



**VOLUSIA COUNTY DEPARTMENT OF PUBLIC PROTECTION
BEACH SAFETY DIVISION**
Director Kevin C. Sweat

Departmental Standards Directive

TITLE: INTERNAL AFFAIRS

CODIFIED: 27.01
EFFECTIVE: 02/08/2006
RESCINDS/AMENDS: 09/11/2005
ATTACHMENTS: 2

PURPOSE

The purpose of this Directive is to improve the quality of services rendered by the Volusia County Department of Public Protection, Beach Safety Division. This is accomplished through the provision of meaningful and effective complaint procedures, which increases citizen confidence in the integrity of the Department thus encouraging community support.

DISCUSSION

Allegations of employee misconduct, regardless of nature, may be received from any source. This includes, but is not limited to, in person, by mail, by telephone, from any governmental facility, a Department employee, or any other source.

As part of the follow-up investigative activity, persons making complaints by mail or telephone may be requested to appear for an interview if necessary to complete the investigation.

These procedures permit the Department to ensure that employees are in compliance with Departmental procedures. This adherence to procedures assists employees in meeting Departmental objectives and a monitoring system permits managers to identify problem areas in which there is a need for increased training or direction.

These procedures also heighten employee awareness of the rights afforded them when charged with misconduct. This will then increase appreciation of the comparable rights afforded citizens when accused of a crime.

POLICY

It is the policy of the Volusia County Department of Public Protection, Beach Safety Division to accept and investigate all complaints of employee misconduct or wrongdoing from any source. Upon receipt of a complaint, a thorough and impartial examination of the available factual information will be conducted. Following the examination, the person making the complaint will be informed of the outcome.

PROCEDURE

DEFINITIONS

Informal Inquiry - A meeting by supervisory or management personnel with an employee who is the subject of an allegation of misconduct. The purpose is to mediate a complaint or discuss the facts to determine whether a formal investigation should be commenced.

Formal Investigation - The process of investigation ordered by supervisory personnel, to determine if an employee will be reprimanded, suspended, or relieved of duty, during which the questioning of an employee is conducted for the purpose of gathering evidence of misconduct.

Interrogation - The questioning of an employee in connection with a formal investigation, other than arbitration or civil service proceedings. Questioning pursuant to an informal inquiry will not be deemed an interrogation.

Administrative Proceeding - Any non-judicial hearing, which may result in the recommendation, approval, or order of disciplinary action against, an employee.

Administrative Duty - Temporary reassignment to a position relieving the member of normal duties. This duty will be non-disciplinary and assigned at the direction of the Director of Public Safety.

NOTE: In the above described meetings each employee will be afforded the opportunity to have representation of his or her choice present during the informal inquiries, formal investigations, interrogations or administrative proceedings, as prescribed in the Police Officer's Bill of Rights.

Personnel Complaint: - An allegation of misconduct, or a violation of the Department's rules of conduct, policy, or procedures against an employee of the Department.

PROCEDURE

COMPLAINT FILING

27.01.01 Any citizen desiring to make a complaint will be directed to the on-duty supervisor. (CFA Std. 27.01 D)

27.01.02 Every effort will be made to facilitate the convenient, courteous, and prompt receipt and processing of citizen complaints. Employees will not interfere, discourage or intentionally delay the making of such complaints. (CFA Std. 27.01 D)

27.01.03 A citizen complaint form will be completed on all complaints of employee misconduct by either the complainant or the on-duty supervisor. The on-duty

supervisor will make a preliminary determination of the complaint. (CFA Std. 27.01 D)

27.01.04 The on-duty supervisor will report the results of the initial investigation on the citizens complaint form and forward it to the Beach Operations Deputy Chief or the on call Deputy Chief. The complaint will then be evaluated. (CFA Std. 27.01 D)

27.01.05 For investigative purposes, the Department has established two levels of complaints against its personnel. Each level is assigned an appropriate procedure for investigation. The two levels of complaints are identified as level one and level two. (CFA Std. 27.01 D)

27.01.06 All complaints will be sent to the appropriate Deputy Chief, who will contact the Internal Affairs office to receive a Citizen Complaint tracking number. The number system will include: (CFA Std. 27.01 D)

