DUBLIN POLICE DEPARTMENT

**STANDARD OPERATING PROCEDURE**

### SECTION: I-003 COMPLAINT INVESTIGATION/ INTERNAL AFFAIRS

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# I. PURPOSE

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

## II. SCOPE

This procedure shall apply to the receipt, recording, investigation, and disposition of complaints and allegations of misconduct involving personnel of the Dublin Police Department.

# III. POLICY

It is the policy of the Dublin Police Department to document and investigate complaints and all allegations of employee misconduct received from any source. It is also the policy of this department to investigate and document vehicle pursuits and uses of force conducted/displayed by any member of the department. The purpose of these investigations is to ensure compliance with departmental policy and legal requirements.

# IV. DEFINITIONS

Complainant – Individual (citizen or employee) who makes a complaint or alleges misconduct.

STD 2.7a Complaint - A complaint is a statement in which dissatisfaction is expressed with a particular situation. Our complaints normally involve citizens contacting the department making a general complaint on (expressing their dissatisfaction with) an employee regarding policy infractions or accusations of rudeness, discourteous behavior, discretionary decisions made, etc. Investigations of complaints are normally conducted by line supervisory personnel.

STD 2.7b Formal Investigation: A formal investigation is an investigation that will be conducted on all serious allegations of misconduct, where an alleged breach of the law has occurred, or where an action in law against either the employee and/or the department is anticipated. Formal investigations are normally conducted by Internal Affairs personnel, assigned by the Chief of Police (or designee); the decision to assign the complaint to Internal Affairs will be based primarily upon the nature of the allegation.

STD 2.7a Informal Investigation: An informal investigation is an investigation that is conducted on less serious allegations of misconduct, such as offenses of a minor nature or violations of departmental rules. Informal investigations are normally conducted by supervisory personnel assigned by the Chief of Police (or designee).

Inquiry: An inquiry is the process of asking about or investigating something in order to find out more about it. Our inquiries normally involve citizens with questions about department policies, procedures, and/or tactics.

# V. COMPLAINT INVESTIGATION OBJECTIVES

The objectives of complaint investigations are primarily:

To Protect the Public - The public has the right to expect efficient, fair, and impartial law enforcement services. Therefore, any misconduct by department personnel must be detected, investigated, and properly adjudicated to assure the maintenance of these qualities.

To Protect the Department - The department often is evaluated and judged by the conduct of individual members. It is imperative that the entire organization not be subjected to public censure because of misconduct by one or more of its personnel. When an informed public knows that the Dublin Police Department investigates and adjudicates all allegations of misconduct against its members fairly and honestly, then the public will be less likely to feel any need to raise a cry of indignation over alleged incidents of misconduct.

To Protect the Employee - Employees must be protected against false allegations of misconduct. This can only be accomplished through a consistently thorough and impartial investigative process.

Removing Unfit Personnel - Personnel who engage in serious acts of misconduct, or who have demonstrated that they are unfit for law enforcement work, must be removed for the protection of the public, the department, and other department employees.

Correction of Procedural Problems - The department is constantly seeking to improve its efficiency as well as the efficiency of its personnel. Occasionally, complaint investigations disclose faulty procedures that would otherwise have gone undetected. These procedures can then be improved or corrected.

# VI. COMPLAINT PROCESS

A. The complaint process basically follows the procedure as provided below, and is further defined in this section:

 - Complaint / allegation

 - Receiving complaint / allegation

 - Investigation of complaint / allegation

 - Result of investigation

 - Response to complainant (if known)

B. The complaint process begins with a complaint and/or allegation of misconduct, which is brought to the attention of a department employee through any means from a complainant. While it is preferable that a department senior patrol shift supervisor receive a complaint/allegation, any department supervisor can receive a complaint/allegation. With respect to receiving a complaint, the following guide applies:

1. If a complaint is made in person to any department employee, the complainant will be asked to meet with a patrol shift supervisor. The patrol shift supervisor will then be called to meet with the complainant. If the complainant does not want to wait or meet with a supervisor, the employee in contact with the complainant will explain our policy of supervisors receiving complaints, and ask the complainant again to meet with a supervisor. If the complainant wants to meet with a specific department member, that will be arranged if possible.

