



CLEVELAND DIVISION OF POLICE

GENERAL POLICE ORDER



EFFECTIVE DATE: February 21, 2020	CHAPTER: 1 - Administrative	PAGE: 1 of 5	NUMBER: 1.07.05
SUBJECT: INTERNAL COMPLAINTS OF MISCONDUCT			
CHIEF: <i>Calvin D. Williams, Chief</i>			

PURPOSE: To establish guidelines for the reporting and investigation of internal allegations of member misconduct.

POLICY: It is the policy of the Division to ensure that all allegations of member misconduct observed or that a member becomes aware of are reported to a supervisor, Internal Affairs or anonymously to Internal Affairs (IA) or the Employee Assistance Unit (EAU). All allegations of misconduct shall be considered and fully, fairly, and efficiently investigated.

DEFINITIONS:

Misconduct - any improper conduct, other than minor infractions as defined in this policy, including an alleged violation of Division policy, procedure, regulation, order, federal or state law, or other standards of conduct required of Division members including the improper use of force.

Administrative Misconduct - an allegation of misconduct, which if true, would be a violation of a CDP rule, regulation, policy, or procedure.

Criminal Misconduct - an allegation of misconduct, which, if true, would be a violation of a City of Cleveland Codified Ordinance, the Ohio Revised Code, or a Federal Criminal Statute.

Serious Misconduct - an allegation of misconduct involving a breach of civil rights, biased policing or discrimination against a protected class, dishonesty, brutality, corruption, objectively unreasonable, unnecessary or disproportionate use of force, or a similar serious allegation.

Minor Infractions - alleged violations of Division policy, procedure, regulations, orders, or other standards of conduct required of Division members that are immediately correctable through minimal intervention by a supervisor, with the goal of non-repetitive behavior. Minimal intervention includes redirection and/or non-disciplinary counseling to correct behavior. Minor infractions include, uniform violations, minor rudeness (absent bias), failure to perform a system checks on WCS or in-car camera equipment that causes no failure to record officer actions, traffic and parking infractions, and motor vehicle accidents (not involving substantial property damage, personal injury or death). When a member repeatedly (i.e., more than two times within a 12-month period based on the date of the observed infraction) commits the same minor infraction, the supervisor shall not handle the minor infraction through a non-disciplinary response.

PROCEDURES:

- I. Reports of Member Misconduct
 - A. Misconduct does not include minor infractions. (Refer to Section III)
 - B. All complaints of member misconduct shall be taken and considered regardless of the source.

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- C. All members who observe or become aware of any act(s) of misconduct by another member shall:
 - 1. Immediately verbally report the incident to a supervisor or Internal Affairs and shall follow-up with a Form-1 report of the incident as directed by the supervisor or Internal Affairs.
 - 2. If the supervisor is suspected of involvement in the misconduct, the Form-1 report shall be made to the next supervisor in the chain of command or the Internal Affairs Unit.
 - D. Where an act of any misconduct is reported to a supervisor, the supervisor shall immediately document and report the incident, via Division tracking software, forwarding the entry to the Internal Affairs Superintendent for review and assignment in accordance with IA procedures and copy the Platoon Commander.
 - E. Anonymous Reporting of Member Misconduct
 - 1. In instances where the member wants to remain anonymous, the member may report the act of misconduct by:
 - a. An anonymous call to the IAU, at which point the reporting member will be provided with a unique number generated through Division tracking software.
 - b. Written correspondence to the IAU. The reporting member shall retain a copy of the correspondence.
 - c. Communicating to a member of EAU, who will then forward the allegation to the Internal Affairs Unit for review and will be provided with a unique number generated through Division tracking software to provide to the reporting member.
 - F. Failure to report an act of misconduct is an egregious offense and will subject the member to the disciplinary process and, if sustained, will subject the member to discipline, up to and including termination.
- II. Investigation of Misconduct Complaints Assigned to District Supervisors
- A. Complaints of misconduct routed by the IA Superintendent to a Neighborhood District Commander, via Division tracking software, for investigation shall be completed by the assigned supervisor (of a higher rank than the offending member) who did not participate in the underlying incident.
 - B. The supervisor shall complete and document their investigation within 30 days of receipt and use the Division tracking software to forward the completed investigation through the chain of command to the District Captain or Unit/Bureau Officer-in-Charge. Any extension must be authorized by a commander via email.

