

Key West Police Department

Respect Integrity Fairness

Investigation of Personnel Misconduct

Directive No: **02.22**
This Version Date: 09.19.2011
Date Posted:
Date Effective:
Supersedes: v 08/19/07
Number of Pages: 16



Chief Donald J. Lee, Jr.

COLOR CODING DENOTING LEVEL OF LIABILITY: **WHITE:** Low Risk / Discretionary Time

PURPOSE

The purpose of this directive is to establish a process for the prompt and just disposition of allegations or suspicion of misconduct on the part of any member of the Key West Police Department regardless of whether internally or externally generated. The processes of corrective action or discipline that may be taken as a result is described in General Order – 02.25 “Disciplinary Process.”

DISCUSSION

The Department must work as an integral part of the community it serves. Because of the need for an open line of communication between the citizenry and the Department, a fair and effective avenue to address legitimate grievances against Department members must be provided. The system must, on the other hand, provide members protection from false charges and provide a safeguard of due process.

As the integrity of the Department is essential to its position of public trust, the Department must establish a system of investigating allegations or suspicion of misconduct regardless of whether internally or externally generated.

It is necessary to have a system that provides a uniform structured review of all complaints and investigation of suspected misconduct. The system must also provide uniform documentation of all investigations and dispositions.

SCOPE

All persons assigned to, or performing official functions for the City of Key West - Department of Police, whether sworn or non-sworn, temporary or permanent, regardless of whether they are a paid employee or volunteer, shall be governed by this directive. Specific responsibilities and requirements are contained in this Directive for:

- All KWPD personnel.

DEFINITIONS

Review – As it relates to a complaint of alleged misconduct, a Review is designed to first assess the merit and substance of the complaint. Additionally, the Review will provide information as to whether any further action is warranted, and if so, the most appropriate course of action, (i.e. disposition at that level or an Internal Investigation).

Internal Investigation – A formal administrative or criminal investigation authorized by the Chief of Police and conducted by, or in conjunction with, the Key West Police Department on one of its members as a result of an allegation or suspicion of possible misconduct.

Complaint – An allegation of misconduct against a member.

Misconduct - Actions or inactions on the part of a member of the Key West Police Department, that if substantiated, would constitute a violation of state or federal laws, local ordinances, City of Key West Policy and Procedures, or Departmental written directives.

Corrective Action – Positive discipline of an educational nature such as verbal instruction, documented remedial training or documented Supervisor Counseling, all intended to correct or improve performance.

Disciplinary Action – Official action in the form of a Written Reprimand, Suspension, Demotion or Termination. All disciplinary action must be approved by the Chief of Police.

Personnel Action Chart (PAC) – A log used to record complaints against Key West Police Department members. The PAC will be in the form of an electronic database.

DIRECTIVE

02.22.01 INTERNAL AFFAIRS

As one of its functions performed in accordance with Florida Statutes, the Professional Standards Division – Office of Internal Affairs is responsible for recording and registering all complaints of alleged misconduct on the part of any member of this agency, as well as for controlling and overseeing the investigation of those complaints.

02.22.02 INTERNAL COMPLAINTS

02.22.02.01 Any complaint that one member may have against another may be addressed either through the chain of command at the supervisor level or to the Professional Standards Division. If the issue cannot be satisfactorily resolved or if the allegation is of a serious nature that could result in criminal or disciplinary action (suspension, demotion or termination) if substantiated, the supervisor shall forward the matter directly to his respective Bureau Commander.

02.22.02.02 The Bureau Commander shall review the matter for resolution. If the Commander feels that an Internal Investigation (criminal or administrative) is needed, he may request the Professional Standards Division – Office of Internal Affairs to conduct the Internal Investigation. The Professional Standards Division – Office of Internal Affairs will first conduct a Review. Pursuant to 02.22.07.04B, if the Review reveals that an Internal Investigation appears warranted, the matter will be presented to the Chief of Police for authorization.

02.22.03 EXTERNAL COMPLAINTS

02.22.03.01 All supervisors shall courteously and willingly receive any and all complaints of alleged misconduct from any source and regardless of when the alleged event may have occurred. The majority of externally generated complaints may be from civilians. Any person who wishes to make a complaint of alleged misconduct against any member of the Key West Police Department may do so in person, by telephone, letter or email. Although the Department encourages the complainant to provide his/her name and contact information in the event the Department needs to re-establish contact, anonymous complaints will also be received and processed to the extent possible with the information given.

