

# **COVINGTON POLICE DEPARTMENT STANDARD OPERATING PROCEDURE**

**Subject: INTERNAL INVESTIGATIONS**

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## **I. Purpose**

To provide guidelines and procedures for prompt and just disposition of complaints made against police department personnel.

## **II. Statement of Policy**

It shall be the policy of the Covington Police Department to investigate all complaints against the department or its personnel, to include anonymous complaints, in a prompt and professional manner to assure the community of prompt corrective action when police personnel conduct themselves improperly, while also serving to protect the department and its personnel from unwarranted criticism or false allegations pursuant to discharge of official duties.

## **III. Administration**

The Captain or Lieutenant of the Criminal Investigations Division shall be responsible and accountable for the Internal Affairs function of the Covington Police Department. The Captain/Lieutenant shall report directly to the Chief of Police concerning the progress and findings of such investigations.

## **IV. Definitions**

- A. Garrity Rights or Rule – if an officer is compelled to answer questions as a condition of employment, the officer's answers and the fruits of those answers may not be used against the officer in a subsequent criminal prosecution. The department becomes limited as to what they may ask. Such questions must be specifically, narrowly, and directly tailored to the officer's job. Garrity is not automatically triggered simply because questioning is taking place. The officer must announce that he or she wants the protections under Garrity.
- B. Sustained – evidence is sufficient to prove the allegation.
- C. Not Sustained – insufficient evidence to either prove or disprove the allegation.
- D. Unfounded – complaint or allegation is false or not factual.

- E. Exonerated – officer/employee acted within the scope of powers and in a proper manner.
- F. Policy Failure – flaw in policy that led to or caused the incident. The employee followed policy; however, the policy was flawed.
- G. Directed Internal Complaint – Any complaint that starts from within the agency where a supervisor deals with a policy violation by an employee.

**V. Procedures**

- A. A written record of all complaints against the Covington Police Department or its employees shall be maintained regardless of the nature or reasonableness of the complaint. The following types of incidents shall be referred to the Criminal Investigations Division (C.I.D.) for an Internal Affairs review and investigation.
  - 1. Incidents in which the completion of a use of force report is required.
  - 2. Complaints involving allegations of civil rights violations, or allegations that an employee has used racial or ethnic epithets.
  - 3. Incidents involving off duty misconduct.
  - 4. Incidents involving allegations of criminal or unethical activity.
  - 5. Incidents involving police department supervisors.
  - 6. Allegations of negligence or neglect of duty resulting in bodily injury or death.
  - 7. Incidents where an employee's actions resulted in a death or serious physical injury.
  - 8. Complaints involving allegations of unlawful or improper manipulation of or tampering with the promotional, evaluation, or disciplinary process.
  - 9. Complaints involving allegations of abusive conduct by a supervisor directed toward a subordinate.

When appropriate, the C.I.D. Captain/ Lieutenant may refer certain matters back to the appropriate division for disposition.

- B. Whenever an investigation is to be made on any of the above complaints, the C.I.D. Captain/ Lieutenant must immediately notify the Chief of Police and/or the Assistant Chief of Police.
- C. Citizen complaints and directed internal complaints involving minor traffic violations, violations of departmental rules and regulations, discourtesy to the public, etc., should be handled by the employee's own division, without referring the matter to Internal Affairs unless one of the criteria listed above is applicable or there is a need for a more in depth investigation. Most investigations should be completed within thirty (30) working days of receipt of the complaint. Exceptions to this rule would be complaints that involve more complex investigations. However, a synopsis of the line level investigation shall be included in Guardian Tracking and the completed report shall be forwarded to the Assistant Chief of Police.

