



# DAVIE POLICE DEPARTMENT

## 309

### INTERNAL INVESTIGATIONS/COMPLAINT PROCESS

Revised: January 4, 2022  
Effective: January 11, 2022

Approved:   
Stephen Kinsey, Chief of Police

## I. PURPOSE:

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A key ingredient of professionalism is the ability of the practitioners to properly police themselves. The Davie Police Department demands that all members maintain the highest ethical standards of conduct and service to preserve public confidence and trust. By investigating allegations of misconduct fully and objectively, the public can be assured that official police misconduct will not be tolerated, and at the same time provide a process whereby officers unjustly accused can be exonerated.

## II. POLICY:

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It shall be the policy of the Davie Police Department to establish and maintain a process for accountability and procedures for handling inquiries into a department member's conduct. [20.01]

## III. DEFINITIONS:

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- A. **Complaint** - An allegation that a department member's actions may have violated department policy, procedure, directives or state statutes. Complaints may be generated externally by a member of the public or internally via another department member or through supervisory oversight.
- B. **Internal Affairs Unit** - The Internal Affairs Unit has, as its primary function, the receiving, processing, supervising, and controlling of the investigation of complaints made against department members. The Internal Affairs Unit will ensure that any allegation of misconduct made against a member of the department is thoroughly and objectively investigated.

## IV. PROCEDURES:

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### A. CITIZEN COMPLAINT PROCESS

If any citizen requests to make a complaint, department members shall adhere to the following process:

1. The department member receiving the initial contact of complaint will notify an on-duty supervisor immediately and inform them that a citizen wishes to make a complaint. The on-duty supervisor may respond to the location or may contact the complainant via phone dependent upon the circumstances.
2. The supervisor may work to resolve the matter without the need of the completion of a *Complaint Form*. However, should the complainant request the matter to be documented, the *Complaint Form* will be completed.

3. If the complainant does not wish to speak or meet with a supervisor, the department member will provide the *Complaint Form* to or direct the complainant to where they may obtain the form (e.g. front lobby desk, website) and explain the proper procedures. Department members will not insist that the complainant explain the nature of their complaint first before a form is provided.
4. All supervisors and Internal Affairs Unit personnel are required to hear all complaints made on department members, from any source, regardless of the location of the alleged occurrence. **[20.01A, B]** Even in instances where the complainant requests to remain anonymous or refuses to give their name, the complaint may be documented and forwarded through the chain of command for review and possible assignment.
5. A completed *Complaint Form* will then be forwarded through the chain of command to the Chief of Police or designee.

## B. INTERNAL COMPLAINT INITIATION PROCESS

1. Supervisors who observe or receive a report of a violation have the authority to take immediate action in accordance with General Order 301 Section IV(C)(1a-d)– *Standards of Conduct and Discipline* or document the incident and forward through to the chain of command if further inquiry is warranted.
2. Non-supervisory department members who observe alleged violations of department general orders or Florida State Statutes, shall report their observations to their supervisor.

## C. CLASSIFICATION OF INVESTIGATIONS

1. Classifications of complaints include: Informal and Formal Investigations. **[20.01A,B]**
2. Informal Investigations
  - a. Personnel Reviews are complaints regarding allegations or incidents that are minor or less serious in nature. The allegation(s) do not rise to the level of an internal affairs investigation or supervisory review. **[20.01A]** Personnel reviews include, but are not limited to, the following types of complaints or incidents for which corrective action would reasonably be verbal or written coaching, counseling or training.
  - b. Administrative/Complaint Inquiries: Under some circumstances, when deemed appropriate, the Chief of Police or designee, may request a preliminary review surrounding a department member's conduct for the purposes of assessing the nature and validity of a complaint or inquiry. In this instance, Internal Affairs Unit personnel shall gather preliminary information, as requested by the Chief of Police or designee, in order to evaluate whether or not an allegation is well-grounded and to determine the proper course of action justified under the circumstances. **[20.01B]** After this inquiry, the Chief of Police, may, based on the facts, assign the case as a formal investigation; or take no further action if there is no validity to the complaint or inquiry.
  - c. Supervisory Reviews are primarily the responsibility of supervisors or command officers. However, they may be assigned to an Internal Affairs investigator at the discretion of the Chief of Police or designee. **[20.01A,B]** Supervisory reviews include, but are not limited to, the

following types of more serious complaints or incidents for which corrective action could reasonably be discipline:

- 1) Non-criminal conduct;
- 2) Complaints regarding physical force without injury;
- 3) Harassment not intended to derive a benefit for an officer or department member nor in violation of federal, state or local statutes;
- 4) Discourtesy and rudeness;
- 5) Complaints of indecent or improper language; and/or
- 6) Other circumstances or lesser violations of department policy and procedures.