02.22.03.02 Letters & Emails

Letters and emails containing complaints of alleged misconduct should be forwarded directly to the Professional Standards Division. Professional Standards Division will prepare KWPD FORM 027 "Personnel Action Form" with the information provided in the letter or email, and provide a brief synopsis of the complaint. The Professional Standards Division may need to make contact with the sender to ascertain additional information.

02.22.03.03 Telephone or in Person

- A. A person who telephones the Department or who appears in person to make a complaint should be referred to the subject member's on-duty supervisor. If the subject member's supervisor is off-duty or not immediately available, the complainant shall be referred to the on-duty Watch Supervisor.
- B. If the complaint is against the supervisor receiving it, the complainant shall be referred to the next higher level supervisor in the chain of command or directly to the Professional Standards Division.
- C. The supervisor shall meet with the complainant and attempt to resolve any minor allegations of misconduct (demeanor, procedural violations, etc.) to the complainant's satisfaction. The supervisor shall call the complainant if out of town. The supervisor will present to the complainant Appendix-A of this General Order: "Explanation of the Complaint and Commendation Process," and be prepared to assist the complainant by answering any questions he/she may have about the process. If the complaint is of a serious nature that may expose the City to liability if not immediately addressed, the supervisor shall take necessary and reasonable action to limit liability.
- D. The supervisor shall prepare KWPD FORM 027 "Personnel Action Form," and provide a brief synopsis of the complaint. 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 shall note these conditions and any other pertinent remarks. The physical condition of the complainant should be documented and photographed, specifically noting any visible marks or injuries (or lack of marks or injuries) that may be relative to the complaint.
- E. The supervisor will indicate on the Personnel Action Form his assessment:
 - Resolved** – The matter was resolved to the complainant's satisfaction and, therefore, no further action appears needed.
 - Court Issue** – The complaint pertains solely to the lawfulness or justification of enforcement action, and such action appears not to constitute a violation of the law or departmental directives. The proper forum for resolution is a court of law.
 - Formal Complaint** – The matter was not resolved to the complainant's satisfaction nor does it appear to be a "court issue."
- F. The supervisor should secure a sworn written or verbal statement from the complainant. If the complainant elects not to provide a statement at that time, blank statement forms should be provided along with clear instructions to have the statement given under oath, notarized and returned as soon as possible to the Key West Police Department's Professional Standards Division.
- G. Although not required at this point, the supervisor may find it prudent to conduct a Review at this time and document the results.

- H. The supervisor shall forward the original Personnel Action Form, (and sworn statement if completed), along with the results of any Review he may have conducted, to the Professional Standards Division prior to the end of his tour of duty.

02.22.04 RELIEF FROM DUTY

02.22.04.01 The Chief of Police, or any supervisor or Bureau Commander may relieve a member from duty (with pay if a compensated employee) until the next business day when it appears that such action is in the best interest of the member, the Department, or the City, due to allegations or reasonable suspicion of serious misconduct or when the member's fitness for duty is in question. When such action is taken, the subject member's Bureau Commander, as well as the Commander of the Professional Standards Division will be promptly notified.

02.22.04.02 In consultation with the Professional Standards Division, it will then be the responsibility of the subject member's Bureau Commander on the next regular business day to inform the member of his assignment, (i.e. return to regular duty, administrative duties, suspension with pay, etc.).

02.22.05 RESTRICTIONS

02.22.05.01 Confidentiality

- A. In accordance with F.S. 112.533(4) "Receipt and Processing of Complaints," any member who has knowledge of the existence of a formal complaint, Review or Internal Investigation, or who is involved as a subject or witness in a complaint, Review or Internal Investigation, may not disclose (verbally or otherwise) the existence or material matters of the complaint, the Review or Internal Investigation to any individual or party except the member's attorney/representative or individual having official responsibilities in the case until such time as the subject member is officially notified by the Professional Standards Division that the matter has been closed, and therefore a matter of public record. Violation of this provision will subject the member to disciplinary action and possible criminal charges.
- B. A complaint filed against a law enforcement officer of this agency and all information obtained pursuant to the investigation by the agency of such complaint shall be confidential and not disclosed to the public until the investigation ceases to be active, or until the subject member is officially notified by the Professional Standards Division that the matter has been closed. [F.S. 112.533(2)(a)]
- C. **Time Limits**
1. Every reasonable effort shall be made to complete the Review (and Internal Investigation if conducted) and make a conclusion of fact within 45 days from receipt of the complaint. A Review or Internal Investigation shall be presumed to be inactive, and therefore a matter of public record, within 45 days after the complaint is received unless the Review or Internal Investigation is continuing with a reasonable, good faith anticipation that an administrative finding will be made in the foreseeable future. [F.S. 112.533(2)(b)]
 2. Except as provided in section 112.532(6), Florida Statutes, disciplinary action, suspension, demotion, or dismissal may not be undertaken by the Department against a sworn member for any act, omission, or other allegation of misconduct unless the investigation of the allegation is completed within 180 days after the date the Department received notice of the allegation by a person authorized to initiate an investigation of misconduct (i.e., the Chief of Police).
 3. If the Department determines that disciplinary action is appropriate, it shall complete its investigation and give notice in writing to the sworn member of its intent to proceed with disciplinary action, along with a proposal of the specific action sought, including length of suspension, if applicable. Notice to the sworn member must be provided within 180 days after the date the Department received notice of the alleged misconduct, except as provided in section 112.532(6) of Florida Statutes.

