Commander. All citizen complaints will be investigated and completed within sixty (60) days. Extensions may be requested in writing and subject to approval of the Police Chief, and in accordance with FSS Chapter 112.533.

II. DEFINITIONS:

Citizen Complaint Inquiry (CCIF) - Any complaint made by a civilian against Department personnel, procedures, or the manner in which services were delivered or in the opinion of the Chief of Police is of such a nature as to warrant notation of the complaint and an investigation. The complainant need not disclose his or her name, address or telephone number.

Complaints - Any alleged act by a member which is contrary to written rules, regulations, policies, procedures, directives, or orders of the agency.

Exonerated (Proper Conduct) - The allegation is true and the action of the agency or the employee was consistent with agency policy.

Internal Administrative Investigation (AD) – An official complaint initiated from within the Department. A comprehensive investigation, gathering and securing evidence and facts to discover truth and reach conclusions as to whether a Department member has violated any rules, regulations, policies and/or procedures of the agency.

Sustained - The allegations are true by a preponderance of the evidence and that the conduct at issue is a violation of agency policy.

Supervisory Review - A preliminary review undertaken immediately upon receipt of a complaint. The investigating supervisor will make contact with the complainant in order to discuss the incident. Based upon this review, the Chief of Police will determine the need for further investigation.

Threshold Review System (TRS) - A system designed to capture statistical information to identify performance issues.

Unfounded - The allegation is either demonstrably false or there is no credible evidence to support it.

Not Sustained - The allegations cannot be proven true or untrue by a preponderance of the evidence.

III. INTERNAL AFFAIRS FUNCTION:

- A. The Internal Affairs Commander will report to the Professional Standards Commander.
 - 1. The Internal Affairs Unit Commander, unless otherwise designated by the Chief of Police, will have the authority and responsibility to gain facts through investigative procedures and review to ensure the Department's and its members' integrity is maintained.
- B. No member will interfere with an IAU investigation.
- C. In all investigations, Department members, whether a subject of the investigation or a witness, will answer all questions honestly, completely and to the best of their ability.
 - 1. Refusal to answer questions specifically, directly and narrowly related to the performance of his or her official duties or fitness for duty, will result in additional charges of insubordination. Should such charges be substantiated, the member will be terminated.
 - 2. Lying by any member to an investigator assigned to conduct an internal investigation will result in additional charges of lying during an internal affairs investigation. Should such charges be substantiated, the member will be terminated.
- D. During any Internal Affairs investigation, all information obtained will be kept confidential. It is a first-degree misdemeanor to disclose or permit any Internal Affairs information or document to be disclosed before the proceeding becomes public information.

- E. The procedures for conducting an IAU investigation will be in accordance with those rights and privileges enumerated in Florida Statutes, including 112.532 Law Enforcement Officer's Rights, any applicable collective bargaining agreement, City of West Palm Beach Rules and Regulations, and any other applicable rules, regulations, and/or laws.
- F. The IAU will maintain liaisons with the investigating and or prosecutorial agencies regarding criminal allegations against Police Department employees.
- G. The IAU will utilize the IA PRO application to maintain a detailed data base of pertinent information essential to efficient management oversight and control of:
 - 1. The receipt, processing, and investigation of citizen and internal complaints.
 - 2. Firearms discharge incidents - to include less lethal munitions.
 - 3. Use of force - control of persons reports.
 - 4. K-9 'Bite' Apprehensions.
 - 5. The receipt, processing, and investigation of Administrative (AD) and Internal Affairs (IA) investigations.
 - 6. The statistics and alert thresholds established by this policy and used for the identification of those officers who appear on the Threshold Review System reports issued biannually by the IAU Commander.
 - 7. The individual officer and civilian member concise history - referred to as 'Internal Affairs History Report', provided on request to comply with public records inspection requests.
 - 8. Final disciplinary actions resulting from complaint investigations, or from routine administrative violations by members, (i.e. missed court, damaged property incidents) 'Administrative Discipline'.
 - 9. Pertinent data from IAU review of Vehicle Pursuit Summary reports after review by the Chain of Command and Chief of Police.
 - 10. The necessary personal data for each member inclusive of name, date of birth, gender, race, date of hire, title/rank, identification number, bureau of assignment, division of assignment, unit of assignment.
 - 11. Data for biannual reporting by the IAU Commander of complaints of bias based profiling as required by SOP I-4 Unbiased Policing.

IV. INVESTIGATION OF COMPLAINTS:

- A. All complaints (including anonymous complaints) and allegations of misconduct against the West Palm Beach Police Department and/or its members will be reviewed in accordance with FSS Chapter 112.533. For the purposes of this procedure both complaints and allegations of misconduct will be referred to as complaints. Complaints can be received in person, by telephone, letter, or electronically.