2. If a complaint is received by telephone, the call will be directed to the patrol supervisor present. If a patrol supervisor is not present, the employee in contact with the complainant will direct the call to the most appropriate supervisor that is present, who will receive the complaint. If a complaint is received by mail, or other electronic means, the complaint will be directed to the Chief of Police (or designee).

Complaints will be accepted from any source, including anonymous sources, juveniles, and persons under arrest, as long as the complaint contains sufficient factual information to warrant an investigation.

C. Taking the Complaint in Person. The ideal environment to meet with a complainant is a location that affords privacy, such as an office; the least desirable location is in public with other people in the immediate vicinity.

1. The supervisor will introduce him/herself to the complainant, explain our complaint procedures, and ensure the complainant understands the department takes all complaints seriously. Then the complainant will be asked to make their complaint and provide all pertinent information about the situation or incident they wish to discuss.

2. During this time the supervisor will complete a DPD Citizen Complaint Form with pertinent information about the complaint. Completion of the form is self-explanatory. As this is an investigative process, the supervisor will ask clear pertinent questions about the incident/complaint. The complainant will be asked to write a statement about the incident/situation proving the basis for the complaint, and will be asked to sign the statement and the Citizen Complaint Form. However, written statements and signatures are not mandatory, and will not preclude the complaint nor stop/hinder an investigation.

3. If the complaint is about a rude employee, and/or likewise, the complaint will be referred to that employee’s supervisory chain of command for disposition. If the complaint alleges misconduct, unethical activity, illegal activity of an employee, or likewise, it will be referred directly to the Chief of Police (or designee) for action/investigation. If the complaint warrants an investigation, the complainant will be advised that the complaint/allegation will be investigated and that he/she will be notified by the department upon completion of the investigation and adjudication of the results.

In the event that a complainant alleges excessive use of force, the complainant will be requested to sign a medical release form authorizing the release of medical records for investigation; the complainant will be informed that without their consent the allegation will be more difficult to investigate.

D. Taking the Complaint by Phone / Other Means. The supervisor taking/receiving the complaint by phone or other means will follow the basic procedure provided in paragraph ‘C.’ above, but will not meet with the complainant. If the incident/complaint is serious, the complainant will be urged to come to the police department and meet with a supervisor.

E. Based on the complaint/allegation and the information received, one of the following types of investigations will be conducted:

 1. If the complaint alleges rudeness, discourteous behavior, discretionary decisions, or other minor types of infractions/situations, it will be investigated by line supervisors.

 2. If the complaint alleges violations of departmental rules, less serious allegations of misconduct, of offenses of a minor nature, the Chief of Police (or designee) will normally assign supervisory officers to conduct an informal investigation.

 3. If the complaint alleges serious allegations of misconduct, where an alleged breach of law has occurred, or where an action in law against the department or employee is anticipated, a formal investigation will be conducted, normally by Internal Affairs personnel assigned by the Chief of Police (or designee); the decision to assign the complaint to Internal Affairs will be based primarily upon the nature of the allegation.

STD 2.7b

The following types of incidents will be referred to the Chief of Police (or designee) to determine if an Internal Affairs investigation is needed:

a. Complaints involving allegations of civil rights violations or involving allegations that an employee has used racial or ethnic epithets.

b. Incidents involving on- or off-duty misconduct.

c. Incidents involving allegations of criminal or unethical activity.

d. Allegations of negligence or neglect of duty resulting in bodily injury or death.

e. Complaints involving manipulation of or tampering with the promotional, evaluation, or disciplinary process.

f. Complaints involving allegations of abusive conduct by a department employee.