### 3. Formal Investigations

Internal Affairs Investigations are primarily the responsibility of the Internal Affairs Unit, or may be referred to another authoritative agency as determined by the Chief of Police or designee. Internal Affairs Investigations include, but are not limited to: **[20.01B, C]**

- a. Criminal conduct;
- b. Immoral conduct;
- c. Officer involved shooting;
- d. Allegations which if proved true would likely result in termination; and/or
- e. Complaints that require extensive investigation.

## D. COMPLAINT INVESTIGATION PROCESS

1. The Chief of Police or designee will determine the classification of the complaint and indicate the course of action on a *Complaint Form*. The Chief of Police or designee shall be kept apprised in the event the investigator believes the complaint may need to be reclassified due to mitigating circumstances.
2. Informal Investigations
  - a. Personnel Review
    - 1) The personnel review will be handled as follows:
    - 2) The supervisor will make contact with the complainant and obtain a verbal statement (taking accurate notes of the allegations).
    - 3) The supervisor will also contact known witnesses and obtain verbal statements.
    - 4) The supervisor will collect and review any supporting evidence (reports, documents, radio and telephone recordings, physical evidence, surveillance recordings, etc.)
    - 5) Once the supervisor has acquired the above information, and the supervisor does not believe that the complaint should be reclassified due to mitigating or aggravating circumstances and the appropriate outcome is still likely verbal or written counseling or training, he/she will then call the department member in to discuss the incident and obtain a verbal statement/explanation from the officer. **[20.02]**

- 6) Since a Personnel Review typically does not result in discipline, the protections offered in the *Police Officer's Bill of Rights* do not apply; however, if the officer requests a representative, the request will be granted.
- 7) The supervisor will review all information and document the findings in an *Investigations Summary Memo*.
- 8) The Personnel Review will be completed within 20 days from the date it is received by the investigating supervisor. If there is an extenuating circumstance that may delay the completion, the supervisor will notify the Internal Affairs Unit of the reason for the delay in writing.
- 9) The supervisor will also complete a *Final Action Summary Form* which will include their findings. A copy of any recommendations, as well as counseling, (if appropriate) will be included.
- 10) The completed investigation will then be forwarded to the Chief of Police via chain of command.

b. Supervisory Review

- 1) Once the complaint is determined to be a Supervisory Review, the Internal Affairs investigator will consult with the Division Commander of the subject officer(s), who will then make the assignment of the review.
- 2) The assigned supervisor will receive the *Complaint Form* and any supporting documentation from the Internal Affairs Unit.
- 3) The supervisory review will be completed within 30 days from the date it is assigned by the Internal Affairs investigator. In instances of extenuating circumstances and the investigating supervisor is not able to complete the review by the date provided, the supervisor will request an extension via email to the Internal Affairs investigator.
- 4) The Supervisory Review will be conducted as follows:
  - i. The supervisor will make contact with the complainant and obtain a sworn recorded statement and take photographs (if necessary).
  - ii. The supervisor will ensure that recorded statements are taken from all known witnesses.
  - iii. The supervisor will collect and review any supporting evidence (reports, documents, radio and telephone recordings, physical evidence, photographs, surveillance recordings, etc.).
  - iv. Statements will be submitted electronically to the Supervisor Review Folder for transcription.
  - v. The transcriptions will be returned to the supervisor.
  - vi. Once the complainant and witness statements have been provided to the supervisor, he/she will then notify the department member of the intention of taking a statement via the *Notification of Charges/Allegations Form*. A copy of the *Police Officer's Bill of Rights* will be provided to the department member at that time. **[20.02]**
  - vii. If the department member requests a representative, the request will be granted.
  - viii. Prior to the department member providing a statement, they will be afforded the opportunity to review any and all witness statements, evidence, photographs, etc. that are available at the time.
  - ix. The supervisor will read verbatim and complete the *Recorded Subject Officer Statement Guide*.
  - x. After the department member's statement has been taken, the supervisor will submit the recorded statement to the Supervisor Review Folder for transcription.

- xi. The supervisor will review all information and write his/her findings in the *Investigations Summary Memo*.
- xii. The supervisor will then complete a *Final Action Summary Form* which will include their findings and recommendations for discipline (if any).
- xiii. The completed investigation will then be forwarded to the Internal Affairs Unit through the chain of command.