D. Security of Files / Records

Any member exercising control over any notes, reports, statements or other items involving a complaint, Review or Internal Investigation shall take reasonable measures to always safeguard them from theft, loss, alteration, or unlawful disclosure.

02.22.05.02 No member shall independently participate in the Review or Internal Investigation without the expressed consent of the Commander of the Professional Standards Division or assigned investigator.

02.22.05.03 No member shall contact the complainant or complainant's witnesses concerning the allegation without the expressed consent of the Commander of the Professional Standards Division or assigned investigator when appropriate for the sole purpose of opening dialogue in an attempt to resolve any misunderstanding.

02.22.05.04 No member shall be present during investigative contact with the complainant or the complainant's witnesses without the expressed consent of the Commander of the Professional Standards Division or assigned investigator.

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| 02.22.06 | REVIEW |
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02.22.06.01 A completed Personnel Action Form and any attached documentation shall be forwarded to the Commander of the Professional Standards Division.

02.22.06.02 The Commander will review the complaint and indicate his initial evaluation:

- A. The matter was resolved to the complainant's satisfaction and, therefore, no further action appears needed;
- B. The complaint pertains solely to the lawfulness or justification of enforcement action, and such action appears not to constitute a violation of the law or departmental directives. The proper forum for resolution is a court of law;
- C. The complaint, as described, does not constitute a violation of the law or departmental directives, and, therefore, no further administrative action will be taken on the matter;
- D. The Commander will assess the merit and substance of the complaint and determine the most appropriate course of action.

02.22.06.03 Assignment

The Commander will assign the matter, as he sees appropriate, to a supervisor or himself for the purpose of conducting a Review. The purpose of the Review is to first assess the merit and substance of the complaint. Additionally, the Review will determine whether any further action is warranted, and if so, the most appropriate course of action.

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| 02.22.07 | INTERNAL INVESTIGATIONS |
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02.22.07.01 If the Review reveals credible information that would rise to a reasonable suspicion that the subject member committed a criminal offense, or that would give cause to believe that he/she committed a non-criminal violation that is likely to result in disciplinary action by the Department (suspension, demotion, or termination) if substantiated, the Commander will present the matter to the Chief of Police. At the direction of the approval of the Chief of Police an Internal Investigation (administrative or criminal as appropriate) may be conducted.

02.22.07.02 PAC

The Professional Standards Division– Office of Internal Affairs shall maintain a PAC to record all complaints made against Department members.

02.22.07.03 Logging

The Commander of the Professional Standards Division or Internal Affairs Inspector will log the complaint in the PAC and assign it a Control Number.

- A. The subject member's name will generally be entered at this time unless the complaint is made from an anonymous source.
- B. To lessen adverse impact on members from false charges, if the formal complaint is from an anonymous source, although the existence of the complaint itself will be entered, the subject member's name will not be entered into the "subject member name field" in the PAC database until such time as any Review or Internal Investigation is concluded and one or more allegation is substantiated.

02.22. 07.04 Assignment

- A. The Commander of the Professional Standards Division will assign the matter appropriately for the circumstances and nature/complexity of the allegations to either the Internal Affairs Inspector, other supervisor, member of the Criminal Investigations Division or himself, for the purpose of conducting the Internal Investigation. If an allegation or suspicion of criminal misconduct is involved, more than one investigator may be assigned.
- B. Any criminal investigation that may be conducted shall be done so independently from any administrative investigation.
 1. This may be accomplished by conducting the criminal investigation first followed by any administrative investigation. When this is done, the investigator may be the same person for both investigations.
 2. If criminal and administrative investigations are conducted simultaneously, the criminal investigation will be assigned to one investigator and the administrative investigation assigned to another.
- C. With the approval of the Chief of Police, certain criminal investigations may be referred to, or conducted jointly with, outside agencies for the purpose of conducting an investigation.

