
	Florida State University Police Department	
INTERNAL AFFAIRS AND CITIZEN COMPLAINTS		
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	Pages: 11	

Policy

A. Internal Affairs and Citizen Complaint Policy

It is the explicit policy of the FSU Police Department (FSU PD) to delineate procedures for ensuring that the integrity of the FSU PD and its employees is maintained through an internal system where objectivity, fairness, and justice are ensured by an impartial investigation and review.

This policy imposes upon the FSU PD the responsibility of providing a system of complaint and disciplinary procedures which will not only subject the employee to corrective action for improper conduct, but, moreover, will protect the employee from unwarranted criticism for duties that have been properly discharged. The thorough investigation of all complaints, together with fair and impartial evaluations of findings, serve to protect the public against acts of misconduct by employees and the FSU PD and its employees against fallacious complaints without merit.

To effect and maintain the essence of this policy, the FSU PD shall:

- A. Ensure that the needs of the public, the FSU PD, and its employees are addressed, and, if valid, satisfied.
2. Facilitate the receipt of complaints against FSU PD employees.
3. Investigate responsibly, impartially, and thoroughly all allegations of employee misconduct.
4. Ensure the dignity of all persons is respected throughout the investigation and subsequent proceedings.
5. Ensure that each allegation of misconduct is resolved effectively through an adjudication process based on the principles of fairness and completeness.
6. Thoroughly respond to and investigate any citizen complaints alleging bias-based profiling in accordance with the provisions of the General Order titled, "Prohibition Against Bias-Based Profiling. [CFA 2.06 F.].

The standards set forth in this General Order shall be used as guidelines for disciplining employees—sworn and non-sworn—of the FSU PD. In recognition of the fact that each instance differs in many

respects from other situations, the FSU PD retains the right to treat each violation of the Rules of Conduct and or FSU policies and procedures on an individual basis without creating binding precedent for other similar cases that may arise in the future.

Procedure

B. Administration

All employees shall be responsible and accountable for the internal affairs function of the FSU PD. The designated Internal Affairs Officer shall report directly to the Chief of Police for all instances in which complaints are lodged against FSU PD employees or an Internal Affairs investigation is warranted and conducted.

C. Organization of the Internal Affairs Operation

The Chief shall designate the Internal Affairs Officer for the FSU PD.

1. The Internal Affairs Officer may, with the approval of the Chief, designate additional Internal Affairs investigators from within the FSU PD ranks to assist with Internal Affairs investigations.
2. The Internal Affairs Officer shall have the authority to interview any member of the FSU PD and to review all Departmental records and reports.

D. Complaint Reception

Employees of the FSU PD are strictly charged with the responsibility for courteously and willingly receiving complaints against any employee or complaints regarding any FSU PD policy, procedure, or service.

1. Citizen complaints, regardless of how received (in person, mail, telephone, e-mail, or anonymous) shall be documented on a Community Complaint Form by the FSU PD employee receiving the complaint.
2. Unless the complainant demands to meet personally with the Chief, the complainant shall meet with the Shift Supervisor.
3. If the complaint is against the person receiving it, the complainant shall be referred to the next level of command.
4. If the complainant does not wish to file a formal complaint, the Shift Supervisor will document the incident and forward it in a sealed envelope marked "Confidential" directly to the Chief without delay for review and determination of action. The Chief will ensure that the complaint is filed with the Internal Affairs Officer and maintained in the Internal Affairs Report File.
5. If a citizen wishes to file a formal complaint, the Shift Supervisor receiving the complaint shall make every effort to ensure that the complaint, if verbal, and any statements regarding the complaint are reduced to writing, signed, and under oath. The Sworn Statement Affidavit (Sworn Written Statement Form), if completed, shall be attached to a Community Complaint

Form. The completed Sworn Statement Affidavit and Community Complaint Form shall be placed in a sealed envelope marked "Confidential" and submitted directly to the Chief.