### 3. Formal Investigations: Internal Affairs Investigations

- 1) Once the complaint is determined to be an internal affairs investigation, the Chief of Police or designee will assign it to the Internal Affairs Unit.
- 2) The Internal Affairs investigator will receive the *Complaint Form* and any supporting documentation.
- 3) The internal affairs investigation will be conducted as follows:
  - i. The Internal Affairs investigator will make contact with the complainant for a sworn statement.
  - ii. The Internal Affairs investigator will ensure recorded statements are taken from all relevant witnesses.
  - iii. The Internal Affairs investigator will collect and review any supporting evidence (reports, documents, radio and telephone recordings, physical evidence, photographs, surveillance recordings, etc.)
  - iv. Statements will be submitted for transcription.
  - v. Prior to taking the statement of the department member under investigation, the Internal Affairs investigator will consult with the Chief of Police to discuss if the proper course of action is to submit the investigation to the State Attorney's Office.
  - vi. The Internal Affairs investigator will then notify the department member in writing of alleged violations on the *Notification of Charges/Allegations Form*. A copy of the *Police Officer's Bill of Rights* will be provided to the member at that time. **[20.02]** The member will also be noticed at that time of the intention of taking a statement.
  - vii. Prior to the member providing a statement, he/she will be afforded the opportunity to review any and all witness statements, evidence, photos, etc. that are available at the time.
  - viii. The supervisor will read verbatim and complete the *Recorded Subject Officer Statement Guide*. When applicable, the Garrity Warning Form will be read and signed.
  - ix. After the department member's statement has been taken, the Internal Affairs investigator will submit the recorded statement for transcription.
  - x. The Internal Affairs investigator will then review all information and submit his/her findings on the *Investigations Summary Memo* to the Chief of Police.
  - xi. The Chief of Police will determine final disposition for internal affairs investigations.
- 4. For all internal affairs investigations, the Internal Affairs investigator will forward a letter of receipt to the complainant. The department member will be notified of the allegations and their rights and responsibilities relative to the investigation prior to investigation. **[20.04]** In the event that notification may impede the investigation, notification to the department member will not be made immediately.

## E. STATEMENTS

### 1. General Guidelines

- a. Internal Affairs personnel, as well as departmental supervisory staff, shall be aware of the content and applicability of the Law Enforcement Officers' Bill of Rights under Florida State Statute 112.532 and adhere to its conditions.
- b. During the taking of statements from any person, time shall be allowed for such personal necessities and rest periods as are reasonably needed. All recess periods shall be recorded.
- c. There are no "off the record" questions or comments.
- d. No personal audio, video, or stenographic recording equipment of any type will be permitted during the interview session.
- e. Names of other persons present will be read into the record (e.g. a department member's counsel or bargaining unit representative).
- f. Any representative of an officer who disrupts, interferes with, or otherwise impedes the normal process of the interview or statement taking should be asked to cease and desist. If the disruption continues then the representative will be asked to leave and an appropriate entry will be noted in the record. The department member should then be given the option to continue with the statement or to suspend it until another representative can be obtained.
- g. During the course of statement taking, only one investigator will ask questions at a time pursuant to FSS 112.532(1)(c).

### 2. Witness Statements

- a. Department members providing witness statements are not entitled to a representative, but if requested the Internal Affairs investigator should make all efforts to grant the request.
- b. If a member is considered a witness in an investigation and he/she makes self-incriminating statements that could lead to disciplinary action or criminal charges, the investigator shall cease the questioning until the provisions of Florida State Statute 112.532 are met and/or the rights and privileges afforded to a subject officer are applied.
- c. In the case where a department member is considered a witness and makes a self-incriminating statement of a criminal nature, the administrative investigator will cease all questioning and a criminal investigation will commence. The supervisor will then contact the Internal Affairs Unit supervisor for further direction.
- d. Witnesses may be asked at the end of the statement if they wish to make any additional remarks.

### 3. Subject Statements

- a. The *Recorded Subject Officer Statement Guide* will be utilized when conducting a supervisory review or an internal affairs investigation.
- b. Criminal investigators will not be present.

- c. The subject department member will be allowed to review any and all material available at the time of rendering a statement.
- d. According to Florida State Statute 112.532, sworn personnel are entitled to representation when rendering a subject statement during the course of a formal investigation whenever the interview relates to the officer's continued fitness for law enforcement services.
- e. Non-sworn members covered by a Town collective bargaining unit may also request representation according to the terms of their bargaining agreement.
- f. Department members shall answer all questions truthfully.
- g. If the subject member of the investigation declines to give a statement or answer any questions a direct order to do so shall be issued. It shall not be necessary to summon the member's direct supervisor for the purpose of issuing a direct order to give a statement. The assigned investigator acts on behalf of the Chief of Police or designee and may exercise staff authority in the furtherance of their investigations.
- h. If the subject member still declines they shall be relieved of duty and the Chief of Police or designee will be notified.
- i. Department members shall not be questioned during an administrative statement regarding crimes or incidents not being investigated as part of the administrative investigation.
- j. The Internal Affairs investigator shall not participate during the criminal statement unless directed by the Chief of Police or designee.
- k. Brief consultation periods with counsel or representative are allowed but the tape recorder shall continuously run during these consultation periods.
- l. F.S.S. 112.532 gives those under formal investigation the right to be represented and to have the representative present during questioning; no questions are permitted by the representative nor are they allowed to interject any comments during the investigator's questioning. The representative may make an official statement at the conclusion of the investigator's questioning.
- m. The subject member will be offered the opportunity to make additional remarks at the conclusion of their statement.