02.22. 07.05 Notice of Internal Investigation

Although the member may have been already informed of the complaint in the Inquiry phase, the Commander of the Professional Standards Division will prepare KWPD FORM055 "Notice to Subject Member of Internal Investigation." The Notice will include at a minimum:

- Name of all complainants
- Nature of the allegation(s)
- Authorization by the Chief of Police
- Name of the lead investigator
- The member's individual rights and responsibilities relative to the investigation

02.22.07.06 Compliance

The Commander of the Professional Standards Division, the Internal Affairs Inspector, supervisor or other member assigned as the investigator in an Internal Investigation is authorized by the Chief of Police to direct any Key West Police Department member (regardless of rank or position) as may be necessary during the course of the investigation and when specifically related to the investigation. Key West Police Department members who are either a witness or the subject of any Internal Investigation are required to fully comply with all lawful instructions from the assigned investigator or other designated departmental authority, whether given verbally or in writing. Willful refusal to comply with instructions, or refusal to truthfully and completely answer questions during any administrative interview, may result in additional departmental charges and subsequent disciplinary action up to and including possible termination.

02.22.07.07 Investigative Procedures

A. The assigned investigator shall conduct a thorough investigation into the alleged event, and identify and address each allegation or suspicion. To ensure due process and continuity in investigative procedures, the following procedures will apply to both sworn and non-sworn members. The investigation will conform to all requirements of applicable collective bargaining agreements and law (including but not limited to F.S. 112.532 Officer's Bill of Rights).

B. Witnesses

The investigator shall attempt to identify and speak with all civilian and police witnesses who he reasonably expects may have relevant information. Witness statements offering relevant information should be documented in a sworn tape-recorded interview or sworn written statement. A member being interviewed as a witness shall be so informed and that he is not the subject of the Internal Investigation.

C. Criminal Investigation: Interview of Subject Member

Whenever a sworn or non-sworn member is the subject of a criminal investigation, he/she is entitled to all the rights and privileges guaranteed by the laws and the constitution of this state and the Constitution of the United States, including the Fifth Amendment right not to be compelled to incriminate him/herself. If the member under interrogation is under arrest, or is likely to be placed under arrest as a result of the interrogation, the Miranda warning will be read to the member prior to the commencement of the interrogation.

D. Administrative Investigation: Interview of Subject Member

Whenever a sworn or non-sworn member is under investigation during administrative proceedings and subject to interrogation by members of this agency for any reason which could lead to disciplinary action, such interrogation shall be conducted under the following conditions:

(1) The interrogation shall be conducted at a reasonable hour, preferably at a time when the member is on duty, unless the seriousness of the investigation is of such a degree that immediate action is required.

(2) The interrogation shall take place either at the investigator's office or other private office at any Key West Police Department facility designated by the investigator.

(3) The member under investigation shall be informed of the rank, name, and command of the officer in charge of the investigation, the interrogating officer, and all persons present during the interrogation. All questions directed to the member under interrogation shall be asked by and through one interrogator at any one time.

(4) Prior to any interrogation, the member shall be informed of any and all allegations for which he/she is the subject of the investigation. Prior to any interrogation, the subject member will be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer. The complaint, all witness statements, including all other existing subject officer statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio and/or video recordings relating to the incident under investigation, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer. An officer, after being informed of the right to review witness statements, may voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.

(5) Interrogating sessions shall be for reasonable periods and shall be timed to allow for such personal necessities and rest periods as are reasonably necessary.

(6) The member under interrogation shall not be subjected to offensive language or be threatened with transfer, dismissal, or disciplinary action. No promise or reward shall be made as an inducement to answer any questions.

(7) The formal interrogation of a member, including all recess periods, shall be recorded on audio tape, or otherwise preserved in such a manner as to allow a transcript to be prepared, and there shall be no unrecorded questions or statements. Upon the request of the interrogated member, a copy of any such recording of the interrogation session must be made available to the interrogated officer no later than 72 hours, excluding holidays and weekends, following said interrogation.

(8) At the request of any member under investigation, he or she shall have the right to be represented by counsel or any other representative of his or her choice, who shall be present at all times during such interrogation whenever the interrogation relates to the member's continued fitness for service. When requested, the member will be allowed twenty-four (24) hours to contact, consult with, and secure the attendance of a representative. The member may be accompanied by one individual acting as legal counsel or representative during the interrogation.

Note: The individual acting as legal counsel or representative does not have the right to cross-examine, interfere with the interrogation or interrupt the questioning.