6. If the complaint against a sworn officer is criminal in nature, the written complaint and any written statements shall be under oath as required by Article 6 of the Police Benevolent Association (PBA) collective bargaining agreement.
7. If the nature of the complaint makes it necessary to initiate an immediate investigation, the Shift Supervisor shall advise the Chief and/or appropriate member of the command staff without delay.
8. If it is deemed necessary to relieve the employee from duty who is the subject of a complaint, the Shift Supervisor shall contact the Chief and/or appropriate member of the command staff for authorization to place the employee on administrative leave with pay for formal investigation. Examples that could warrant placing an employee on administrative leave with pay for formal investigation include, but are not limited to:
 - a. An employees arrest or allegation of criminal misconduct;
 - b. An employee's serious violation of a Department policy, procedure, or rule;
 - c. An employee who appears to be physically or psychologically unfit for duty.
9. Under FSU Regulation 4.0015, an employee may be placed on administrative leave, with pay, during a formal investigation when an employee's absence from the work location is essential to such investigation [CFA 2.07].
10. Upon receipt by the Internal Affairs Officer after initial receipt and review by the Chief, all complaints shall be recorded and assigned a numerically-sequential number in the complaint log as generated by the Administrative Investigation Management (AIM) computer program. AIM computer records of all complaints shall be so formatted as to meet the record-keeping requirements of Section 112.533, F.S. [CFA 20.01 D.]

The Internal Affairs Officer shall:

- a. Assign an Internal Affairs (IA) number and prepare an assignment order listing the allegations.
- b. Prepare an entry into the AIM Computer Program, entering the complainant, employee (if known), supervisor information, allegations, assignment, notification information, and a summary of the complaint [CFA 20.01 D.].
- c. Notify the Chief that the AIM entry has been completed;
- d. Provide copy of AIM entry to employee or officer named in the complaint;
- e. Prepare a case file.

E. **Assignment of Complaint**

The case assignment shall be made by the Internal Affairs Officer with immediate notification to the Chief. However, the Chief may, at his or her discretion; reassign the investigation to an individual different from the one originally assigned the case by the Internal Affairs Officer. The Internal Affairs Officer shall assign complaints for the following types of investigations:

1. Administrative Investigation. An investigation to determine whether the involved conduct or act of an employee was consistent with agency policy and/or procedure. The findings shall be submitted to the Chief for determinations concerning necessary changes in policy, procedure, and/or training that needs to be addressed.
2. Supervisory Investigation. Minor allegations of misconduct (rudeness, procedural violations, etc.) may be referred to a supervisor for investigation. The findings shall be submitted directly to the Chief [CFA 20.01 A.].
3. Internal Affairs Investigation. Serious allegations of misconduct (arrest, criminal misconduct, corruption, excessive force, sexual harassment, moral turpitude, or breach of civil rights), or allegations deemed serious violations of policy, shall be conducted by the Internal Affairs Officer [CFA 20.01 B.].
 - a. When the allegation involves criminal and Department procedure violations, the criminal investigation shall be conducted independently. The same Internal Affairs investigator shall not be assigned to conduct both the criminal and administrative investigations.
 - b. Information obtained during the criminal investigation may be used in the administrative investigation.
 - c. Information obtained during the administrative investigation **may not** be used in the criminal investigation unless the employee has waived his/her Constitutional rights afforded in criminal investigations.
 - d. The Internal Affairs investigator assigned to the case shall keep both the Internal Affairs Officer and the Chief informed of the progress of the investigation at frequent and regular intervals.

F. **Internal Affairs Review**

Regardless of the type of investigation ultimately determined for any complaint received, the Internal Affairs Officer shall periodically review **all** written complaints received by the Department. As part of this Internal Affairs review, the Internal Affairs Officer will schedule at least one meeting with the officer (or non-sworn employee) assigned to investigate administrative and supervisory investigations in order to gauge the progress of the investigation and to determine if circumstances require the investigation to be upgraded to an Internal Affairs investigation [CFA 20.01 C.].

G. **Complainant Notification**

The Internal Affairs Officer shall prepare a letter to the complainant acknowledging:

1. Receipt of the complaint;
2. Assignment for investigation and name of the investigator;
3. That the complainant shall be informed at the conclusion of the investigation with the conclusion of facts and final disposition;

H. Complaint Investigation of Sworn Officers

The investigation shall be thorough, impartial, and proceed in a timely manner. The investigation shall adhere strictly where applicable to the Florida Law Enforcement Officers' Bill of Rights provided by Section 112.532, Florida Statutes.

