



VOLUSIA COUNTY SHERIFF'S OFFICE

Sheriff Ben F. Johnson

Departmental Standards Directive

TITLE: COMPLAINT PROCEDURES

CODIFIED: 52.1

EFFECTIVE: 06-2010

RESCINDS/AMENDS: 52.1/4-2008

ATTACHMENTS: 2

The purpose of this Directive is to establish guidelines for the investigation of complaints against the Volusia County Sheriff's Office and its employees so the facts in each incident are determined and carried to a proper disposition.

A system to review and investigate complaints and allegations is essential to establish and maintain the confidence of the Volusia County citizens, in order to protect the integrity/rights of the Department employees and to protect the public from police misconduct.

Citizens are encouraged to bring forward legitimate grievances regarding misconduct by Volusia County Sheriff's Office personnel. A complaint should be received courteously, handled efficiently and Department personnel should assist and cooperate in the processing of citizen complaints.

It is recognized that Volusia County Sheriff's Office personnel often are subjected to intense pressures in the discharge of their duties. They must remain neutral under circumstances that are likely to generate tension, excitement and emotion. In such situations, words, actions and events may result in misunderstanding and confusion. It is beneficial to all concerned that procedures exist which provide for the investigation of allegations and underlying causes. This ensures that all investigations are conducted in a professional and consistent manner.

It shall be the policy of the Department to investigate all complaints against the agency and its employees and to maintain an internal affairs unit, which shall thoroughly, expeditiously and impartially investigate all unresolved complaints or cases involving the Department's integrity.

It shall further be the policy of the Volusia County Sheriff's Office to disseminate to all employees an updated copy of all Directives relating to internal affairs administration and discipline.

52.1.1 The Internal Affairs Unit shall be responsible for recording, registering and controlling all alleged or suspected misconduct complaints against the agency and its employees. The confidentiality of internal investigation files shall be maintained in accordance with public records law and CALEA (Commission on Accreditation for Law Enforcement Agencies) standards.

52.1.2 All complaints and discipline files can be classified under one of the following three areas:

- **Supervisory Discipline:** This type of discipline is usually generated through the first level of supervision and generally does not require a formal investigation.
- **Citizen Complaints:** Depending upon the severity of the allegation, such complaints usually do not require a formal investigation and should it be necessary to impose discipline, it usually is generated from the first level of

supervision. Should a Citizen's Complaint be so severe as to merit a formal investigation, it will then be labeled as an Internal Investigation.

- **Internal Investigations:** The more serious allegations usually require a formal investigation and may include the advisement of rights pertaining to an administrative investigation.

52.1.3 The Internal Affairs Unit is a staff unit, which coordinates and exercises staff supervision over complaint investigations and/or allegations of misconduct against Department employees from all sources.

52.1.4 The Internal Affairs Supervisor shall be directly responsible for the internal affairs function and shall report all pertinent information directly to the Sheriff.

52.1.5 The Internal Affairs Unit shall have the authority to interview any employee of the Department, use facilities, equipment, and to review any record or report of the Department.

52.1.6 Personnel shall cooperate with and assist the Internal Affairs Unit, recognizing that complaint investigations are conducted under the immediate authority of the Sheriff.

52.1.7 Internal Affairs Investigators shall conduct administrative investigations. Criminal investigations shall be conducted by the appropriate investigative unit or agency.

52.1.8 The Supervisor of the Internal Affairs Unit shall be responsible for maintaining all records pertaining to internal investigations in the security file(s) within the Internal Affairs Unit.

52.1.9 The Internal Affairs Supervisor shall take all proper precautions to ensure the security of these records. These records shall be stored separate and apart from personnel records.

52.1.10 All complaints received by any member of the Department, against the Department or an employee shall be assigned a complaint control number. Internal Affairs assigns control numbers and enters them into the Administrative Investigation Management System (A.I.M).

52.1.11 The numbering system shall be sequential, prefixed by the type and year. Examples:

- **Supervisory Discipline:** SD95-001
- **Citizen Complaints:** CC95-001
- **Internal Investigations:** IA95-001

52.1.12 The AIM System database shall include the complainant's name, Department member against whom the complaint was lodged, date complaint received, type of complaint, case number and final disposition and the investigating Deputy.

52.1.13 The AIM System database shall provide the following:

- Complainant's name, address, home and business telephone numbers;
- Case/Control number;
- Person complained against and nature of complaint;
- Disposition and date.