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- C. The Division tracking software entry shall include:
1. The supervisor's narrative description of the incident, including a precise description of the evidence that either justifies or fails to justify the members' conduct based on the supervisor's independent review of the facts and circumstances of the incident.
 2. Documentation of all evidence that was gathered, including names, phone numbers, and addresses of non-member witnesses to the incident (tracking software menus). In situations in which there are no known witnesses, the report will specifically state that fact. In situations in which witnesses were present but circumstances prevented the supervisor from determining their identification, phone number, or address, the report will state the reasons why. The report shall include all available identifying information of anyone who refused to provide a statement.
 3. The names of all members who were involved or witnessed the incident.
 4. The investigating supervisor's evaluation of the incident based on the supervisor's review of the evidence gathered, including a determination of whether the members' actions appear to be within policy.
 5. If corrective action is warranted, the supervisor shall separately detail each violation by specification (e.g., Specification #1: On Tuesday, January 1, 2019, while assigned to 5B28, you, P.O. Zyx, were observed by a superior officer sleeping on duty at the location of East 4th and Euclid Avenue.) The investigating supervisor shall also list those policies, procedures, and/or rules violated and forward to their chain-of-command.
 6. The District Captain or Unit/Bureau Officer-in-Charge shall forward the entry to the IA Superintendent and copy the District/Bureau Commander. The Captain or Unit/Bureau Officer-in-Charge is also responsible for ensuring the entry is complete and accurate.

III. Minor Infractions

- A. If a minor infraction warrants non-disciplinary action, the investigating supervisor shall complete the Form-1 (Attachment) titled Verbal Counseling (followed by the member's full name and badge number) forwarding the Form-1 and all associated documentation through their chain of command in the Division tracking software to the Commander's Office.
1. The original Form-1 shall be retained at the District/Bureau.
 2. If a member disputes any aspect of the verbal counseling they may note the basis for any objection in writing on the verbal counseling document.
- B. The Division will not accept non-disciplinary corrective action as a substitute for discipline where the disciplinary matrix calls for the imposition of discipline. However, the Division

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shall consider whether non-disciplinary corrective action (i.e. training, remedial training, classroom instruction or transfer) is appropriate in addition to discipline being imposed.

- C. Any supervisor in the ascending chain of command has the authority to recommend disciplinary action in lieu of the originally recommended non-disciplinary action as appropriate. Supervisors shall NOT make any recommendations as to what action, discipline or corrective action shall be imposed
- D. If the member is a civilian, the supervisor shall consult with the IA Superintendent.
- E. Minor infractions, upon review by the commander, shall be forwarded via Division tracking software to the IA Superintendent.
- F. If during the investigation of a complaint of misconduct or a minor infraction, a supervisor discovers alleged misconduct that involves a potential criminal act by any member, the investigating supervisor shall immediately contact IA for guidance.
- G. The Chief of Police reserves the right to pursue disciplinary action for violation of rules, regulations, or procedures, independent of the recommendations made by the reviewing chain of command. Verbal Counseling is not approved until it is reviewed and confirmed by the Chief of Police or his designee.

IV. Reporting Certain Events

- A. Officers detained as the subject of a criminal investigation, or who become the subject of a criminal investigation, shall immediately notify their immediate supervisor or the next available on duty supervisor in their chain of command, via the Communication Control Section.
 - 1. As soon as practical, and before leaving their district/unit at the start of their work shift, the officer shall submit a Form-1 describing the incident to their immediate supervisor.
 - 2. The supervisor shall then document the information and forward it to the IA Superintendent via the Division tracking software for review and assignment in accordance with IA procedures.
- B. If an officer is the respondent of an order of protection, restraining order, or if the officer's driver's license is expired, suspended, or revoked:
 - 1. The officer shall report to their supervisor, through a Form-1 as soon as practical, and before leaving their district/unit at the start of their work shift.
 - 2. The supervisor shall document the information; forward it to the IA Superintendent via Division tracking software for review and assignment in accordance with IA procedures.

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THIS ORDER SUPERSEDES ANY PREVIOUSLY ISSUED DIRECTIVE OR POLICY FOR THIS SUBJECT AND WILL REMAIN EFFECTIVE UNTIL RESCINDED OR SUPERSEDED.