If the employee under investigation is a law enforcement officer, the investigation shall ordinarily be completed within forty-five (45) days after the complaint is filed and assigned as stipulated above, unless circumstances necessitate a longer period. If more than 45 days is required; the employee shall be notified in writing of the extension as provided in accordance with Article 6 of the PBA collective bargaining agreement.

For the purpose of this section, "interrogation" refers to any questioning within the context of a disciplinary investigation meeting in response to a complaint. The information to be obtained from an employee from such an interrogation will be the basis for a decision as to whether to suspend or dismiss the employee. It does not include counseling sessions, meetings at which the employee is solely being advised of intended disciplinary action and offered an opportunity to explain why he/she should not be disciplined, or inquiries which may result in oral or written reprimands.

The Internal Affairs Officer shall notify the employee under investigation in writing of the investigation.

Whenever a law enforcement officer is under investigation or subjected to interrogation for any reason which could lead to disciplinary action, (suspension, demotion, dismissal), such interrogation shall be conducted [CFA 20.02]:

1. In accordance with the explicit provisions of Section 112.532, F.S., regarding law enforcement officer's rights and privileges at the request of any officer. He or she has the right to be represented by counsel or any other representative of his or her choice, who shall be present at all times during the interview whenever the interview relates to the members continued fitness for law enforcement duties.
2. In accordance with Article 6 of the PBA collective bargaining agreement, any law enforcement officer who is being questioned/interrogated in a disciplinary investigation shall have the right to PBA representation at such meeting. Upon such a request being made, such meeting shall be delayed for no more than five (5) business days to allow the employee to attain such representation.
3. The employee under investigation shall be advised of the rank, name, and command of the employee in charge of the investigation, the interrogating officer, and all persons present during the questioning/interrogation. The employee under investigation must be informed of the nature of the investigation before any interview begins, and he or she must be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer.
4. The complaint, all witness statements, including all other existing subject member statements, and all existing evidence, including, but not limited to, incidents, reports, GPS locator information and audio or video recordings relating to the incident under investigation, must be

provided to each member who is the subject of the complaint before the beginning of any investigative interview of that member.

5. A member, after being informed of the right to review witness statements, may voluntarily waive the right and provide a voluntary statement at any time. All material must be provided at least one (1) hour prior to the beginning of the interview per PBA contract (if applicable).
6. All questions directed to the employee being interviewed shall be asked by or through one interviewer during any one investigative interview, unless specifically waived by the member under investigation.
7. Questioning/interrogation sessions shall be for a reasonable period, and shall be timed to allow for such personal necessities and rest periods as are reasonably necessary.
8. The employee under questioning/interrogation shall not be subjected to offensive language or be threatened with transfer, dismissal, or disciplinary action. No promise or reward shall be made as an inducement to answer any questions.
9. The complete questioning/interrogation of the employee, including all rest periods, shall be recorded and there shall be no unrecorded questions or statements. Upon the request of the interrogated member, a copy of the recording of the interview session must be made available to the interrogated member no later than 72 hours, excluding holidays and weekends.
10. As provided by law, in an administrative hearing, an employee shall answer all questions openly and honestly concerning an investigation and may be disciplined for his/her refusal to do so.
11. Questions directed to the employee under investigation shall be narrowly related to the job performance duties of the officer or the investigation.
12. Employees under investigation can be compelled to submit to medical and/or laboratory examinations, when such examinations are germane and narrowly related to the investigation. Such examinations may include, but not limited to, hair, skin, bodily fluids, breath tests, and fingerprints and shall be conducted at Department expense [CFA 20.03 A.]. Employees shall be advised that evidence obtained in this manner can only be used for administrative investigation purposes.
12. Photographs may be taken of the employee under investigation, and/or the employee may be compelled to participate in a line up, for the purpose of identification, when relevant to the investigation [CFA 20.03 B. and C.].
14. Employees under investigation may be compelled to disclose financial statements when such information is relevant to the investigation [CFA 20.03 D.].
15. As provided by Article 6 of the PBA collective bargaining agreement, employees may not be compelled to submit to a detection of deception examination [CFA 20.03 E.]
16. Employees can be compelled to submit to a search of Department property such as vehicles, 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.