- D. All completed internal or external investigations/complaints handled at the line level will be forwarded to the Assistant Chief of Police for his review and inclusion in the department's Early Warning System database.
- E. A citizen complaint form shall be furnished to any person initiating a complaint alleging misconduct on the part of the agency or an employee. Once the complaint form has been filled out, it shall be the responsibility of the officer that receives the complaint to ensure that a copy is given to the complainant. This procedure obviously does not apply to anonymous complaints; however, documentation of the complaint shall be forwarded to the appropriate supervisor. Complaints made over the telephone shall be referred to the appropriate supervisor. The supervisor shall make a written record of the complaint and ask the complainant to complete a citizen complaint form.
- F. The citizen complaint form is not required to be filled out in the presence of the supervisor taking the complaint. The citizen may bring the complaint form back and turn it in at a later time.
- G. Any type of complaint may be accepted by a supervisor for investigation including, but not limited to, handwritten, typed, emailed, verbal, texted, anonymous, or ones submitted through the police department website.
- H. Any verbal complaint that would otherwise be investigated by a supervisor will be reviewed even if the person making the verbal complaint doesn't want to pursue it.
- I. As a normal practice, third party complaints will not be accepted by persons who were not on the scene or who do not have firsthand knowledge of the incident.
- J. Whenever an incident is turned over to the Criminal Investigations Division for investigation, the C.I.D Captain/ Lieutenant will contact the complainant within five (5) days of the receipt of the complaint. Most internal investigations should be completed within thirty (30) working days of receipt of the complaint. Exceptions to this rule would be complaints that involve more complex investigations.
- K. The Captain/Lieutenant/line supervisor shall provide the complainant with periodic status reports of the investigation and shall notify the complainant upon completion of the investigation.
- L. All employees are directed to cooperate fully with any internal investigation in a timely manner. Employees who are directed to report at a specific time or date for an interview, CVSA, or other part of the investigation must comply with the order, unless prior arrangements have been made with the I.A. investigator. Failure to do so will result in disciplinary action.
- M. The department will determine, based on the facts of the case, whether the investigation will proceed administratively or criminally.

If the investigation is to proceed internally, the employees involved shall be read their Garrity rights. If the employee invokes his or her rights under Garrity, any statements made may only be used for departmental administrative use only.

- N. If it becomes necessary to place an employee on administrative leave until the investigation is completed, the employee will be notified in writing of that decision.
- O. All employees shall refrain from discussing an internal investigation, whether it involves them directly or not, prior to the completion of said investigation with anyone outside of Internal Affairs, unless specific permission is granted by the C.I.D Captain/Lieutenant or the Chief of Police.
- P. An officer or employee may be requested to submit to a voice stress analysis and/or polygraph examination during an investigation into alleged misconduct. The test will be administered to an officer or employee only after the complainant has taken a voice stress analysis and/or polygraph test during the investigation of the incident (if applicable).
- Q. During an internal investigation into alleged misconduct on the part of an officer or employee, the officer or employee may be required to:
  - 1. Submit to any medical or laboratory examinations, at the expense of the department, where the examination is specifically and narrowly related to the investigation.
  - 2. Participate in a line-up.
  - 3. Produce a financial disclosure statement.
  - 4. Be photographed.

The above actions will only be taken when necessary and when they are material to a particular Internal Affairs investigation conducted by this department.
- R. A statistical summary of Internal Affairs investigations shall be published in the annual report for dissemination to all department personnel and the general public.
- S. Whenever an Internal Affairs investigation concerning possible violations of criminal law is conducted, the Captain/Lieutenant of Investigative Division and/or the Internal Affairs officer shall maintain close contact with the District Attorney's Office. This liaison may include legal advice or case preparation.

## **VI. Conclusion of Facts**

There shall be a conclusion of facts reached on every complaint investigation and the completed investigative report forwarded to the Assistant Chief of Police who shall maintain the permanent records. The conclusion shall cover one or more of the following areas:

- A. Sustained – evidence is sufficient to prove the allegation.
- B. Not sustained – insufficient evidence to either prove or disprove the allegation.
- C. Unfounded – complaint or allegation is false or not factual.
- D. Exonerated – officer/employee acted within scope of powers and in a proper manner.

- E. Policy failure – flaw in policy led to or caused the incident. The employee followed policy; however, the policy was flawed.

The Captain/Lieutenant of the Criminal Investigations Division shall include the conclusion of facts in any Internal Affairs investigative report.

**VII. Records of Investigations**

The department shall maintain a record of all internal and external complaints made against the agency or its employees. The Assistant Chief of Police shall be responsible for the maintenance of all records and materials relevant to any investigation. Internal Affairs records should be kept in a separate secure file and shall only be accessible by the C.I.D. Captain/Lieutenant, Assistant Chief of Police or the Chief of Police. No other person is allowed to view active Internal Affairs files unless under a subpoena issued by an appropriate court which makes a specific request. If disciplinary action is taken against the employee, a copy of the disciplinary form shall be filed in the employee's personnel file.

**VIII. Employee Rights**

Whenever an employee becomes the subject of a formal Internal Affairs investigation, the immediate supervisor or Internal Affairs officer shall issue a written statement to the employee giving notice of the allegations and the employee's rights and responsibilities relative to the investigation. This statement shall be in the form of a pre - investigative notice. The pre - investigative notice may not be given when the scope of the investigation involves alleged criminal activity.

***This SOP supersedes any SOP previously issued.***

BY ORDER OF THE CHIEF OF POLICE:

*Stacey L. Cotton*

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Chief of Police