- I.A. Internal Investigation (CFA Std. 27.01 D)
- S.D. Supervisory Discipline (CFA Std. 27.01 D)
- C.C. Citizen Complaint (Every Citizen Complaint receives a Citizen Complaint number. Additional tracking numbers may be assigned later in the administration). (CFA Std. 27.01 D)
- R.Q. Request for Information (CFAS Std. 27.01 D)
- L.S. Law Suits (CFA Std. 27.01 D)

27.01.07 The Director of the Beach Safety Division, after a discussion with the Deputy Chief, will decide which level of complaint it is and who will be assigned the investigation. (CFA Std. 27.01 D)

27.01.08 Internal Affairs will investigate all **Level One** complaints, unless directed otherwise by the Director of the Beach Safety Division. Level One complaints refer to complaints concerning: (CFA Std. 27.01 B, C, 27.03)

- Criminal conduct; (CFAS Std. 27.01 B, C, 27.03)
- Excessive force; (CFAS Std. 27.01 B, C, 27.03)
- Unlawful / Improper Arrest; (CFA Std. 27.01 B, C, 27.03)
- Unlawful / Improper Entry; (CFA Std. 27.01 B, C, 27.03)
- Unlawful / Improper Search (CFA Std. 27.01 B, C, 27.03)
- Any major wrongdoing on the part of an employee. (CFA Std. 27.01 B, C, 27.03)
- Harassment (CFA Std. 27.01 B, C, 27.03)

27.01.09 Any citizen desiring to initiate criminal charges against a departmental employee will be referred to the agency having jurisdiction where the alleged offense occurred. In the event a Department investigation may compromise the confidentiality of the investigation, the investigative authority will be determined by the Director of the Beach Safety Division. Internal Affairs will

investigate complaints alleging a criminal violation which occurred in another jurisdiction for administrative purposes only.

27.01.10 **Level Two** complaints will be handled at the Division level, whenever possible. All Level Two complaints will be forwarded to the appropriate Deputy Chief for review upon resolution. Level Two complaints are identified as follows (CFA Std. 27.01 A)

- Demeanor; (CFA Std. 27.01 A)
- Serious rule violation. (CFA Std. 27.01 A)
- Minor rule violation. (CFA Std. 27.01 A)

TYPES OF MISCONDUCT

27.01.11 Specific categories of misconduct that are subject to disciplinary action are precisely defined. These include:

- Crime - Complaint regarding the involvement of an employee in a criminal offense.
- Excessive Force - Complaint regarding the improper use of force against a person.
- Arrest - Complaint that the restraint of a person's liberty was improper or unjustified
- Entry - Complaint that entry into a building or upon property was improper and/or that excessive force was used against property to gain entry.
- Search - Complaint that the search of a person or his/her property was improper, or in violation of law.
- Harassment - Complaint that the taking, failing to take, or method of action was motivated by race, attire, sex, age, personal dislike, etc.
- Demeanor - Complaint regarding an employee's bearing, gestures, language, or other actions which are offensive, or of doubtful professional propriety, or give appearance of conflict of interest, misuse of influence or lack of jurisdiction or authority.
- Serious Rule Violations - Complaint such as disrespect toward supervisor, drunkenness on duty, sleeping on duty, neglect of duty, false statements, or malingering.
- Minor Rule Violations - Complaint such as untidiness, tardiness, faulty driving, or failure to follow procedures regulating similar conduct.

SUPERVISORS RESPONSIBILITY

27.01.12 Upon receiving a complaint, a supervisor must make a preliminary investigation. The preliminary investigation is required for the following reason:

- To determine if a complaint exists;
- To determine the validity of the complaint;
- To provide a basis for a formal complaint investigation.

27.01.13 Any supervisor receiving a complaint which would be considered a personnel complaint or a service related complaint, that cannot be resolved, will address the complaint according to the guidelines set forth in this directive.

27.01.14 If citizens appear in person to make a complaint, they will be asked to complete the Citizen's Complaint form themselves, or the supervisor may assist in completing the form. The complainant should sign the form, along with the supervisor receiving the complaint.