I. Criminal Investigations

Initial complaints of misconduct of a substantial nature will be reviewed by the Internal Affairs Officer and/or other designee assigned by the Chief. The assigned Officer will conduct a preliminary review and inquiry to establish whether a reasonable suspicion exists to believe that an employee has committed, or is about to commit a criminal violation. If the matter involves a criminal violation:

1. The criminal investigation shall take priority over any administrative investigation. The administrative investigation will not proceed until the conclusion of the criminal investigation unless approved by the Chief and proceeding would not interfere with, influence, or otherwise jeopardize any on-going criminal investigation.
2. If the alleged crime occurred within the jurisdiction of the agency, the Chief may assign an Agency Investigator to conduct the investigation or may request an external agency conduct the investigation.
3. If the alleged crime occurred outside the jurisdiction of the agency, the Chief or designee will request an agency having jurisdiction conduct the investigation.
4. Members accused of criminal wrongdoing are given all legal protection under the law.
5. The officer/investigator conducting the criminal investigation shall not be assigned to conduct the Administrative Investigation.

J. Confidentiality of Investigations [CFA 20.01 E.]

As provided by Section 112.533(2)(a), Florida Statutes, a complaint filed against a law enforcement officer with a law enforcement agency and all information obtained pursuant to the investigation of such complaint shall be confidential and exempt from Section 119.07(1), Florida Statutes, 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, that the agency has either:

1. Concluded the investigation with finding not to proceed with disciplinary action or to file charges, or
2. Concluded the investigation with a finding to proceed with disciplinary action or to file charges.

As provided by Section 112.533(3), Florida Statutes, any person who is a participant in an Internal Affairs investigation, including the complainant, the subject of the investigation, 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.

K. Complaints Against Non-Sworn Employees

Non-sworn employees of the Department shall be afforded the right to file a complaint or appeal disciplinary actions taken against them in accordance with applicable University rules and

regulations. See the General Orders titled, "Standards of Conduct," and "Complaint and Grievance Procedures."

The provisions of this general order, not specifically applicable to law enforcement officers, shall apply to non-sworn employees of the Department.

L. **Complaint Disposition**

Upon conclusion of the investigation, the assigned investigator shall prepare a written report which shall contain a conclusion of fact and shall be forwarded to the Chief for review, approval, and action as necessary. Conclusions of fact can be identified as [CFA 27.04]:

1. Proper Conduct (Exonerated): The allegation is true, but the actions of the employee were consistent with Department policy.
2. Improper Conduct (Sustained): The allegation is true, but the actions of the employee were inconsistent with Department policy.
3. Policy Failure: The allegation is true, although the actions of the employee were not inconsistent with Departmental policy.
4. Insufficient Evidence (Not Sustained): There is insufficient evidence to prove or refute the allegation.
5. Unfounded Complaint: Either the allegation is demonstrably false or there is no credible evidence to support the allegation.
6. Not Involved: The investigation established that the employee named in the complaint was not involved in the alleged incident.

The employee shall be notified by letter that the investigation has been completed and forwarded to the Chief.

The complainant and affected member shall be notified by letter from the Chief or designee that the investigation has been completed. The complainant and the member shall be informed regarding the conclusion of fact and disposition concerning the allegation of misconduct. [CFA 20.04]]

When the findings of the allegation are sustained, the Chief may:

1. Take necessary corrective action.
2. Forward the report to the employee's Division Commander for corrective action.
3. Corrective action shall be in accordance with the pertinent provisions of the General Order titled, "Standards of Conduct." Such corrective actions may include one or more of the following [CFA 7.02 C]:
 - a. Counseling.
 - b. Retraining.
 - c. Oral reprimand.

- d. Written reprimand.
- e. Suspension.
- f. Demotion.
- g. Dismissal.
- h. Criminal prosecution.