52.1.14 Internal Affairs shall prepare a separate file, alphabetically indexed by names of personnel who have become the subject of an Internal Affairs investigation. The index shall provide the following:

- Name, rank, employee identification number and assigned division/district;
- Case/Control number;
- Complainant's name and nature of complaint;
- Disposition and date.

52.1.15 Internal Affairs shall prepare a file for every complaint assigned. The file shall contain the original report and audiotapes of Internal Affairs investigation, copies of offense reports, photographs and other pertinent documentation, when applicable.

52.1.16 Folders shall be filed numerically by control number and kept secure while in the custody and control of Internal Affairs.

52.1.17 No one may access files without permission from the Sheriff or the Internal Affairs Supervisor.

52.1.18 No portion of the file shall be copied or reproduced by anyone other than Internal Affairs personnel.

52.1.19 For record keeping efficiency, information tracking files are computerized.

INVESTIGATIONS

52.1.20 The Internal Affairs Unit shall conduct investigations into:

- Civil liability suits against members of the Department;
- At the direction of the Sheriff, internal investigations for other agencies within the concurrent jurisdiction of the Department;
- Allegations of corruption;
- Gross misconduct;
- Allegations of the use of excessive force or brutality;
- Use of deadly force and firearms per Department Standards Directive 1.2;
- Violations of civil rights;
- Allegations of criminal misconduct;
- Incidents requiring investigations that are extremely lengthy, time consuming, involve multiple units or divisions or when other investigative resources are unavailable;
- All other administrative investigations assigned by the Sheriff.

52.1.21 Supervisory personnel are authorized to investigate violations involving:

- Minor violations of policy and procedure;
- Allegations of rudeness to citizens;
- Insubordination;
- Tardiness or dilatory behavior.

52.1.22 Investigations by supervisory personnel shall be forwarded in memo form to the Sheriff, via chain-of-command for review to ensure citizen complaints are resolved satisfactorily. After the Sheriff's review, the supervisory review containing all chain-of-command input shall be forwarded to Internal Affairs Section for record maintenance.

52.1.23 These reports, and all copies will be completed and submitted to the Internal Affairs Supervisor within forty-five (45) calendar days.

52.1.24 A Supervisor's comprehensive investigative report shall be prepared on all investigations. This report will include:

- A summary of the complaint or alleged act of misconduct;
- A description of the incident, physical evidence and other pertinent information;
- Non-edited investigative statements;
- Evaluation of the complaint, with a statement indicating what can or cannot be substantiated.

52.1.25 All records shall be maintained by the Internal Affairs Unit Supervisor in a secure area and in compliance with Florida Statutes 112.533, Confidential Records/Disclosure and Chapter 119 of the Public Records Law.

52.1.26 When an employee is under investigation and subject to a formal interview, the interview shall be conducted under the following conditions:

- The interview shall be conducted at a reasonable hour, preferably at the time when the employee is on duty unless the seriousness of the allegation requires immediate action.
- The interview will take place at the office of command of the investigating Deputy or at the District headquarters where the offense occurred.
- The employee subject of the investigation shall be advised of the name, rank and division of the Deputy in charge of the investigation, the interviewing Deputy and all persons present.
- Interrogations sessions shall be for reasonable periods, and time shall be allowed for personal necessities and rest periods as are reasonable.

52.1.27 Prior to the interview, the employee shall be notified, in writing, of the nature of the investigation, the employee's rights and responsibilities relative to the investigation and the names of all complainants.

52.1.28 The employee subject to the investigation shall not be subjected to offensive language or be threatened with transfer, dismissal, or disciplinary action. No promise or award shall be made to induce the answer to any questions.

52.1.29 If the employee under interrogation is under arrest or is likely to be placed under arrest as a result of the interrogation, the employee shall be informed of their Miranda rights prior to commencement of the interrogation.

52.1.30 The sworn employee subject to investigation shall have right to counsel or any other representative of their choice, who shall be present at all times during the interrogation whenever the interrogation relates to the continued fitness for service.

52.1.31 All formal interrogations shall be taped/video recorded.

52.1.32 The rights of all sworn and non-sworn employees under Florida Statutes, the Florida Constitution, the United States Constitution, the Merit System rules and regulations and any applicable collective bargaining agreement will be protected.