(9) Notwithstanding the rights and privileges described herein, this part does not limit the right of an agency to discipline or to pursue criminal charges against a member.

(10) The subject member being interviewed under administrative proceedings shall be read the "Garrity" warning prior to the commencement of any compelled statement. The subject member shall truthfully and completely answer all questions directed to him during the administrative interview. Pursuant to Garrity vs. New Jersey, U.S. Supreme Court, Jan-67, due to the fact that the subject member is compelled to comply with all instructions in an administrative investigation, and because unlike a criminal investigation the subject member has no right to remain silent during an administrative interview, any such information/evidence obtained by compelled means shall not be used in the criminal investigation (except "perjury") unless the member has waived his/her constitutional rights afforded in the criminal investigation. However, information and evidence obtained from any criminal investigation may be used in the administrative investigation.

(11) Questions directed to the subject member during the interrogation shall be narrowly and specifically related to the allegation or suspicion.

E. Physical Characteristics, Medical or Laboratory Examinations

Members who are the subject of an administrative Internal Investigation can be compelled to submit to medical and physical characteristic evidence tests when such tests are germane and narrowly related to the investigation. Such tests may include, but not be limited to, hair, skin, bodily fluids, breath tests and fingerprints and shall be conducted at Department expense. Members are advised that evidence obtained in this manner can be used only for administrative purposes.

F. Photographs and Line-Ups

Photographs may be taken of the member who is the subject of an Internal Investigation, or the member may be compelled to participate in a line up, for the purpose of identification, when relevant to the investigation.

G. Financial Disclosure Statements/Other Electronic Records

Members who are the subject of an Internal Investigation may be compelled to disclose financial statements and other electronic records when such information is material to the investigation.

H. Instruments for the Detection of Deception

Members will not be compelled to submit to electronic deception examinations. Nothing in this paragraph is intended to preclude such an examination if the examination is requested by the member.

I. Administrative Searches

In as much as members are hereby placed on notice that they should have no expectation of privacy regarding the following, members may be compelled to submit to a search of Department property such as vehicles, lockers, computers, electronic messages and desks under their control. A warrant for such a

search is not required and employees who do not comply may be subject to disciplinary action. Members are advised that evidence found by compelled means can only be used for administrative purposes.

- J. A member shall not be subject to having his or her residence, place of private business or private vehicle searched unless a valid search warrant has been obtained or he/she voluntarily agrees to such a search.

02.22.07.08 Investigative Report

A. Criminal Investigation

(1) The assigned investigator will prepare a report documenting the results of the criminal Internal Investigation. The report will include a summary of facts, pertinent testimony and evidence gathered during the course of the investigation that would enable a reasonable person to make a conclusion as to whether or not the accused or suspected member committed the act. Neither the investigator's report nor case file shall contain evidence/information that was obtained through compelled means unless the subject member waived his constitutional rights and such waiver has been documented in the report and case file.

(2) The investigator will forward his report and all supporting documentation to the Commander of the Professional Standards Division. If probable cause exists to believe that the subject member has committed a criminal offense, with the concurrence of the Chief of Police, the Commander will forward the matter to state or federal prosecutors as appropriate.

B. Administrative Investigation

(1) The assigned investigator will prepare a report documenting the results of the administrative Internal Investigation. The report will include a summary of facts and evidence gathered during the course of the investigation that would enable a reasonable person to make a conclusion as to whether or not the accused or suspected member committed the act. The report may contain evidence/information that was obtained during the criminal investigation. Although it may be necessary for the investigator to draw certain conclusions as to various facts throughout the investigation and in his report, he will not make a formal conclusion of fact, or "finding," as to the allegation(s) against the member.

(2) When the investigator assigned the responsibility of investigating the complaint prepares an investigative report or summary, regardless of form, the person preparing the report shall, at the time the report is completed:

- a. Verify pursuant to s. 92.525 that the contents of the report are true and accurate based upon the person's personal knowledge, information, and belief.
- b. Include the following statement, sworn and subscribed to pursuant to s. 92.525:
"I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in Florida Statutes 112.532 and 112.533."

(3) The investigator will forward his report and all supporting documentation to the Commander of the Professional Standards Division who will present the case file to the finding officer.

