

MITCHELL POLICE DIVISION

CHAPTER 26

INTERNAL AFFAIRS

PURPOSE: Complaints as referred to in this chapter concern complaints received by the Police Division that allege one or more of the following:

- (a) the commission of a criminal offense by a member of the Division
- (b) neglect of duty by a member of the Division
- (c) violation of Division policy which may tend to reflect unfavorably upon the employee or on the Division.

The public has the right to expect efficient, fair and impartial law enforcement. Therefore, any reported misconduct by Division personnel must be thoroughly investigated and properly adjudicated to assure the maintenance of these qualities, and to protect employees from false allegations of misconduct.

Personnel who engage in serious acts of misconduct or who have demonstrated they are unfit for law enforcement work must be removed for the protection of the public, the Division and its employees.

26.1 COMPLAINT INVESTIGATION

- A. All substantial complaints or allegations of employee misconduct or criticism of Division services will be investigated.
- B. All formal complaints investigated against employees or the agency will immediately be brought to the attention of the Chief, through the chain of command.
- C. Complaints, allegations or inquiries regarding employee conduct or Divisional service shall be classified into two categories: Formal complaints and Inquiries.
 - 1. Formal Complaints
 - a. Complaints or allegations of employee misconduct that fall in the area of Criminal Violation shall be classified as formal complaints.
 - b. The investigation of formal complaints shall be recorded, numbered, and filed as a formal complaint.

2. Inquiries

- a. Employee actions resulting in complaints of poor employee attitudes directed toward either a citizen or another employee, e.g., rudeness or insubordination, violations of Division Policies and Procedures, City Personnel Rules, or any complaints of police service rendered that might not be attributed to any one employee, shall be classified as an inquiry.
- b. Inquiries shall be investigated.

26.2 COMPLAINT ACTION RECORDS

- A. All formal complaints shall be brought to the Chief of Public Safety. All complaints shall be forwarded through the chain of command to the Chief of Police. Inquiries shall also be forwarded to the Chief unless a supervisor has determined such complaint to be unfounded, unsubstantiated, or an unjustified attempt of retaliation against an officer due to a justified police action.
- B. Formal complaints forwarded to the Chief of Public Safety will be numbered and an investigator assigned. The report is maintained in the Employee Internal Affairs File.
- C. When a complaint is received or initiated by a Lieutenant or above, the employee's Shift Commander will be advised of the investigation, whenever practical, prior to notification of the employee.
- D. Inquiries that are minor and that a supervisor feels he has corrected also do not need to be forwarded.

26.3 CHIEF OF PUBLIC SAFETY, DIRECT ACCESSIBILITY

The assigned Investigating Officer acts directly under the authority of the Chief. The Investigating Officer has the authority and the responsibility to investigate any action or omission of any action of an employee which may be in conflict with the duties and obligations of that employee, regardless of rank. Every member of the Division shall be required to fully disclose his actions pertaining to the investigation as follows:

1. Non-criminal investigation

Employee under investigation will be advised if the nature of the allegation is non-criminal, in which case the employee must answer the questions even if the answers may result in Divisional sanctions. Failure to do so shall result in Divisional charges.

Employee shall be informed of the Garrity Warning

2. Criminal investigation

Employees under investigation will be advised if the nature of the allegation is criminal. A Miranda Warning will be given. No employee will be required to incriminate himself.

26.4 CHIEF OF PUBLIC SAFETY, NOTIFICATION

Employees having knowledge of violation of laws, ordinances procedures, policies or disobedience of orders by other Division employees shall report such violations to their Supervisor, or the most available Supervisor. Supervisors shall forward notification of appropriate matters to the Chief.

26.5 SUPERVISORY ROLE IN COMPLAINTS

- A. A formal complaint or inquiry can be lodged by anyone, and can be made in person, by mail or by telephone.
- B. Formal complaints and inquiries shall be referred to the division Commander.

26.6 INTERNAL AFFAIRS INVESTIGATIONS

- A. At the termination of an investigation, the investigating officer shall prepare and submit a report to the Chief, which shall contain the following:
 1. Details of investigation
 2. Findings of fact
 3. Conclusions

26.7 CLOSING OF INTERNAL AFFAIRS CASE

- A. The Chief will notify the employee's section commander and immediate supervisor of the outcome and final disposition of the investigation.
- B. The Chief will notify the complainant of the results of the investigation and, in nonspecific terms, what action, if any, was taken. Notification will be written if requested by the complainant.
- C. The Investigator or Chief will close out the investigation and it will be filed in the internal affairs file.