Investigations will be conducted as provided for by current department operating procedures, guidelines, and law. See section VIII. for specific information about Internal Affairs investigations. Findings and results from all investigations will be reported to the Chief of Police (or designee).

Department employees under investigation for a complaint/allegation will be so notified by the chain of command. An employee who becomes the subject of a formal investigation will receive a written pre-investigative notice of the allegation(s) and rights and responsibilities relative to the investigation. The affected employee’s duty status will be governed by current department and city policy.

# F. All investigations of department employees accused of misconduct will conclude with one of the following findings:

1. Sustained - The allegation is supported by sufficient evidence.

2. Sustained Other – The investigation indicates that misconduct other than that alleged occurred.

3. Unfounded - Allegation false, not factual.

4. Not Sustained - Insufficient evidence to either prove or disprove the allegation.

5. Exonerated - Incident occurred but was lawful and proper.

Findings will be reported to the Assistant Chief and Chief of Police (or designee). Copies of all investigative records will be maintained by the Assistant Chief of Police. If a complaint/allegation is sustained or sustained-other, a copy of all investigative recordings, including the complaint, the completed A.I.C. Report, summaries, written statements, and record of disciplinary action taken will be filed accordingly, to include in the employee’s personnel file.

# G. After the investigation is concluded and a finding adjudicated, the Chief of Police (or designee) will notify the complainant in writing, if possible.

STD 2.7c

# H. All annual review of all complaints received by the department will be conducted by the Assistant Chief of Police or designee. The purpose of this review is to ensure that each complaint was handled properly, that appropriate action was taken, to determine if policy changes are needed, and look for possible behavior problems and/or trends.

# VII. EMPLOYEE RIGHTS

A. Employees have certain rightsunder the 4th Amendment of the Constitution of the United States of America to be free from unreasonable searches and seizures of their persons and property. The law clearly provides, however, that a public safety organization has a responsibility to ensure that rules and regulations are followed and that it can take reasonable steps to ensure that they are followed. City of Dublin and Dublin Police Department property and work environment, such as offices, lockers, vehicles, desks, etc., may be inspected on a periodical basis and/or searched if there is a reasonable and articulable reason to do so.

B. In all administrative/internal investigations, the employee will be advised of their Administrative Questioning Rights (Garrity vs. New Jersey). These rights are as follows:

1. The employee has no right to remain silent and must answer all questions truthfully.

2. No statement or admissions made by the employee during administrative proceedings will be used against him/her in a criminal proceeding.

3. The Department will advise the employee when and if administrative proceedings have ceased and criminal proceedings have begun. The employee will at that time be advised of his/her rights under criminal law and procedure at that time.

4. The employee has no right to counsel during an administrative investigation. This includes, but is not limited to, an interview, interrogation, questioning, polygraph, or chemical or scientific test.

5. Admissions can be used as a basis for disciplinary action.

C. During any administrative/internal investigation, any statements, test results, or any other type of evidence obtained may only be used in an administrative hearing, and may not be used against the employee in any criminal hearing. During any criminal investigation or hearing, any statements, test results, or any other type of evidence obtained may not only be used in the criminal proceedings, but additionally may be used against the employee in an administrative hearing.

# VIII. INTERNAL AFFAIRS FUNCTIONS

A. The Chief of Police (or designee) shall be responsible for the administration of the Internal Affairs function of the Dublin Police Department, personnel assigned to the internal affairs investigations, and the overall conduct of internal affairs investigations. The Assistant Chief of Police will maintain a written record of all complaints (and related documents) against the Dublin Police Department and/or its employees, regardless of the nature, reasonableness, or status of the complaint.

B. Whenever a complaint/allegation warrants investigation by Internal Affairs investigators, the Chief of Police (or designee) will issue an investigative order, in writing, ordering the investigation, and shall assign qualified Internal Affairs investigator(s) to the complaint/allegation. The complaint will be assigned a tracking number and case number for identification and statistical purposes.