02.22.07.09 Conclusion of Fact

This paragraph applies only to administrative proceedings (Reviews or administrative Internal Investigations). The finding officer shall review the report and all supporting documents in order to make a conclusion of fact for each allegation. If the finding officer feels that additional investigation is needed to resolve any questions that he may have before he feels comfortable in issuing a finding, he will inform the investigator of any such questions. The investigator will address those issues and forward the results directly back to the finding officer. The finding officer will make a conclusion of fact (finding) by preponderance of the evidence for each allegation for each subject member. If the event in question has more than one allegation, the finding officer must determine a conclusion of fact (finding) for each identified allegation. The finding for each allegation will be classified by one of the following:

- **Unfounded** – The allegation/suspicion is demonstrably false or there is no credible evidence to support it.
- **Exonerated** – The allegation/suspicion is true, however, the actions of the agency or its member was consistent with Departmental written directives.
- **Not Sustained** – There is insufficient evidence to prove or disprove the allegation/suspicion.
- **Policy Deficiency** – The allegation/suspicion is true, however, the member's actions were consistent with Departmental written directives, which appear to provide insufficient or incorrect guidance and, therefore, in need of amendment.
- **Sustained** – There is sufficient evidence to substantiate the allegation/suspicion and that the action by the member is inconsistent with Departmental written directives.
- **Other Misconduct** – Substantiated misconduct not mentioned in the initial allegation/suspicion was revealed during the Inquiry/Internal Investigation.

02.22. 07.10 This paragraph applies only to administrative Internal Investigations. The finding officer will present the report and his "findings" to the Chief of Police, along with any recommendations for corrective or disciplinary action. If the Chief of Police does not agree with the officer's findings, the Chief will prepare a written explanation, which will be attached to the finding officer's report, and the Chief's findings will prevail.

02.22. 07.11 Corrective or Disciplinary Action

This paragraph applies only to administrative Internal Investigations. If the finding officer substantiates any allegation, he will make a recommendation to the Chief of Police for corrective or disciplinary action appropriate for the member's overall culpability. (see General Order – 02.25) Any corrective or disciplinary action recommended by the finding officer as a result of a substantiated allegation or suspicion must first be approved by the Chief of Police. If the subject member has resigned during the Review, no corrective or disciplinary action will of course be taken. Resignations of sworn members while under investigation will be indicated on the appropriate FDLE form that is prepared by the Special Services Section when any sworn member separates from the Department.

02.22. 07.12 Closure & Notifications

All completed case files will be returned to the Commander of the Professional Standards Division, who, when assured that the matter has been adequately addressed, will:

- Notify the complainant in writing as to results of the Review or Internal Investigation;
- Notify each subject member that the case is closed, the final conclusion of fact for each allegation, and case disposition if not already known; and
- Examine the case file to ensure that all documents have been correctly prepared and routed.
- Close and file the case file after making any necessary entries in the PAC.

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| 02.22.08 EARLY WARNING SYSTEM |
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02.22.08.01 The Professional Standards Division will alert the respective Bureau Commander when a member under his command has received within the preceding six months:

- Three (3) complaints regarding alleged rudeness or inappropriate demeanor that were either sustained or not-sustained; or

- Two (2) complaints regarding alleged inappropriate or unlawful use of force that were either sustained or not-sustained.

02.22. 08.02 The Commander of the Professional Standards Division will supply the member's Bureau Commander with the relevant complaint history. The member's Bureau Commander shall meet with the member and his/her supervisor for the purpose of discussing any personal and professional issues that may have bearing on the member's performance. This dialogue is intended to assess any possible needs of the member or the Department, and shall not be construed to prematurely imply that the member is in need of Department intervention.

02.22. 09 FALSE ALLEGATIONS

The Department welcomes and encourages those who sincerely believe that the conduct of any one of its members is improper or inappropriate to file a complaint using the procedures described in this directive. Just as aggressively as the Department will investigate complaints and take appropriate action against members for substantiated misconduct, the Department will be equally aggressive in seeking prosecution of individuals who knowingly and willingly made false allegations. When probable cause exists to believe that an individual has indeed made a false allegation, the Commander of the Professional Standards Division or Internal Affairs Inspector shall first secure the approval of the Chief of Police before proceeding.

02.22. 10 RECORDS

02.22.10.01 The Professional Standards Division will be responsible for the security and maintenance of all closed Internal Affairs case files. These original files will be stored in a secure location under the control of the Professional Standards Division.

02.22.10.02 Case files containing closed Internal Affairs investigations and records will be made available to any person or organization as a public record in compliance with F. S. Chapter 119, the public records law. Observation of the Internal Affairs process and related records by the public is encouraged and welcomed. Any individual or organization wanting to view these records may do so by contacting the Professional Standards Division to arrange a mutually convenient time. (See also General Order – 04.01 regarding compensation for certain public records requests).