- B.** Upon notification of a complaint of alleged inappropriate behavior, the member receiving such information will direct the complainant to the accused member's supervisor, if on duty, or the on-duty Shift Commander. The supervisor will document the information on a Citizen Complaint and Inquiry form.
1. The reporting citizen will be provided with a copy of the original CCIF and will be provided a blank Statement of Compliant form. The complainant should have the option to complete the form at the time of receipt or to submit the form at their leisure. The complainant is not required to have their statement form notarized. When assistance is needed the supervisor receiving the complaint will offer assistance and note the same on the complaint form. If detailed statements are necessary, the receiving supervisor will record them on a separate page and attach them to the complaint form. The completed Statement of Complaint must be forwarded to the Internal Affairs Unit.
 2. The original CCIF and any supporting documentation will be forwarded to the Internal Affairs Unit for review and investigative assignment.
 3. Complaints which are likely to have a serious adverse impact upon the Police Department (such as issues related to injuries or violations of law) will be reported, without delay, through the chain of command to the Chief of Police.
 4. When an investigation is assigned, the IAU will mail the complainant a formal 'Receipt of Complaint' to acknowledge the start of the investigation and identify the assigned investigator.
- C.** It is the responsibility of the receiving supervisor (lieutenant or designee) to conduct a supervisory review on the initial complaint, regardless of the receipt of a Statement of Complaint from the complainant. The results of the supervisory review and the initial CCIF will be routed through the chain of command to the appropriate Bureau Commander for review within forty-eight (48) hours of receipt, then to the IAU commander for review data entry, filing, and assignment.
- D.** Complaint investigations assigned as an 'Internal Affairs Investigation' by the Chief of Police will be conducted by IAU personnel. These cases will be assigned a case number containing the 'IA' prefix, followed by the year and a sequence series, i.e. 'IA 13-001'. The following complaints will be investigated by the IAU:
1. Use of force involving serious injury
 2. Corruption
 3. Breach of civil rights
 4. Conduct involving moral turpitude
 5. Criminal misconduct - as directed by the Chief of Police
 6. In-custody death (monitor only)
 7. Officer involved shooting - control of person's situations (monitor only)

8. Those complaints deemed appropriate by the Chief of Police
- E. Citizen Complaint (CCIF) investigations and Internal Administrative (AD) investigations may be conducted by chain of command supervisors, or IAU investigators. In both cases the IAU Commander will monitor the progress of the investigation. These cases will be assigned a case number containing the 'CCIF' or 'AD' prefix, followed by the year and a sequence series, i.e. 'CCIF 13-001' or 'AD 13-001'.
1. All citizen complaint and internal administrative investigations will be submitted for command approval and final disposition by the Chief of Police.
 2. Division supervisors who have been assigned to conduct an investigation of a complaint are encouraged to seek advice and/or directions from the IAU.
 3. A complaint may consist of one or more allegations. Each allegation must be addressed by the investigating supervisor. Whether or not any allegation is sustained is based upon the standard of a preponderance of evidence. The standard applied to allegations of lying during an internal administrative investigation is that of clear and convincing evidence.
 4. Investigations will be completed within sixty (60) days of receiving the complaint. An extension of time for extenuating circumstances may be granted. Any request for extension will be made through the Internal Affairs Unit Commander, who will advise the Chief of Police.
 5. A member of IAU will meet with the Chief of Police or designee weekly and provide an update on all open and/or active IAU matters.

V. COMPLAINT INTERVIEW PROCESS:

- A. Prior to being questioned, the accused member will be notified they are the subject of an internal administrative investigation.
 1. A copy of the Citizen Complaint and Inquiry form may be used for this notification.
 2. Depending on the person's involvement in the investigation (subject/witness, sworn/civilian), each formally interviewed person will be read Notice of their Rights and Responsibilities regarding the investigation from the relevant standardized notice at the beginning of any sworn, recorded statement. (Citizen/Witness Statement Form Employee Witness Statement Form, or Subject Employee Statement.)
- B. Upon request, the subject member will be given a copy of his or her recorded statement(s).
- C. No member will be ordered to submit to a truth verification test such as a polygraph or voice stress analysis.
- D. A member may be required to submit to a medical or laboratory examination at the Department's expense when the examination is specifically, directly and narrowly related to a particular internal administrative investigation. Reasonable suspicion has to exist to make the investigator believe the member is under the influence of drugs or alcohol before

requesting the member to submit to such testing. Refusal by the member to submit to such a test may form a basis for disciplinary action.