27.01.15 After the complainant has completed the form, the supervisor will review the contents for legibility. If a word is not legible, the supervisor will inquire of the complainant and print the proper word directly above the complainant's handwritten word. The complainant will be requested to initial the correction.

27.01.16 When it appears to the supervisor that the complainant is apparently under the influence of an intoxicant or drug, or condition bearing on the credibility of the complainant, the supervisor will note these conditions and any other pertinent remarks on the reverse side of the form. The complainant will be advised to return to the station when they are not under the influence and able to continue with the complaint. Comments will also be made as to the physical condition of the complainant, specifically noting any visible marks or injuries relative to the alleged complaint.

27.01.17 A supervisor accepting a citizen's complaint by telephone will enter on the Citizen Complaint form all pertinent information appropriate to complete the report. If the complainant lives locally, they will be requested to come to the station and sign a formal complaint. If the complainants do not live locally, the completed complaint form will be forwarded to the appropriate Deputy Chief.

27.01.18 All complaints received by mail will be forwarded directly to the appropriate Deputy Chief.

27.01.19 Upon acceptance of a complaint, the supervisor accepting the complaint will conduct a preliminary investigation. It is important to note at this time if the complainant (s) affirm that they were injured as a result of their contact with an officer. If there are any signs of injury, these should be noted in a detailed memorandum. If possible photographs should be taken. If no injuries are evident that should also be documented. It is equally important for the supervisory notes to contain specific remarks made by the complainant with regard to what occurred and not just "I interviewed the complainant".

27.01.20 All incidents that exceed the Supervisors discipline level, the complaint will be forwarded to the Director, within twenty-four (24) hours, via the chain of command. Upon review by the Director, the Citizen Complaint may be assigned to the Internal Affairs office for investigation. At this time an Internal Affairs Control number is assigned.

27.01.21 The Director of the Beach Safety Division will determine which complaints will be investigated by Internal Affairs and those, which will be investigated at the Division Level.

27.01.22 When the complaint is investigated by Internal Affairs or at the Division Level, the person responsible for the investigation will conduct a fact finding investigation, clearly identifying specific allegations made that amount to misconduct in the findings of the investigative report. The report will then be submitted to the investigator's Deputy Chief for review and approval.

27.01.23 The Deputy Chief will then analyze the investigative report, determine whether further investigation is required, and cause such additional investigation to be conducted as necessary. When satisfied that the report is complete, the Deputy Chief will determine the disposition for each allegation. In cases where the allegations are sustained, the Deputy Chief will recommend an appropriate penalty to the Director of the Beach Safety Division.

27.01.24 The Deputy Chief will then prepare a memorandum to the Director of the Beach Safety Division to include the following:

Listing the investigations outcome

Twenty-four month Discipline History

Penalty Recommendation

Use this section for sustained cases only. Give a penalty recommendation for a combination of all sustained allegations. All Supervisor discipline case files will be forwarded to the Internal Affairs office for safe keeping.

TIME LIMIT ON COMPLAINTS

27.01.25 Complaints will not normally be accepted more than thirty (30) days after the alleged incident, with the following exceptions:

- When the complaint is reference criminal conduct, in which case the criminal statute of limitations will govern.
- When the complaining person can show good cause for not making the complaint earlier.

RELIEF OF DUTY

27.01.26 There may be instances when a Zone Supervisor or Deputy Chief, must relieve a member from duty. These situations may be for brief periods, 1-2 hours or for an entire shift. At no time will a member be relieved from duty by a Zone Supervisor or Deputy Chief that exceeds one shift. (CFA Std. 27.03)

27.01.27 A report of the incident will be forwarded to the Director of the Beach Safety Division the next workday for further action if necessary. (CFA Std. 27.03)

27.01.28 Examples include but are not limited to the following: (CFA Std. 27.03)

- Reports to work with odor of alcohol. (CFA Std. 27.03)
- Offensive personal hygiene. (CFA Std. 27.03)
- Disheveled/dirty uniform. (CFA Std. 27.03)
- Missing equipment. (CFA Std. 27.03)
- Personal crisis which may inhibit judgment. (CFA Std. 27.03)

INVESTIGATIVE PROCESS

27.01.29 The Division having investigatory responsibility will prepare the investigation and forward the completed investigation to the Director within forty-five (45) days of receipt of the complaint. This will include a letter to the complainant and officer stating the findings.

