

FLORENCE POLICE DEPARTMENT

GENERAL ORDER

Subject: INTERNAL INVESTIGATIONS	Procedure: General Order 25.1.1 CALEA 26.2	Total Pages: 10
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I. POLICY

It is the policy of this Department to ensure the integrity of our Department and its employees by investigating allegations of employee misconduct from any source, outside or inside the Department. Investigations will be conducted and appropriate investigative records will be maintained.

II. PURPOSE

This written order establishes guidelines for receiving and investigating complaints about employee performance or misconduct, and provides for recording and maintaining appropriate records.

III. SCOPE

This written order is applicable to all departmental personnel.

IV. RESPONSIBILITY

All personnel will comply with the guidelines established in this directive.

V. DEFINITIONS

A. **COMPLAINT:** Both formal, written and signed charges and/or allegations of conduct contrary to the Rules of Conduct established by this Department, and unwritten, unsigned, telephonic, or anonymous charges and/or allegations of conduct contrary to the Rules of Conduct established by this Department.

VI. INTERNAL AFFAIRS

A. **ROLE AND AUTHORITY:** Internal Affairs will investigate or coordinate investigations involving internal matters. The goal of Internal Affairs is to ensure the integrity of the Department through an internal system in which objectivity, fairness, and justice are assured by impartial investigations and review.

B. **RESPONSIBILITY FOR FUNCTION:** The Commander of the Criminal Investigations Division shall be responsible for the Internal Affairs function. This supervisor reports directly to the Chief of Police on matters involving internal affairs.

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- C. INVESTIGATIVE AUTHORITY: Internal Affairs shall have the authority to interview any member of the Department, and to review any record or report of the Department, relative to their assignment.
- D. EMPLOYEE DUTY TO COOPERATE: Departmental employees shall render material and/or relevant statements to the designated departmental authority when so directed. Personnel shall not, in any manner, interfere with an internal investigation.
- E. INTERNAL INVESTIGATION ASSIGNMENTS:
 - 1. INVESTIGATIVE SCOPE: Internal Affairs shall be responsible for conducting reviews and administrative investigations concerning allegations of misconduct by members of the Department which include but are not limited to:
 - a. Allegations against staff personnel;
 - b. Allegations of excessive force;
 - c. Allegations of misconduct which may adversely reflect upon the employee and/or the Department;
 - d. Allegations of corruption;
 - e. Allegations of a breach of civil rights; and/or
 - f. Allegations of criminal misconduct.
 - 2. OTHER RESPONSIBILITIES: In addition to investigations of allegations of misconduct, Internal Affairs shall be responsible for:
 - a. Coordination of investigations involving the discharge of firearms;
 - b. Oversight of employment background investigations on all Departmental applicants; and
 - c. Other investigations directed by the Chief of Police or his/her designee.
 - 3. CENTRAL COMPLAINT FILE SYSTEM: Internal Affairs will maintain a comprehensive, central complaint file of all complaints received. This centralized information will be used to formulate training and written directives, and aid in the reduction of complaints.
 - 4. INVESTIGATIONS BY LINE SUPERVISORS: Complaints of discourtesy, demeanor, and other violations of departmental policy may be assigned to the employee's supervisor for investigation and follow-up.

VII. GENERAL PROVISIONS

The effectiveness of any law enforcement agency depends on public approval and acceptance of police authority. Therefore, the Florence Police Department will be responsive to the community by providing formal procedures for processing complaints about its performance. It is to the Department's advantage that complaints and the circumstances surrounding them are thoroughly investigated and resolved.