52.1.33 Employees are required to answer all questions related to the performance of their duties. Employees are protected under the Fifth Amendment against self-incrimination in criminal proceedings. However, failure to answer questions related to the performance of duties may result in disciplinary action.

COMPLAINT PROCESSING

52.1.34 All complaints against the Department and its personnel will be documented and investigated. This includes anonymous complaints.

52.1.35 Every effort shall be made to facilitate the convenient, courteous and prompt processing of citizen complaints.

52.1.36 All Department employees are charged with the responsibility of courteously receiving all complaints, which may be lodged against the Department or any employee thereof, whether made in person, by mail or telephone, regardless of nature.

52.1.37 Persons making complaints by mail or telephone will be interviewed and a complaint form prepared and processed as any other complaint (see Attachments A & B.).

52.1.38 Anonymous complaints will be received and processed as any other complaint.

52.1.39 Minors who wish to file a sworn complaint, MUST be accompanied by a parent or legal guardian; the sworn complaint should be signed by the parent or legal guardian.

52.1.40 Citizens wishing to register a complaint will be referred to the employee's immediate supervisor. If the immediate supervisor is unavailable, a supervisor within the employee's division shall be notified.

52.1.41 The supervisor processing the complaint will record pertinent information concerning the complaint on the Citizen Complaint Form.

52.1.42 All complaints will be investigated, including complaints where the complainant is unwilling to sign the complaint form.

52.1.43 When appropriate, the supervisor shall conduct a preliminary investigation, including interviewing the complainant and any witnesses readily available in person. The supervisor shall also advise the subject employee of the complaint.

52.1.44 The complaint shall be documented and a control number will be assigned by Internal Affairs as soon as possible.

52.1.45 The person recording said complaint shall provide the complainant with a copy of the complaint form with a description of the investigative process.

52.1.46 The original Citizen Complaint Form will be forwarded to the Internal Affairs Unit within 5 (five) days of receipt of the original complaint. The investigating supervisor will maintain and utilize a copy of said complaint while completing the investigation. This copy of the Citizen's Complaint Form along with the supervisor's investigative findings will be forwarded to the Sheriff via chain-of-command.

52.1.47 The District Commander or Lieutenant shall notify their Division Commander of all Citizen's Complaints.

52.1.48 Complaints involving corruption, the use of deadly force, or those of a serious or sensational nature shall be immediately reported to the Sheriff.

52.1.49 Whenever practical, supervisors shall take corrective action to resolve minor complaints which result from a misunderstanding, or need little or no investigation to resolve the issue.

52.1.50 The employee assigned to an internal investigation shall maintain contact with the complainant periodically during the investigation and at its conclusion to inform the complainant of the status of the investigation, acting in compliance with Florida Statutes 112.533 and Chapter 119, Public Records.

52.1.51 Internal Affairs shall forward a letter to each complainant advising them that the complaint has been received and is being investigated.

52.1.52 The impact of cases that reflect on the integrity of the Department and employee morale necessitates an expeditious resolution. Therefore, complaints investigated by the Internal Affairs Unit shall be completed within a reasonable time period. This time period will not exceed the statutory requirements of FSS 112.532.

52.1.53 Extensions may be granted in cases due to extenuating circumstances in accordance with FSS 112.532 (6)(a)1-6.

52.1.54 The Internal Affairs Unit Supervisor shall report the status of ongoing investigations and all complaints against the Department and employees to the Sheriff at least once a week.

52.1.55 The Sheriff shall be notified immediately from the level at which the complaint is received when the following complaints are received against the Department or its employees:

- Civil liability suits against members of the Department;
- Allegations of corruption when there is evidence to support the allegation;
- Allegations of the use of excessive force or brutality, and there is evidence to support the allegation;
- Use of deadly force per Department Standards Directive 1.2;
- Violations of civil rights where there is evidence to support the allegation;
- Allegations of criminal misconduct where there is evidence to support the allegation.

52.1.56 Complaints initiated by employees shall be handled using the same procedure as for citizens' complaints.

52.1.57 In cases where the subject of the complaint is directly in the chain of command, the complaint will be forwarded via the subject's supervisor, except for the cases listed above in paragraph 52.1.55.

52.1.58 Employees shall be notified they have become the subject of an internal affairs investigation. The Internal Affairs Unit shall provide an accused employee, in writing, a statement of the allegations and the employee's rights and responsibilities relative to the investigation.

52.1.59 This does not apply in cases where confidentiality is deemed necessary because of the sensitivity of the investigation.