02.22. 10.03 Personnel and Supervisor's Files

Only summaries of those cases with a final classification of Sustained, or Other Misconduct may be inserted in the member's Personnel File or Supervisor's File. Of those substantiated cases, those for which a member received "disciplinary action" (as defined in this directive) will be placed in the member's Personnel File in Special Services and a copy forwarded to Human Resources. All other substantiated cases where "corrective action" (as defined in this directive) was in the form of a counseling form, the form will be placed in the file maintained by the member's Supervisor for the purposes of performance evaluation and monitoring the member's improvement and after a member's annual evaluation period is complete, counseling forms shall be transferred from the member's working file to the member's Personnel File in Special Services and a copy forwarded to Human Resources. If the corrective action was in the form of Remedial Training, it shall be documented on KWPD FORM008 "Documentation of Reorientation and Remedial Training" in accordance with General Order 02.10. The original of the form will be forwarded to the Training Unit to be filed in the member's training file. A copy of the form will be entered in the member's evaluation file that is maintained by his supervisor.

REFERENCES

- IACP Model Policy – "Investigation of Employee Misconduct," July 2001.
- North Miami Beach (FL) Police Department

Procedural Directive #6-83 "Internal Affairs"
Revision Date: 01/01/01

- University of Florida Police Department
1400 "Internal Affairs and Citizen Complaints"
Revision Date: 08/97
- Daytona Beach (FL) Police Department
73.1 "Citizen Complaints"
11/01/98
- Collective Bargaining Agreement between the Florida Police Benevolent Association, Inc (Key West Chapter) and the City of Key West, FL.
- Garrity vs. New Jersey
United States Supreme Court, Jan-67
- Following Florida Statutes:
F.S. 112.532 "Law Enforcement Officers' Correctional Officers' Rights"
F.S. 112.533 "Receipt and Processing of Complaints"
F.S. Chapter 119
F.S. 837.012 "Perjury When Not In An Official Proceeding"
F.S. 837.05 "False Reports to Law Enforcement Authorities"
F.S. 837.06 "False Official Statements"

EVOLUTION

- Policy, Title 22.1 "Professional Standards / Complaints Against Police Officers and Department Personnel," November 1998
- Policy, Title 22.2.S2 "Administrative Searches," November 1998
- General Order 02.22, Investigation of Personnel Misconduct, v 050902
- Special Order # 06132005.1
Inquiry procedures 02.22.07.03.B
- Special Order # 121905.1,
IA Conclusion of Fact 02.22.07.05
- Special Order 051006.3 Explanation of
Complaint/Commendation Process
- General Order 02.22, Investigation of Personnel Misconduct, v 081907
- General Order 02.22, Investigation of Personnel Misconduct, v050211

ATTACHMENTS

- Appendix A, "Explanation of the Complaint and Commendation Process"
- KWPD FORM027, "Personnel Complaint Form"

Donald J. Lee, Jr.
Chief of Police



Key West POLICE DEPARTMENT

EXPLANATION OF THE COMPLAINT AND COMMENDATION PROCESS

The Key West Police Department is committed to public confidence. To that end, the Department establishes high standards of performance and conduct expected of its personnel. To ensure the public trust and maintain the Department's integrity, it is the policy of the Key West Police Department to willingly receive, review and attempt to resolve all complaints regarding the conduct of its personnel, department procedures and services. It is equally important that members be recognized for their dedicated service to the public. It is essential that all allegations of police misconduct are promptly, thoroughly and objectively investigated to assure the public that misconduct by police officers will not be tolerated and, at the same time, provide a process whereby officers unjustly accused can be vindicated. The responsibility and authority for oversight of this process within the Key West Police Department is vested within the Professional Standards Division.

Q. Who can file a complaint against a member of the Key West Police Department?

A. Any person who has direct standing in the matter, or who has either witnessed or who has direct knowledge of an incident in question.

Q. How do I file a complaint?

A. Complaints will be accepted by the Key West Police Department in person, by telephone, letter or e-mail. Although the Department encourages the complainant to provide his/her name and contact information in the event the Department needs to re-establish contact, anonymous complaints will also be received and processed to the extent possible with the information given. To expedite the handling of your complaint and to provide for more personal attention to the matter, it is preferred that you speak directly to the subject member's immediate supervisor. If that supervisor is unavailable, you should speak directly with the on-duty Watch Supervisor. If your complaint is about the supervisor, you should speak to the next higher level supervisor in his/her chain of command or directly to the Internal Affairs Inspector. Complaints are often made as a result of a misunderstanding of the law or department procedures. You will be provided a copy of this document, which explains the Department's complaint procedure. If after discussing the matter with the supervisor you wish to continue with the process, your complaint will be documented on a Personnel Complaint Form.