- E. A member may be required to be photographed and/or participate in a lineup when reasonable suspicion exists that he or she was involved in an incident and the complainant is confident that an identification of the suspect member(s) can be made.
- F. A member may be required to submit a financial disclosure statement when the actions are essential to a particular internal administrative investigation.
 - 1. If the suspect member refuses to disclose financial records, he or she may be compelled to supply the records.
 - 2. Refusal to comply could result in the Department obtaining a subpoena to acquire the records and disciplinary action up to and including termination.
- G. Non-criminal investigation only:
 - 1. Members are required to answer questions specifically, directly and narrowly related to the performance of official duties or fitness for duty. Refusal to answer questions during Internal Affairs investigations will result in additional charges of insubordination. Should such charges be substantiated, the member will be terminated. The member will not be required to waive his or her constitutional rights with respect to criminal prosecution.
- H. Criminal investigations only:
 - 1. When a member is under arrest or is likely to be (is a suspect or target of a criminal investigation), the member will be informed of his or her rights in accordance with prevailing legal requirements prior to being interviewed. If a member chooses to invoke any or all of his or her legally protected rights, that member will not be subject to charges of insubordination or failure to cooperate for that reason alone.
- I. Except as authorized or required, members will not contact persons involved in an internal administrative investigation or disclose any information regarding the investigation.

VI. INVESTIGATION REVIEW AND RECOMMENDATION PROCESS:

- A. Completed investigations will be routed through the Chain of Command for approval and recommendation to the Chief of Police. A recommendation for disciplinary or other remedial action will be routed with the report on a Disciplinary Review Form for command approval and final order by the Chief of Police.
- B. Internal Affairs Investigations will be routed to the IAU Commander for approval. The file will then be routed to the Chief of Police for disposition. After final disposition by the Chief, the file will be routed to the Bureau Commander of the subject member. The file will be reviewed at the division command level, with each reviewing manager signing and dating the log sheet in the front of the file.

- C. Routine Administrative Discipline matters (i.e. missed court, damaged property incidents) will be documented on internal memorandums and routed with appropriate supporting documentation, including a Disciplinary Review Form, through the Chain of Command for final disposition by the Chief of Police.
- D. The Chief of Police will make a final determination of the disciplinary action against the member. The final disposition will be returned to the Commander of the affected member through the Internal Affairs Unit.
- E. The Notice of Disciplinary Action Form will be prepared by the Internal Affairs Unit, signed by the Chief of Police and will be forwarded to the Division Commander of the affected member for service to the member. This form can be found on the City database.
 - 1. The Notice of Disciplinary Action Form will state the basis of the complaint and the disciplinary action ordered by the Chief of Police.
 - 2. The member will sign the Notice of Disciplinary Action Form as evidence of receipt.
 - 3. Any member being considered for discipline (excluding written reprimands) is eligible to respond to the proposed discipline in writing or by requesting a Pre-disciplinary hearing before such discipline is imposed.
 - 4. Sworn officers will be informed that requests for a Pre-disciplinary hearing must be submitted through their Division Commander to the Internal Affairs Unit within three (3) days of being given notice of the proposed disciplinary action. The actual imposition of the discipline will be suspended until the findings of the hearing committee are presented to the member in writing.
- F. The original document for formal discipline imposed against members is routed to Human Resources by IAU personnel after service to the member. The documentation will be recorded in the member's Internal Affairs file as well as their personnel file.
- G. The IAU Commander will ensure the complainant and the subject member(s) are notified in writing of the disposition of all investigations.
- H. Pursuant to Section 943.1395(5), FSS, substantiated allegations of non-compliance with Section 943.13(4) or (7) FSS or Rule 11B-27.001, F.A.C. must be reported to Florida Department of Law Enforcement Commission.

VII. DUE PROCESS:

- A. An employee being considered for discipline or termination of employment shall be notified of being considered for discipline or termination of employment in writing prior to action being taken in accordance with provisions as set forth in Police Department SOP I-9, Section VI. When law enforcement personnel assigned the responsibility of investigating the complaint prepares an investigative report or summary, regardless of form, the person preparing the report will comply with FSS 92.525.

VIII. INTERNAL AFFAIRS RECORDS:

- A. It is the responsibility of the IAU to establish a system of receiving, recording, and filing all complaints, Control of Persons Reports, discharge of firearms reports, etc., whether investigated by IAU or by the Chain of Command. Once an investigation is complete, all records will be maintained in a secure area in the Internal Affairs Office under the custody and control of the IAU Commander. At no time will these records be allowed to leave the Internal Affairs Unit unless ordered by the Chief of Police or a court of competent jurisdiction. During the investigation and processing of internal administrative complaints, the confidentiality of these records will be strictly maintained.
- B. When a final disposition of any administrative investigation has been rendered by the Chief of Police, the investigation becomes a public record. The investigation will be released in accordance with public records laws and will be made available to any requesting party.
- C. Review of public record Internal Affairs files will be done in the Internal Affairs Unit with an Internal Affairs Investigator present unless otherwise directed by the Chief of Police or a court of competent jurisdiction. A record will be made of each review. Copies of Internal Affairs files will be issued only with the approval of the Chief of Police or a designee. A record will be made showing who received the copies.