INVESTIGATIVE TECHNIQUES

52.1.60 The collection of evidence in investigations directed toward employees of the Department shall follow the following guideline.

52.1.61 All testing methods for the detection of illegal drugs shall be conducted in conformance with Florida Statute, 112.0455 and Department Standards Directive 22.3, Drug Testing.

52.1.62 All such orders shall be in writing and signed by the Sheriff.

52.1.63 An employee shall be required to be photographed or participate in a line-up if it is material to a particular offense or investigation.

52.1.64 Employees may be required to submit financial disclosure statements if the particular investigation involves questions of a financial nature.

52.1.65 Members of the employee's immediate family shall not be required to give statements in administrative investigations, but may volunteer such statements.

52.1.66 An employee of the Department shall not be required to subject their residence, place of private business, or private vehicle to search unless a valid search warrant has been obtained or the employee voluntarily agrees.

52.1.67 Issued or assigned property shall be subject to search based on reasonable suspicion when related to a particular investigation.

52.1.68 Employees may be required to submit to other types of medical or laboratory procedures related to particular investigations.

52.1.69 No employee shall be required to submit to a device measuring the truth responses during questioning. However, there shall be no restriction on the right of an employee to submit to such device on a voluntary basis.

52.1.70 In accordance with the Volusia County Merit System, an employee may be suspended without pay:

- For up to (7) seven calendar days pending investigation whenever the Department has reason to believe the employee has committed a serious violation or offense, but sufficient evidence is not yet available to make a proper evaluation and determination of appropriate final action;
- For disciplinary actions;
- When so ordered by the Sheriff and the employee is charged with a felony or misdemeanor.

52.1.71 In accordance with the Volusia County Merit System Rules and Regulations, a suspension with pay may be given to an employee when necessary to relieve the employee from duty and remove them from the work position.

52.1.72 Supervisory personnel shall have the authority to temporarily suspend employees due to physical or psychological unfitness.

52.1.73 In cases of disciplinary suspension, on or before the effective date of suspension, the employee will be provided with:

- A written statement setting forth the reasons for the suspension;
- The effective dates of the suspension;
- The charge and the specific behavior and dates that support the charge;
- An offer of assistance in correcting the behavior;
- The employee's rights to respond to the charge.

INVESTIGATIVE FINDING

52.1.74 All evidence involving investigations that may result in adverse actions will be presented to the Sheriff's staff by the Investigating Deputy.

52.1.75 The Sheriff's Staff shall recommend one of the following dispositions and an appropriate disciplinary action:

- **EXONERATED** - The allegation is true, however, proper, appropriate police procedures and techniques were adhered to.
- **NOT SUSTAINED** - The investigation discloses insufficient evidence to clearly prove or disprove the allegation.
- **POLICY FAILURE** - Policy or procedure does not properly address the allegation or procedure, which led to the alleged conduct, and the investigation reveals policy or procedural changes are recommended.
- **SUSTAINED** - The investigation discloses that the accused employee has committed a substantial part of the alleged act(s) or improper conduct.
- **UNFOUNDED** - No basis for the allegation, or the employee acted properly under the circumstances.

52.1.76 Upon conclusion of the investigation, both the complainant and the employee(s) shall receive, in writing, the conclusion of fact and the disposition of the allegation.

ANNUAL REPORT AND PUBLIC INFORMATION

52.1.77 To ensure unimpeded access/availability by the public to the agency's citizen's complaint procedures, the VCSO will maintain an informational brochure and Citizen's Complaint Forms in the public lobby at each District office and the Administrative Offices in DeLand. In addition, the agency will maintain easy-to-access information, Frequently Asked Questions (FAQ's), and complaint forms on it's website at www.volusia.org/sheriff.

52.1.78 The Supervisor of the Internal Affairs Unit shall annually prepare and disseminate, by way of the Volusia County Sheriff's Office Webpage, a statistical summary of Internal Affairs investigations.

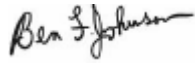
52.1.79 The Public Information Officer and Community Relations shall disseminate information to the public on procedures for registering complaints against the Department and its employees.

Attachment A: Citizen's Complaint Form

Revised by: 6760

Revised on: 04-2010

Approved:

A handwritten signature in black ink, appearing to read "Ben F. Johnson".

Ben F. Johnson
Sheriff, Volusia County