If you have not already provided one, you will also be asked to provide a sworn statement either verbally or in writing.

General Order 02.22, Appendix A
KWPD Form 077
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*(attorneys
Green)
P.
Through -
CRB*

*notify
CRB
regarding
internal
complaints.*

Donald J. Lee, Jr.

Chief of Police



Key West

POLICE DEPARTMENT

*Explanation of the Key West Police Department Complaint and Commendation Process
continued...*

Q. What happens to my complaint?

A. After the necessary paperwork is received, your complaint will be reviewed, and if necessary, assigned to an investigator. It may be necessary for the investigator to speak with you. The investigator's completed report will be reviewed and a conclusion of fact will be made based on preponderance of the evidence.

Q. Will I be notified of the results?

A. Yes. You will receive a letter confirming receipt of your complaint. You will likewise be informed of its disposition.

Q. Will I be allowed to see the completed case?

A. Yes. Under the Florida's Public Records Law, all completed cases become public record and are available for inspection at a time that is mutually convenient to you and the Department. To view any completed case, please make contact with the Internal Affairs Inspector during normal business hours.

Q. What are my responsibilities?

A. The greater responsibility falls upon the Department. You basically have only one responsibility: To **provide only factual and truthful information**; willfully providing information that you know or believe to be false is a crime punishable under law.

Q. How can I compliment a member of your Department for a job well done?

A. Police personnel often times are required to make immediate decisions in the face of very difficult circumstances. The Department welcomes your comments and appreciates knowing that you recognize the service our dedicated men and women provide to their community. You may send your comments to the Office of the Chief of Police or the Commander of the Professional Standards Division.

Key West Police Department
Professional Standards Division
1604 N. Roosevelt Blvd.
Key West, FL, 33041-1409

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Key West Police Department Personnel Action Form

AF #: _____ - _____ Investigated by: _____ Date: _____

Member: _____ Position: _____ Division: _____ Date of Incident: _____

Complainant Name: _____ Status (citizen, agency, rank, etc.): _____

Address: _____ Phone Number: _____

City: _____ State: _____ Zip: _____ E Mail: _____

FILL IN APPROPRIATE VIOLATION AND TITLE BELOW

Contrary to: Key West Police Department General Order; 02.22 Disciplinary Procedures and Code of Conduct; Policy and Procedures

| Subsection | Paragraph # (s) | Title(s) |
|------------|-----------------|----------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

Allegation -WRITE BRIEF DESCRIPTION OF INCIDENT HERE (If more space is needed please attach in memo form):

Member Response (If more space is needed please attach in writing):

I have read this Investigation and understand its contents. I understand my signature on this form does not constitute guilt or innocence.

Member's signature (REQUIRED)

Assignment/Position

_____/_____/_____
Date

DETERMINATION (TO BE SIGNED BY SUPERVISORS IN MEMBER'S CHAIN OF COMMAND)

Sign Off #1

Exonerated

Unfounded

Not Sustained

Sustained

Sign Off #2

Exonerated

Unfounded

Not Sustained

Sustained

Sign Off #3

Exonerated

Unfounded

Not Sustained

Sustained

Please check one of the following:

Non-Discipline Action Recommended

Counseling: _____

Retraining: _____

Discipline Recommended

Written Reprimand: _____

Suspension: _____

Other: _____

Please check one of the following:

Non-Discipline Action Recommended

Counseling: _____

Retraining: _____

Discipline Recommended

Written Reprimand: _____

Suspension: _____

Other: _____

Please check one of the following:

Non-Discipline Action Recommended

Counseling: _____

Retraining: _____

Discipline Recommended

Written Reprimand: _____

Suspension: _____

Other: _____

Sergeant:
Date: _____

Lieutenant:
Date: _____

Captain:
Date: _____

Signature

Signature

Signature

COMMANDERS: PLEASE ATTACH DISCIPLINE OR CORRECTIVE ACTION

Complaint: Supervisors Assessment

Resolved – The matter was resolved to the complainant’s satisfaction and therefore no further action appears needed.

The concern listed above has been resolved to the complainant’s satisfaction and declines further review or action.

Printed Name

Signature

Date

Court Issue – The complaint pertains solely to the lawfulness or justification of enforcement action and such action appears not to constitute violation of the law or departmental directive. The proper form for resolution is a court of law.

Complaint – The matter was not resolved to the complainant’s satisfaction nor does it appear to be a “court issue”.

Chief Donald J. Lee Jr.

Date

inal Action or Discipline: _____

f applicable) Number of work hour’s suspension *without pay*: _____

ate Discipline to be imposed by: _____