A. ACCEPTANCE OF COMPLAINTS

1. **ALL ACCEPTED:** Complaints shall be accepted from any source, whether made in person, by mail, email, or over the telephone. However, individuals are encouraged to submit their complaints in person. Anonymous complaints should be carefully reviewed and investigated to ensure their credibility.
2. **ALL EMPLOYEES RESPONSIBLE:** All employees of the Police Department will be held responsible for courteously receiving (or referring, as appropriate) any complaint reported to them against the Department or any employee.
3. **DISSEMINATION OF COMPLAINT PROCEDURES:** Procedures for filing complaints shall be made available to the community. This information shall also be disseminated to all agency employees.
4. **COMPLAINTS TO BE IN WRITING:** Complainants will be asked to file their complaint in writing and in person when at all possible. Complainants will also be asked to participate in recorded interviews when necessary. Failure to cooperate with the Internal Affairs investigator in charge will be reflected in the investigation.
5. **RECEIPT OF COMPLAINTS BY DISPATCH:** Dispatch should relay complaints as follows:
 - a. **EMPLOYEE CURRENTLY ON DUTY:** Relay the complainant information to the employee's immediate supervisor or designee if possible. Should a complainant request Internal Affairs, they may be transferred to the Criminal Investigations Division's Administrative Assistant, if during normal business hours, or if after hours, given the phone number to the Criminal Investigations Division's Administrative Assistant for coordination.
 - b. **EMPLOYEE OFF DUTY:** Take the complainants name and contact information. Forward that information to an on-duty supervisor. This will begin the complaint process.
6. **RECEIPT OF COMPLAINTS AT POLICE DESK:** If a complaint is received at the Police Desk during normal business hours, the complainant will be directed to an on-duty supervisor.
7. **PROCESSING COMPLAINTS:**

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- a. When a Complaint is received by Internal Affairs, it will be reviewed and may be assigned to the employee's immediate supervisor when appropriate.
 - b. Upon receipt of a complaint by mail, email, or phone, Internal Affairs will respond to the complainant acknowledging receipt of the complaint. This acknowledgement will be in writing, either by receipt, or letter. Internal Affairs will then coordinate any additional requirements, if any, expected of the complainant.
 - c. Complainants will be updated, when necessary, on the status of an investigation. At the conclusion of the investigation, Internal Affairs will send the complainant a letter signifying the completion of the case.
 8. **SERIOUS ALLEGATIONS:** The Chief of Police will be notified immediately of all serious complaints of alleged employee misconduct. Serious allegations include but are not limited to:
 - a. Allegations of criminal activity against an employee;
 - b. Employee involved shootings; or
 - c. Excessive force involving serious injury.
- B. INVESTIGATION OF COMPLAINTS**
1. **IMPARTIALITY:** Complaints shall be investigated by persons not involved in the situation generating the complaint and not implicated by the complainant.
 2. **NOTIFICATION OF ACCUSED EMPLOYEE:** The accused employee will be made aware of the allegations against him/her and explained his/her rights relative to the investigation.
 3. **INVESTIGATIVE ASSIGNMENT:** If the investigation focuses on felonious criminal matters, the Chief of Police, or his/her designee, will request an external agency to conduct the investigation. If the investigation focuses on misdemeanor criminal matters, it may still be forwarded to an external agency for investigation, or investigated by Internal Affairs when appropriate.
 4. **TIME LIMITS:** The impact of a case on the integrity of the agency and on employee morale necessitates a timely resolution to such issues. Investigations should be completed within thirty (30) days of assignment. If necessary, the time limit may be extended according to circumstances. Internal Affairs will regularly update the Chief of Police on all active investigations.
- C. DISPUTING FACTS OF CASE:** Disputes about the facts of a case(s), citation(s), or crash report(s) do not amount to allegations of misconduct, and generally, will not be investigated. Parties wishing to dispute the facts of an

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arrest(s), citation(s), or crash(s) should be referred to the appropriate court or their attorney.

VIII. COMPLAINT PROCEDURES

A. COMPLAINTS: Supervisors handling complaints shall:

1. Gather and document as much information as possible about the complaint on the Complaint Form, Form 2, contained within the Internal Affairs Investigations Packet.
2. Make the accused employee aware of the allegations. Request an Internal Affairs Case Number, via email to the Criminal Investigations Division Commander, with copies sent to the affected Division Commander.
3. Based on the seriousness of the complaint, the accused employee's supervisor may conduct and complete the internal investigation or recommend that it be assigned to Internal Affairs.
4. If the accused employee's supervisor completes the investigation, he/she will forward the completed Complaint Form, Form 2, to the Criminal Investigations Division Commander with copies to the affected Division Commander. The investigating supervisor will advise the accused officer of the final disposition via email, copying the Criminal Investigations Division Commander. The Criminal Investigations Division Commander will complete the remaining, relevant forms from the Internal Affairs Packet and file it.
5. If the complaint cannot be resolved by the accused employee's supervisor, the completed Complaint Form, Form 2, will be forwarded to the Criminal Investigations Division Commander with copies to the affected Division Commander. Internal Affairs will conduct the investigation. At the conclusion of the Internal Affairs Investigation, the employee and the employee's Chain of Command will be forwarded a copy of the Case Final Disposition Form.
6. Internal Affairs Only: Complete the "Garrity Notice," (Form 5). A copy of this form will be given to each employee formally questioned concerning the complaint and the original will be retained in the case file in Internal Affairs
8. NOTE: When the disposition of the complaint is discussed with the complainant, they may be informed that actions have, or will, be taken to correct any problems that were discovered as a result of the investigation. However, department personnel **WILL NOT** discuss any disciplinary actions taken against any employee. This is a violation of the employee's privacy rights.
9. **NO** copies or any part of an Internal Affairs file is to be retained outside the office of Internal Affairs.