#### F. CASE DISPOSITIONS [20.05]

- 1. When determining the disposition of allegations concerning personnel reviews, supervisory reviews and/or internal affairs investigations the following classifications will be utilized:
  - a. Not Sustained – investigation produced insufficient facts to prove or disprove the allegation.
  - b. Sustained – the allegation is supported by sufficient facts to indicate that the accused member committed one or more of the alleged acts of member misconduct.



- c. Unfounded – the allegation is proven false, or is not supported by facts.
- d. Exonerated – an act occurred, but the actions were lawful and proper.
2. Upon conclusion of the investigation, the member will be notified in writing of the findings by the investigator or the Chief of Police or designee. **[20.04]**
3. The complainant will receive written notification of the findings by the Internal Affairs Unit. **[20.04]**
4. Florida Department of Law Enforcement Notification/Review

Pursuant to Florida State Statute 943.13(4) or (7) or Rule 11B-27.0011, FDLE requires that all sustained allegations of misconduct that fall within their criteria for disciplinary action (up to and including decertification) be forwarded for review and consideration by their licensing commission. The completed investigation, including the compelled statement of the accused officer together with the CJSTC Form 78, shall be forwarded as soon as practical, after the sustained finding is reached, regardless of any appeal. **[20.02H]**

#### G. DEPARTMENT MEMBER RESTRICTIONS

1. Department members having knowledge of, or who are involved as a subject or witness in a complaint, shall not: **[20.01E]**
  - a. Independently participate in the investigation.
  - b. Be present during any investigative contact with the complainant or complainant's witness.
  - c. Contact the complainant or complainant's witnesses concerning the allegations.
  - d. Disclose or discuss the existence of facts of a complaint with anyone except designated departmental authorities conducting the investigation until such information becomes public record.
  - e. Nothing in these restrictions shall be construed to prohibit any member from discussing any aspect of a complaint with their attorney or bargaining unit representative.

#### H. INTERNAL AFFAIRS UNIT

1. The Internal Affairs Unit is an investigative unit that acts on behalf of the Chief of Police, exercising staff authority. Internal Affairs is a secured location; only authorized members are permitted in the area. Personnel assigned to the Internal Affairs Unit will not, as a matter of procedure, give orders to members outside of their unit except in the furtherance of their investigative duties.
2. Inquiries by the Internal Affairs Unit, written or oral, may be directed to any member of the department and will warrant the same response as if such inquiry were made by the Chief of Police.
3. Internal Affairs members shall be granted access to department and town facilities, and contents thereof, as required in the course of an authorized investigation.



4. Internal Affairs personnel shall insure that any allegation of misconduct is investigated in an objective manner.

#### I. INTERNAL AFFAIRS FILES

1. Investigations classified as Informal, Formal and Administrative/Complaint Inquires will be maintained for recordkeeping purposes as required by state statutory requirements. **[20.01D]**
2. Duplication of Files: Upon request, information permitted to be released in accordance with applicable Florida State Statutes will be in copy form only; no originals will be released.
3. Security and Confidentiality
  - a. Files are to be kept locked when Internal Affairs personnel are not present. Only members assigned to the Internal Affairs Unit have access to the secured area. Members of the public do not have access to the Internal Affairs Unit and must be escorted in accordance with CJSTC security standards. **[20.01E]**
  - b. Active Investigations: Only those in the Internal Affairs Unit chain of command are permitted access to current, active investigations. An investigation is considered to be active as long as it is proceeding with a reasonable expectation that a finding will be made in the foreseeable future. This period is usually considered 30 days; however, due to the complexity of some investigations, the period may be extended if the investigation is proceeding with good faith. In all cases, confidentiality shall be preserved in accordance with Florida State Statutes governing public record law until the investigation is concluded and a finding reached. **[20.01E]** Review of closed investigation case files is permitted only when accompanied by an Internal Affairs member, the Chief of Police or designee and in accordance with Florida State Statutes governing public record law. **[20.01E,F,G]**
4. Reporting: Internal Affairs personnel will perform administrative duties as required to facilitate the gathering and preparation of statistical reports and other documentation necessary for internal audits, periodic reviews, legal investigations, matters pertaining to court orders, public requests, and to fulfill requirements in accordance with Florida State Statute 943.1395. **[20.01D]**