M. Disciplinary Action and Appeal

1. As provided by Section 112.532(4), Florida Statutes, 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 shall 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.
2. A law enforcement officer with regular status who is subject to disciplinary action and is covered under the PBA collective bargaining agreement may appeal the action:
 - a. Under Articles 5 and 6 of the PBA Collective Bargaining Agreement, or
 - b. Under the University Complaint Procedure as discussed in the pertinent provisions of the General Order titled, "Standards of Conduct," and/or the pertinent provisions of the General Order titled, "Grievance Procedures [CFA 7.06].
3. A law enforcement officer who has not attained regular status with the University shall not have access to the grievance procedure as outlined in Article 5 of the PBA Collective Bargaining Agreement when disciplined.
4. Other employees who are subject to disciplinary action may appeal such action under FSU Regulation 4.070, and the pertinent provisions of General Order titled, "Standards of Conduct" [CFA 7.06].

N. Retaliation of Exercising Right

As provided by Section 112.532(5), Florida Statutes, no law enforcement officer shall be discharged, disciplined, demoted, denied promotion, transferred, reassigned, 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.

O. Complaint Report Distribution

Maximum security shall be maintained over completed internal investigation reports. Until final disposition, the Internal Affairs investigation report shall be retained in a secure file by the Internal Affairs Officer [CFA 20.01 F.].

1. Only sustained findings and any disciplinary action taken shall be placed in the employee's personnel file.
2. A copy of the internal investigation report shall be provided to the employee upon request.

3. As provided by Section 943.1395(5), Florida Statutes, when the investigation sustains that an officer is not in compliance with Section 943.13(4) or (7), Florida Statutes, the Department shall submit the investigative findings, and supporting information and documentation to the Florida Department of Law Enforcement.
4. The Chief's Assistant shall complete the CJSTC Internal Investigation Report Form (CJSTC 78), and forward it along with a copy of the report file to the Florida Department of Law Enforcement.

P. Public Access

As provided by Section 119, Florida Statutes, Internal Affairs investigation files may be released, as requested, to the public upon conclusion of the investigation [CFA 20.01 G.].

Q. Record Retention and Destruction

The retention of the internal investigations files shall be in compliance with Chapter 257, Florida Statutes [CFA 20.01 F.].

R. Removal of Employees from Duty Pending Preliminary Administrative Review

Any time an employee of this agency is involved in any situation, while on duty, involving death or serious bodily injury, the employee will be placed on Administrative Leave until a preliminary administrative review is conducted. The review will consist of: A review by the Chief or his designee of the circumstances surrounding the incident to include the time, date, location, elements of the incident, psychological and physical health of the employee, and any other pertinent factors surrounding the incident.

Glossary

Administrative Investigation - An administrative investigation is defined as an investigation to determine whether the involved conduct or act(s) were consistent with agency policy and/or procedures.

Criminal Investigation - An investigation conducted to determine if conduct or acts are, or may be the basis for filing criminal charges.

Conclusion of Facts – Final determination about allegations based on investigative activities which may include exonerated, sustained, not sustained, unfounded and/or policy failure.

Disposition – Sanctions that resulted from the conclusion of facts which may include but not to counseling, oral reprimand, written reprimand, suspension, demotion or dismissal.

Beilan v. Board of Public Education, School District of Philadelphia 357 U.S. 399 - "... a law enforcement officer is in a peculiar and unusual position of public trust and responsibility, and by virtue thereof, the public body has an important interest in expecting the officer to give frank and honest replies to questions relevant to his fitness to hold public office."

Florida 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 University's Law Enforcement bargaining unit.

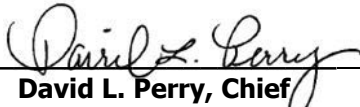
Garrity v. New Jersey 385 U.S. 493 - Police departments have a legitimate obligation to maintain discipline within the agency to ensure the integrity of individual employees and protect the public trust. Rights of a law enforcement officer that apply during investigations into allegations of non-criminal misconduct. If criminal violations are involved or suspected, the officer has the same rights as any other citizen.

Gardner v. Broderick, 392 U.S. 273

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Attachment: Community Complaint Form

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