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- B. COMPLAINTS RECEIVED BY TELEPHONE:
1. Determine, if possible, the identity, address, phone number, and workplace of complainant.
 2. Determine, if possible, the identity of the officer/employee.
 3. Determine the date, time, and location of the alleged incident.
 4. Determine the nature of the complaint.
 5. Ask the complainant to come to the police department to file a complaint with a supervisor.
 7. If the complainant does not wish to come to the police department to file a complaint, but desires only to inform a supervisor over the phone of misconduct, then the supervisor taking the complaint should complete the Complaint Form, Form 2.
 - a. The Supervisor taking the complaint will complete the Complaint Form, Form 2, and follow all procedures outlined in this directive.
- C. BY EMAIL: Upon receipt of a complaint by email, the supervisor receiving the complaint will respond to the complainant acknowledging receipt of the complaint. The supervisor will then complete the COMPLAINT PROCEDURES outlined in Section VIII.
- D. ANONYMOUS: An anonymous complaint will be reviewed for validity before being disregarded. If the complaint is determined to have validity, it will be investigated in accordance with this directive.
- G. THIRD-PARTY COMPLAINTS: A third-party complaint will be reviewed for validity. If the complaint is determined to have validity, it will be investigated in accordance with this directive.
- H. DISPOSITION OF COMPLAINTS:
1. DISPOSITION OF CASE – SUPERVISORY INVESTIGATION: Upon final disposition of a complaint during which the investigation was conducted by the officer’s Chain of Command, a Case Final Disposition Form, Form 6, will be completed by Internal Affairs. A copy of this report should be retained on file by Internal Affairs and forwarded to the Chief of Police and to the employee through the employee’s Chain of Command.
 2. DISPOSITION OF CASE – INTERNAL AFFAIRS INVESTIGATION: An investigation conducted by Internal Affairs shall be documented and retained in the same manner as an investigation conducted by an employee’s Chain of Command. The completed investigation containing a summary, the final disposition, and a recommendation for action should be forwarded to the Chief of Police.

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I. ADJUDICATION OF COMPLAINTS:

1. FINDING OF FACT AND RECOMMENDATION: All complaints, whether investigated by Internal Affairs or a Supervisor, shall include a finding of facts and be resolved according to established disciplinary procedures.
2. FINAL DISPOSITION: Complaints with a final disposition of some type of improper conduct, with concurrence of the Chief of Police, will be entered in the employee's Department Personnel File. The employee shall be notified in writing of the final disposition and whether the complaint will be placed in the employee's personnel file. The Chief of Police may, after review of the case, reclassify an allegation and then take actions outlined in this policy.

J. RELIEF FROM DUTY: If necessary and when appropriate, any supervisor may relieve an employee from duty pending an Administrative hearing with the Chief of Police. If an employee is temporarily relieved from duty, the employee is on paid leave, but may **not** participate in off-duty, police related employment.

IX. OPERATIONAL PROCEDURES

A. NOTIFICATION OF CITY ATTORNEY: The City Attorney's Office shall be notified of all investigations that might result in civil action against the employee or the City.

B. REPORTING: Internal Affairs will prepare an annual report for the Chief of Police, summarizing the nature and disposition of all complaints received by the unit. Annual statistical summaries, based on the records of Internal Affairs investigations, will be made available to the public and FPD employees.