1. Once a complaint has been turned over to Internal Affairs for investigation, the investigators have 30 days in order to complete the investigation. An extension may be granted by the Chief of Police (or designee) whenever extenuating circumstances exist. Investigators shall report the status of the investigation to the Assistant Chief and Chief of Police every seven days during the investigation.

2. Internal Affairs investigations will be conducted as provided for by current department operating procedures, guidelines, and law, including guidelines set forth by the Georgia Internal Affairs Investigators Association

3. An employee will (upon request) submit to a polygraph exam during an investigation into any alleged misconduct on his or her part. An employee who refuses the exam may be disciplined up to and including termination depending on the severity of the alleged misconduct.

4. During an internal investigation into any alleged misconduct on the part of an officer or employee of the department, the officer will be required to be present for one or more interviews and/or periods of questioning. The officer/employee may also be required to:

a. Submit to any medical or laboratory examinations.

b. Participate in a line-up.

c. Provide financial disclosure statements.

d. Be photographed.

e. Provide electronic communications device and/or computer records including home,

 cellular, radio, computer, regardless as to personal, private, and/or business related.

These actions will only be taken when necessary and when they are material to a particular Internal Affairs investigation conducted by this department.

5. The investigator(s) will maintain contact with the complainant as deemed necessary for interview and informational purposes.

6. Whenever an Internal Affairs investigation of a complaint/allegation indicates criminal activity or possible violations of criminal law, the Assistant Chief and Chief of Police will be notified and the GBI will be consulted.

7. When an Internal Affairs investigation is completed, all findings shall be put in writing and all related files shall be turned over to the Assistant Chief of Police. The Chief of Police (or designee) will notify the complainant, if possible, in writing as to the conclusion of the investigation and adjudicated findings.

# IX. INQUIRIES

Inquiries concern citizens contacting the department with questions about department policies, procedures, and/or tactics. An inquiry normally takes one of two shapes:

1. The inquiry is about a specific department policy, procedure, or tactic, and does not involve a specific employee. Normally a statement of department policy or procedure is sufficient to answer this type of inquiry from a citizen. If it does not, or if a problem with policy/procedure is identified, the individual receiving the inquiry will complete an A.I.C. Report and provide it to the Chief of Police (or designee) for review.

2. The inquiry refers to the action of a specific employee and the policy, procedure, and/or tactic used by the employee. If this is the case, it is the responsibility of the individual receiving the inquiry to obtain all pertinent details from the citizen about the situation, and if it is determined that the employee acted correctly, make every attempt to explain to the citizen the circumstances as to why the act and particular policy, procedure, or tactic was correct and sanctioned.

However, if the individual receiving an inquiry determines that an employee has not acted within prescribed department policy, procedure, or tactics, an A.I.C. Report form shall be completed, reflect the matter as an allegation of employee misconduct, and be forwarded to the Chief of Police (or designee) for possible investigation.

# X. CORRECTIVE ACTION

In the event of sustained complaints/allegations, there are many options available to the department when taking corrective action against any employee. These include, but are not limited to: verbal counseling/verbal advisement, written counseling/positive and negative, and training. Disciplinary measures include, but are not limited to: suspension without pay, demotion, and/or termination. Note that all options and disciplinary measures will be taken and conducted according to department and city policy.

## XI. INVESTIGATIVE / INTERNAL AFFAIRS RECORDS

The Assistant Chief of Police shall be responsible for the maintenance of all records and materials related to an investigation of a complaint/allegation. Internal Affairs records shall be kept in a separate, secured file by the Assistant Chief of Police. If disciplinary action is taken against the employee, a copy of the disciplinary action and related material shall be filed in the employee's personnel file.

Requests to review, copy, or receive an Internal Affairs file must be made in writing and submitted to the Assistant Chief of Police.

Internal Affairs investigation records shall be retained by the Assistant Chief of Police for a period of at least twenty (20) years or as provided by current state records retention requirements.