26.8 INFORMING COMPLAINANT OF STATUS OF COMPLAINT

- A. The policy of the Mitchell Police Division is to keep the complainant, in any internal affairs investigation, informed concerning the status of their complaint, to include at a minimum:
 - 1. Verification of receipt that the complaint has been received for processing
 - 2. Periodic status reports
 - 3. Notification of the results of the investigation upon conclusion of the investigation
- B. This policy does not apply to anonymous complaints.

26.9 STATEMENT OF ALLEGATIONS/RIGHTS

- A. Whenever an employee is under investigation, which could lead to disciplinary action, the investigation shall be conducted under the following conditions and subject to the provisions of the Union Contract.
- B. The employee under investigation shall be informed of the nature of the investigation prior to the interview. He shall be informed of the name of the complainant unless it would jeopardize the investigation.
- C. The employee under investigation shall be informed of the name of the officer in charge of the investigation, the interview officer and all people present during the interview, if not already known.

- D. No employee shall be compelled to make statements, written or oral, against himself in a Divisional investigation which may incriminate him in a criminal matter.
- E. The employee being interviewed shall not be subjected to offensive language, and no promise or reward shall be made as an inducement to answering any questions.
- F. The interview shall be conducted at a reasonable hour, preferably at the time when the employee is on duty; unless the seriousness of the investigation is of such a degree and nature that immediate action is required.
- G. Refusal by an employee to cooperate in any way during a non-criminal investigation shall be subject to administrative disciplinary action.

26.10 INTERNAL AFFAIRS PROCEDURES

- A. A formal complaint or inquiry will be assigned by the Chief or his designee to the officer he feels to be most appropriate. The assigned investigator may recruit assistance as necessary, with the agreement of the Chief.
- B. The investigation shall be conducted using all standard investigative procedures.
- C. A formal complaint investigation, if not done by an outside agency, will be reported the same as any other criminal investigation.
- D. The case file is sent through the chain of command to the Chief for review and disposition.
- E. After the Chief has reviewed the case file, and decided on the final disposition, the file, with the Chief's disposition, will be placed in the internal affairs file.

26.11 RELIEVED FROM DUTY

- A. An emergency suspension against a subordinate employee may be imposed when such action is in the best interest of the Division.
 - 1. An emergency suspension against a subordinate employee may be imposed by a supervisor.
 - 2. A supervisor imposing the emergency suspension shall notify the

Division Commander immediately and be prepared to appear with the suspended employee in the office of the Chief.

3. Such suspensions shall be with pay.
4. Suspension without pay can only be made by the Chief, and in accordance with the City personnel manual.

26.12 CONCLUSION OF FACT

- A. After the investigating officer has received and reviewed all of the investigative reports and information, he shall arrive at his final determination, which shall fall within one of the following categories and will be classified in one of the following ways:
 1. Substantiated
 - a. Allegation is supported by sufficient evidence
 2. Unsubstantiated
 - a. Insufficient evidence to prove or disprove the allegation.
 3. Unfounded
 - a. The allegation is false or not factual
 - b. Incident did not occur or employee was not involved
 - c. Incident occurred but employee acted lawfully and properly.
 4. Misconduct not based on complaint
 - a. Substantiated misconduct not alleged in the complaint but disclosed by the investigation.
- B. Policy Failure
 1. The employee acted properly under the current rules, policies and procedures in effect, and the rule, policy or procedure is found to be inadequate.
 2. The inadequacies to the rule, policy or procedure will be addressed in a comprehensive report, including remedies.

26.13 RECORDS, MAINTENANCE AND SECURITY

- A. All files shall be maintained by the Chief or his designee.
- B. Access to internal investigation files shall be limited to specific people authorized by the Chief.
- C. Employees may request permission through the Chief to review the contents of internal investigation files in which they were accused of misconduct.

26.14 COMPLAINT REGISTERING PROCEDURES

The Mitchell Police Division will make available to the public, upon request, information concerning procedures to be followed in registering complaints against the Division or its employees.