27.01.30 The appropriate Deputy Chief will review the investigation to determine whether the procedures used and final disposition are consistent with Department disciplinary standards.

27.01.31 Allegations of misconduct pertaining to complaints are adjudicated by the Director of the Beach Safety Division through the Deputy Chief. The final disposition of each allegation in a complaint will be classified in one of the following ways: (CFA Std. 27.05)

- Unfounded - No truth to allegations. (CFA Std. 27.05)
- Exonerated - Allegations are true, but resulted from adherence to proper and appropriate law enforcement procedures and techniques. (CFA Std. 27.05)
- Not sustained - Unable to verify the truth of the matter under investigation. (CFA Std. 27.05)
 - Sustained - Allegations of misconduct are true. (CFA Std. 27.05)

27.01.32 Completed investigations classified as unfounded, exonerated, or not sustained will be placed into CID files and a copy of the summary will be made a part of the personnel files. Records that are one (1) year old and are classified as unfounded, exonerated, or not sustained may be purged. Sustained complaint files may be purged after five (5) years. Letters of discipline must remain in the officers disciplinary file for 50 years after the employees termination date. All disciplinary files will be maintained separate from personnel files.

27.01.33 All internal investigations will include a summary of pertinent testimony and evidence gathered during the investigation that have relevance to the allegations. This will include specific testimony, which would enable a reasonable person to make a determination of the investigative findings. Ultimately the Director will be responsible for reaching a finding in all internal investigations.

27.01.34 The appropriate Internal Affairs Supervisor will be responsible for collecting, tracking, filing and maintaining all files pertaining to Citizen Complaints, Supervisor Discipline and Internal Affairs investigations. The confidentiality of internal investigation files will be maintained in accordance with public records law and CFA (Commission for Florida Law Enforcement Accreditation) standards. The internal Affairs investigator shall complete an annual review of all complaints to determine patterns in violation of division policy or the need for policy amendments. The findings of this review shall be forwarded to the Director. (CFA Std. 27.01 C, 27.04 A,)

27.01.35 The CID Investigator will be responsible for maintaining all records pertaining to internal investigations in the security file(s) in compliance with Florida Statutes 112.533, confidential records/disclosure and Chapter 119 of the Public Records Law. (CFA Std. 27.01 E, F)

27.01.36 The collection of evidence in investigations directed toward employee's of the Department will be conducted in accordance with the following guidelines: (CFA Std. 27.04 B, C, D)

27.01.37 An employee will be required to be photographed or participate in a line-up if it is material to a particular offense or investigation. (CFA Std. 27.04 B, C)

27.01.38 Employee's may be required to submit financial disclosure statements if the particular investigation involves questions of a financial nature. (CFA Std. 27.04 D)

27.01.39 County owned, issued or assigned property is always subject to a search.

27.01.40 Employees may be required to submit other types of medical or laboratory procedures related to particular investigations. These procedures include but are not limited to (CFA Std. 27.04 A)

- Urinalysis (CFA Std. 27.04 A)
- Fingerprints (CFA Std. 27.04 A)
- Blood (CFA Std. 27.04 A)
- Hair (CFA Std. 27.04 A)

27.01.41 No employee will be required to submit to a device measuring the truth responses during questioning. However, there will be no restriction on the right of an employee to submit to such device on a voluntary basis. (CFA Std. 27.04 E)

EMPLOYEE NOTIFICATION

27.01.42 Employees who are the subject of a formal internal investigation will be notified in writing. This notification will include written statements of the allegations and the members' rights and responsibilities relative to the investigation. (CFA Std. 27.02)

27.01.43 At the conclusion of the investigation the employee and complainant (if any) will be provided, in

writing, a copy of the conclusion of facts. Upon completion of any IA Investigation it becomes a public record and is subject to release within the Public Records Guidelines. (CFA Std. 27.01 G, 27.06)

ATTACHMENTS

Attachment A: Police Officers Bill of Rights

Attachment B: Citizen's Complaint Form

Revised: SD-09/11/2005

Approved:



Kevin C. Sweat
Director