C. INVESTIGATIVE TOOLS:

1. DEPARTMENTAL QUESTIONING: Employees are compelled to answer questions, submit written statements, and participate in taped interviews during internal investigations related to the employee's duties or fitness for duty. Failure to answer such questions and cooperate with the investigation may form the basis for disciplinary action and may result in dismissal from the Department.

a. Answers provided during the investigation of an administrative matter will not be used against the employee in any criminal proceeding, except for perjury or obstruction of justice. (US. v Veal, 153 F3d 1233 (11C.A. – 1998))

b. Answers given do not constitute a waiver of the privilege against self-incrimination as in criminal matters.

c. Whenever an employee is subject to questioning for reasons that would likely lead to demotion or dismissal, the employee shall have the right to have counsel or other representative

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present during such questioning. Representatives shall not have been involved in the situation generating the complaint or implicated by the complainant. The representative may be present during such questioning, but will not participate in the questioning process. No Department supervisor shall act as a representative for any other employee of the Department in this process.

2. **DRUG AND ALCOHOL TESTING :** Employees may be subjected to drug or alcohol examinations in accordance with established City policy.
3. **PHOTOGRAPHS & LINE-UPS:** Employees will not be required to stand in a live line-up, but may be included in a photo line-up for viewing by citizens for the purpose of identifying an employee accused of misconduct. Employees may be required to be photographed for the purposes of a photo line-up.
4. **FINANCIAL DISCLOSURE STATEMENTS:** An employee may be compelled to make financial disclosure statements, when directly and narrowly related to the performance or fitness for office. This procedure will be closely coordinated with the City Attorney and would only apply in select, narrow circumstances.
5. **MEDICAL OR LABORATORY EXAMINATIONS:** An employee may be required to submit to a medical or laboratory examination, at the Department's expense, when the examination is specifically directed and narrowly related to a particular internal investigation being conducted. Any such examination will also comply with applicable city policies.
6. **POLYGRAPH EXAMINATION:** A member of the Department involved in a criminal or administrative investigation may be ordered to take a polygraph test. The following guidelines will be adhered to:
 - a. **ADMINISTRATIVE INVESTIGATIONS:**
 - 1) A member's answers can be used against him/her in a disciplinary investigation.
 - 2) Department employees are not entitled to be represented by Counsel during administrative investigations.
 - 3) A polygraph test will be used only in those cases where the seriousness of the complaint justifies it.
 - 4) Refusal to obey an order to take a polygraph test will subject such a member to disciplinary action.
 - b. **CRIMINAL INVESTIGATIONS:**

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- 1) If a member of the Department is suspected of committing a criminal act and criminal prosecution against such member is anticipated, such member will be advised of his/her constitutional rights (Miranda Warning) prior to being interviewed.
- 2) No member of the Department who is advised of his Constitutional rights prior to his interview will be ordered to take a polygraph test.
- 3) If a member is advised of his/her Constitutional rights prior to his interview, such member is entitled to be represented by Counsel during such interview.

c. TIME TO RESPOND:

- 1) If a member of the Department is requested or ordered to take a polygraph test, such member will be allowed a reasonable length of time (not to exceed 24 hours) to consider his decision on such request or order. If, after 24 hours to consider such order, the member refuses to take the polygraph test, such member will be subject to disciplinary action.

D. CONFIDENTIALITY:

1. The progress of an Internal Affairs investigation and all supporting materials are considered confidential information. This confidentiality serves to protect both the accused employee and the complainant.
2. Internal Affairs files will be maintained in a secure area. Only authorized personnel will have access to the files.
3. The Chief of Police, or his/her designee, is the only party empowered to release the details of an internal investigation to the public.
4. This confidentiality rule in no way precludes reporting to the public statistical information on the processing of all complaints and internal investigations received and processed by Internal Affairs. Such reporting will be designed to preserve confidentiality in individual cases.

X. **INTERNAL AFFAIRS INVESTIGATION PACKET FORMS**

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| Form 1 | Internal Affairs Investigation Case Content Form (IA Only) |
| Form 2 | Complaint Form (2 Pages) |
| Form 3 | Employee Notification (IA Only) |
| Form 4 | Employee Rights and Responsibilities (3 Pages, IA Only) |
| Form 5 | Garrity Notice (IA Only) |
| Form 6 | Case Final Disposition (IA Only) |

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8. Statements – Complainants, Witnesses, and/or Officers
9. Relevant Videos and/or Photos
10. Police Reports
11. Other Evidence