IX. THRESHOLD REVIEW SYSTEM (TRS) FOR PERSONNEL COMPLAINTS AND CONTROL OF PERSONS REPORT:

- A. The Internal Affairs Unit will establish a Complaint Record on each member:
 - 1. Who is the subject of a citizen complaint, Internal Affairs investigation, or Administrative Discipline case.
 - 2. Who uses lethal or non-lethal force to control persons.
 - 3. Who discharges a firearm in the line of duty (other than training), and/or
 - 4. Canine officers who recorded a dog bite.
- B. TRS I Report – Complaints:
 - 1. The Complaint Record for each member will be reviewed semiannually (Jan. 1 and July 1).
 - 2. Report listing all members with three (3) or more incidents (CCIF) for the previous year will be prepared.
- C. The TRS I Report will be presented in three (3) parts:
 - 1. A statistical summary.

2. A table listing each member with three (3) or more complaints in the previous one-year period broken down into six-month periods.
3. A list of the complaints and findings for the previous year on each member identified on the current TRS I Report.

D. TRS II Report – Control of Persons:

1. The Control of Persons Record for each member will be reviewed semiannually (Jan. 1 and July 1).
2. A report listing each member involved in five (5) or more control of person's incidents (excluding dog bites and discharge of firearms incidents) for the previous year will be prepared.

E. The TRS II Report will be presented in two parts:

1. A statistical summary, and
2. A table listing the officers with five (5) or more Control of Persons Reports during the previous twelve (12) months broken down into six-month periods.

F. TRS III Report – Canine Usage/Deployment:

1. The Dog Bite Record of each canine officer will be prepared monthly by the K9 Sergeant. Based on the monthly reports, the dog bite record for each canine officer will be reviewed by IAU on an annual basis (January 1).

G. TRS IV Report – Discharge of Firearms:

1. The Discharge of Firearms Record for each officer will be reviewed semiannually (Jan. 1 and July 1).
2. A list of all officers with three or more discharge of firearms incidents within the previous five (5) years will be prepared. The list will show the number of incidents broken down annually.

H. Distribution and disposition:

1. TRS I, II, III and IV reports will be included in the Internal Affairs Annual Report compiled by the IAU Commander. These reports are public records under Florida Statute.
2. Supervisors of members appearing on the TRS Report will generate a written record of their review of the member's use of force or complaint history, any other pertinent information, and the results of their review with the member.
3. This record will include any training requested, or other actions taken in response to the members' appearance on the TRS Report. The written record will be forwarded to the IAU Commander and a copy will be retained in the member's working platoon file.

- I. The Threshold Review System (TRS) is designed to assist supervisors in identifying performance issues at an early stage. Once issues are identified, some remedial sources available to the supervisor are:
 1. Supervisory counseling
 2. Supervised observation periods in the field
 3. Peer counseling
 4. Remedial training
 5. Psychological services / substance abuse resources – EAP
 6. Temporary assignment change

- J. TRS Files:
 1. The Internal Affairs Unit will maintain complete TRS files.
 2. All TRS Reports will be maintained and released in accordance with public records laws.
 3. Supervisors and individual members may review name files and TRS records by making an appointment with the Internal Affairs Unit.
 4. The Internal Affairs Commander will conduct an annual evaluation of the TRS. The results will be included in the Internal Affairs Annual Report.

X. BODY WORN CAMERA ANNUAL AUDIT:

- A. Internal Affairs Unit Commander will conduct an annual audit of evidence.com to ensure any video or media marked as a complaint located in evidence.com is properly categorized and updated. Documentation of the audit will be captured in the Internal Affairs Annual Report.

XI. REFERENCE:

- SOP # I-4 Racial and Ethnic Profiling/Biased Based Policing.
- SOP # I-9 Disciplinary Procedures.
- SOP # I-10 Grievance Process.
- SOP # II-5 Alcohol & Substance Abuse/Drug Testing.
- SOP # II-6 Employee Assistance Program.
- SOP # II-13 Public Information.
- SOP # III-13 Use of Force/Injured Person Incident.
- SOP # III-15 Aerosol Subject Restraint.
- SOP # III-20 Body Worn Camera/Mobile Video Recorder
- SOP # IV-5 Critical Incident Investigations.
- FSS 112.532 Law enforcement officers' and correctional officers' rights
- FSS 112.533 Receipt and processing of complaints

Approved:

Signature on file

Frank Adderley, Chief of Police

November 17, 2020

Date: