



# ADA POLICE DEPARTMENT

## Policy and Procedures

CHAPTER: 20	SUBJECT: INTERNAL AFFAIRS
ISSUE DATE: December 16, 2020	EFFECTIVE DATE: January 1, 2021
AMENDS/RESCINDS: Internal Affairs; Effective December 1, 2019	
REFERENCES:	

*Setting the Standard for Ohio Law Enforcement*

### 1.0 Purpose

The purpose of this policy and procedure is to establish written guidelines for the documentation and investigation of complaints against the department and/or its employees, through the internal affairs function.

### 2.0 Scope

This policy applies to all Ada Police Officers and employees.

### 3.0 Definitions

3.1 Internal Affairs Incidents: An incident or case where there is an allegation of misconduct of any nature by the department or its employees from any source. This term is used to refer in general terms to any complaint of misconduct or unprofessional conduct by the department or its employees. This term includes all three of the below listed types of internal affairs investigations:

3.1.1 Formal Internal Affairs Investigations (Formal Investigations): are allegations of serious misconduct, including allegations that involve or where:

- 3.1.1.1 The department's public image has been seriously damaged; or
- 3.1.1.2 Serious risks of liability have been created; or
- 3.1.1.3 Member safety has been seriously compromised; or
- 3.1.1.4 The member has demonstrated in the past, directly or constructively, that less severe corrective action did not change performance significantly.

Examples of incidents which may give rise to a formal internal affairs investigation include, but are not limited to the following:

- 3.1.1.5 Corruption;
- 3.1.1.6 Brutality;
- 3.1.1.7 Misuse of force;
- 3.1.1.8 Breach of civil rights;
- 3.1.1.9 Criminal misconduct;

- 3.1.1.10 Weapons discharge, other than for range, recreation, training or animal disposal; or
  - 3.1.1.11 Other investigations as approved by the Chief of Police.
- 3.1.2 Standard Complaint Investigations (Informal Investigations): are allegations of less serious misconduct. Examples of standard complaint investigations include, but are not limited to;
- 3.1.2.1 Allegations of misconduct of a non-serious nature; or
  - 3.1.2.2 Violations of standards of conduct and other written directives of a non-serious nature; or
  - 3.1.2.3 Slow or no response to calls for service; or
  - 3.1.2.4 Failure to take appropriate police action which results in minor consequences; or
  - 3.1.2.5 Questions of demeanor displayed by a department employee; or
  - 3.1.2.6 Operation of police department vehicles, except for flagrant violations which may rise to a level of a formal investigation.
- 3.1.3 Inquiry Investigations: are citizen(s) concerns about a policy, procedure or tactic used by the department. When a citizen questions the actions of a department employee and it is determined by the receiving supervisor that the employee acted within prescribed department policy, the matter will be handled as an inquiry. Inquiry incidents usually target the department's policies, procedures or practices, not an individual employee, even though an employee may be named as the offender. Examples of inquiry investigations may include, but are not limited to:
- 3.1.3.1 Question(s) about a policy, procedure or tactic used by the department; or
  - 3.1.3.2 Why was the prisoner handcuffed by the officer; or
  - 3.1.3.3 Why was the police cruiser operating under emergency conditions; or
  - 3.1.3.4 Why was the police cruiser speeding; or
  - 3.1.3.5 Why was the traffic stop initiated by the police officer; or
  - 3.1.3.6 Why was a field interview initiated by the police officer; or
  - 3.1.3.7 Why was emergency equipment in use?

#### **4.0 Policy**

It is the policy of the Ada Police Department to provide for a proactive internal affairs function. The internal affairs function of the Ada Police Department ensures that agency and/or employee integrity is maintained through an internal system where objectivity, fairness and justice are assured by intensive and impartial investigation and administrative review of internal affairs complaints. Such complaints may include but are not limited to complaints of improper behavior by the department and/or employees that may violate criminal laws, departmental standards of conduct and/or other written directives. The following are functions and activities of internal affairs which provide fact-finding assistance to the Chief of Police;

- 4.1 Clearing the innocent;
- 4.2 Establishing the guilt of wrongdoers, and

#### 4.3 Facilitating fair, suitable and consistent disciplinary action.

In many cases, due to the size of the Ada Police Department, the Chief of Police shall act as the investigator for internal affair matters.

The Ada Police Department will investigate all complaints, alleged or suspected, either signed or anonymous, that are made against the department or its employees, including sworn and/or civilian members. The complaints which are to be handled in accordance with the provisions of this policy include, but are not limited to the following categories;

- 4.4 Alleged or suspected violations of federal laws, state laws and/or city ordinances (criminal complaints); and
- 4.5 Alleged or suspected violations of the department's standards of conduct and/or other departmental written directives (administrative complaints).

All standard of conduct investigations shall generally be concluded within sixty days from the date of the filing of the complaint. The Chief may, on a case-by-case basis, grant an extension to this time limit, at his discretion based on extenuating circumstances.

### **5.0 Sources of Complaints against Agency or Employees**

Sources of internal affairs complaints, include, but are not limited to the following examples;

- 5.1 Members of the department who report them to supervisors, either orally or in writing, by telephone or by correspondence, either signed or anonymous; or
- 5.2 Citizens who report them to any member of the department, either orally or in writing, by telephone or correspondence, either signed or anonymous; or
- 5.3 The Office of the Mayor; or
- 5.4 Department supervisors; or
- 5.5 Other law enforcement agencies; or
- 5.6 Through other miscellaneous sources.

### **6.0 Internal Affairs Activities**

The function of internal affairs is to ensure the integrity of the department. Internal affairs activities are conducted under the direction of the Chief of Police and include, but are not limited to the following:

- 6.1 To document and investigate, either formally or informally, allegations of police misconduct, inquiries regarding policies and procedures (concerning action taken by department members) or any action involving employee misconduct; and

- 6.2 Prompt investigation and adjudication of all allegations of misconduct to ensure the integrity of the department and its members; and
- 6.3 To act as an early warning system to encourage the identification and assistance to law enforcement personnel who are becoming, or likely to become, at risk to violate use of force and/or other agency policies.
- 6.4 Maintaining the security and confidentiality of all internal affairs investigations and records in accordance with law.

## **7.0 Recording and Controlling Internal Affairs Incidents**

Allegations of misconduct by the department and/or its employees will be received in writing with specific information relative to an allegation of misconduct received from any source. The information recorded will be that which is necessary to begin an investigation into the events surrounding the allegation. A written synopsis concerning the alleged misconduct will be completed whether the allegation is received in person, at the police station, by telephone, at some other location or by some other means. If an allegation of misconduct is extremely serious in nature, the Chief of Police will be notified immediately.

- 7.1 Citizen Initiated Internal Affairs Complaint: All citizen complaints involving internal affairs incidents, whether through an identified or anonymous complaint, regarding the police department and/or one of its employees will be documented and investigated thoroughly with the exception of an Inquiry Investigation which may or may not be documented as deemed appropriate by the supervisor handling the inquiry.

The investigation may be classified as a Formal Internal Affairs Investigation, a Standard Complaint Investigation, or an Inquiry Investigation, depending upon the type and severity of the allegations. Internal affairs complaints should be made in person to a supervisor and the complainant will be asked to provide his or her complaint in writing and provide a phone number where the assigned internal investigator may contact them at a later date and time. Depending on the circumstances and information provided by the complainant, there may be a need to re-contact the complainant for further information. If the complainant refuses to make a written complaint or makes the complaint by telephone and is unwilling to file a report, the complaint investigation will be handled in the same manner as other complaints and investigated as deemed appropriate by the supervisor or Chief of Police.

All citizen-initiated complaints against employees and/or department policies or procedures will be documented and reported to the Chief of Police as noted in this policy and procedure. Those incidents that require immediate investigation, such as officer-involved shootings, will be reported to the Chief of Police immediately. Those incidents that are of a less serious nature require the complaint to be reported to the Chief of Police as soon as possible.

- 7.2 Department Initiated Internal Affairs Complaints: Department initiated (i.e. by the department or an employee) allegations of misconduct involving a violation of law and/or standards of conduct, or other written directive will be documented and reported to the on-duty supervisor or Chief of Police for an internal affairs investigation the same as citizen-initiated complaints. Allegations of an employee violating minor standards of

conduct, or other written directives will be documented and investigated as a disciplinary incident (not an Internal Affairs Incident).

7.3 Responsibility of Supervision: Upon receiving a complaint, citizen initiated, or department initiated, the receiving supervisor shall review the complaint and determine if the complaint will be a Formal Internal Affairs Investigation, a Standard Complaint Investigation or an Inquiry Investigation. Based on his or her assessment, the receiving supervisor shall:

7.3.1 Formal Internal Affairs Investigation: Forward such complaint to the Chief of Police with any other information that the supervisor believes may be necessary for a thorough investigation.

7.3.2 Standard Complaint Investigation: Complete a thorough investigation into the allegations, gathering statements and evidence as needed. Upon completion of such investigation the supervisor shall make a determination and:

7.3.2.1 Clear the innocent; or

7.3.2.2 Establish the guilt of wrongdoers, and

7.3.2.3 Recommend fair, suitable and consistent disciplinary action.

In all cases, the supervisor shall forward a copy of the original complaint, any evidence discovered and the results of his or her investigation and recommended disciplinary action, if any, to the Chief of Police.

7.3.3 Inquiry Investigation: Investigate all inquiries and advise the Chief of Police as necessary. If the inquirer is not satisfied with the answer by the first line supervisor, the supervisor shall:

7.3.3.1 Notify the Chief of Police of such inquiry, in writing; and

7.3.3.2 Advise the Chief of Police of his or her answer to the inquirer; and

7.3.3.3 Inform the inquirer that the Chief of Police shall follow up.

7.4 Final Documentation of Internal Affairs Matters: Depending on the outcome of the internal affairs matter, documentation shall be controlled as follows:

7.4.1 Formal Internal Affairs Investigation:

7.4.1.1 Finding of Guilt or Violation: All records concerning the allegation shall be maintained in the involved employees personnel file and in the Chief of Police office in the Internal Investigations Master File.

7.4.1.2 No Finding Discovered: All records concerning the allegation shall be maintained in the Chief of Police office in the Internal Investigations Master File.

7.4.2 Standard Complaint Investigation:

7.4.2.1 Finding of Violation: All records concerning the allegation shall be maintained in the involved employees personnel file and in the Chief of Police office in the Internal Investigations Master File.

7.4.2.2 No Finding Discovered: All records concerning the allegation shall be maintained in the Chief of Police office in the Internal Investigations Master File.

7.4.3 Inquiry Investigation: If the inquiry was in written format or if any subsequent documentation was initiated as a result of the inquiry, such work product shall be maintained in the Chief of Police office under general communications.

## 8.0 Procedures:

During the course of an internal affairs investigation the investigator must make certain that he/she follows the below guidelines;

### 8.1 General Guidelines:

- 8.1.1 Personal property (i.e. purses, gym bags, etc.) shall not be subjected to search or seizure without probable cause and/or warrant, as required by law;
- 8.1.2 Departmental property may be searched at any time, even if assigned exclusively to an individual (i.e. desks, filing cabinets, lockers and vehicles). This property does not have any attached expectations of privacy;
- 8.1.3 The telephone lines may be monitored at any time, under conditions permitted by law;
- 8.1.4 The investigator will investigate the case in a fair, impartial and objective manner, treating all witnesses and employees with respect;
- 8.1.5 Supervisory personnel assigned to conduct an internal investigation will follow internal administrative investigative procedures and processes in accordance with law and department policies and procedures. Supervisors are encouraged to seek advice and direction from the Chief of Police during internal investigations. Supervisory or other personnel utilized to conduct internal investigations are to receive training in the proper procedures of internal investigations either through external advanced training programs or informally by the Chief of Police.
- 8.1.6 Additional department personnel who possess a specific expertise may also be assigned to an internal investigation, at the discretion of the Chief of Police. Such additional personnel shall be required to report to the supervisor in charge of the overall investigation.
- 8.1.7 All appropriate warnings regarding the rights (administrative and constitutional) and responsibilities of the employee who is the subject of the investigation or being interviewed as a result of the investigation shall be given and documented, including:

- 8.1.7.1 Labor Agreement;
- 8.1.7.2 Garrity Warnings;
- 8.1.7.3 Piper Rights;
- 8.1.7.4 Constitutional Rights.

8.2 Formal Internal Affairs Investigations: Will be handled by the Chief of Police or designee. Additional department personnel who possess a specific expertise may also be assigned to the investigation at the discretion of the Chief of Police. The designated investigator may require employees to give oral and written statements in this type of investigation. The designated investigator shall complete the appropriate interviews,

gather the necessary documents and prepare a written summary of the investigation which shall be forwarded to the chief of police for review.

Upon completion of the investigation, the investigator shall determine a finding of:

- 8.2.1 Probable Cause to Seek Criminal Prosecution; and/or
- 8.2.2 Violation of Departmental Policies and Procedures; or
- 8.2.3 Policy Failure; or
- 8.2.4 Insufficient Evidence; or
- 8.2.5 Unfounded Complaint; or
- 8.2.6 Exoneration of the Employee.

8.3 Standard Complaint Investigations: Will normally be assigned to the employee's immediate supervisor. The supervisor may require employees to give written statements in this type of investigation. Complete a thorough investigation into the allegations, gathering statements and evidence as needed. Upon completion of such investigation the supervisor shall recommend a finding of:

- 8.3.1 Violation of Departmental Policies and Procedures; or
- 8.3.2 Insufficient Evidence; or
- 8.3.3 Unfounded Complaint; or
- 8.3.4 Exoneration of the Employee.

In all cases, the supervisor shall forward a copy of the original complaint, any evidence discovered and the results of his or her investigation and recommended finding and/or disciplinary action, if any, to the Chief of Police.

The Chief of Police shall review the matter and determine the appropriateness of the recommended discipline and sustain or modify such recommendation.

It is noted that in the course of a standard complaint investigation the supervisor may recommend modification to the policies and procedures should it be determined that such modifications may improve departmental performance as a result of such complaint.

8.4 Inquiry Investigation: The receiving supervisor shall request such inquiry be made in writing if appropriate and investigate all inquiries and advise the Chief of Police as necessary. If the inquirer is not satisfied with the answer by the receiving supervisor, the supervisor shall:

- 8.4.1 Notify the Chief of Police of such inquiry, in writing; and
- 8.4.2 Advise the Chief of Police of his or her answer to the inquirer; and
- 8.4.3 Inform the inquirer that the Chief of Police shall follow up.

8.5 Internal Affairs Investigation Resulting in Evidence of Potential Criminal Conduct: If, during the course of any investigation, it is determined that a criminal offense was committed or is suspected, the internal investigation of the employee will be terminated and the matter referred to the Chief of Police for review and consideration. If the Chief of Police agrees with the determination, the Chief of Police will advise the respective prosecutor of the evidence and status of the case to this point. The prosecutor will

determine if the case should be criminally prosecuted and if so, the criminal case may be assigned to an outside agency as determined by the Chief of Police and the prosecutor.

A parallel internal affairs investigation (administrative investigation) will continue to ensure no administrative or departmental violations have occurred but may be delayed until the resolution of the criminal investigation. The final decision in regard to this matter is at the discretion of the Chief of Police taking into consideration all legal advice offered through the prosecutor's office and the village legal counsel.

If, at any time, it appears that there is evidence of criminal conduct or the potential of civil liability exists, the Chief of Police will be notified immediately by any investigator. The Chief of Police shall make necessary notifications to the Mayor of the village and legal counsel. When probable cause exists to substantiate a criminal charge, the Chief of Police will be notified of these facts immediately.

Investigations of alleged criminal conduct on the part of an employee, the assigned criminal investigator will maintain close liaison with the prosecutor's office for legal advice and assistance in case preparation.

- 8.6 Separate Investigation Conducted by Accused Employee or Representative: The accused employee is permitted to conduct research on his or her own behalf. Employees are not to interfere with the investigation or attempt to persuade witnesses concerning their information in the investigation. Under certain circumstances, the employee may be ordered by the person in charge of the investigation not to have contact with various witnesses until the department has gathered information from that witness. Violations of such order or this section shall be grounds for disciplinary action.
- 8.7 Public Access to Complaints and/or Commendations: Access to complaints and/or commendations by the public shall be handled through the public records process and policy.