

FREDERICK POLICE DEPARTMENT GENERAL ORDER

Section 16: Professional Ethics and Discipline **Order Number:** 1610
Topic: COMPLAINTS AND INTERNAL INVESTIGATIONS **Issued by:** Chief of Police
Approved: 03/11/19
Review: Annually in May by Professional Services Commander
Supersedes: G.O. 1610 dated 12/01/16

.01 PURPOSE:

To establish the procedures for receipt, review, and/or investigation of complaints against police department personnel or agency policies.

.02 CROSS-REF:

G.O. 500, "The Americans with Disabilities Act (ADA)"
G.O. 705, "Use of Force"
G.O. 1030, "Rank and Responsibility"
G.O. 1615, "Internal Investigation Procedures"
G.O. 1620, "Discipline"
G.O. 1650, "Employee Conduct (Sworn and Civilian)"
G.O. 1655, "Police Officer Conduct"
G.O. 1662, "Work Performance"
G.O. 1830, "Performance Evaluations"
G.O. 1920, "Discrimination and Sexual Harassment"
SOP-PSD-002, "Receipt of Complaint Reception Forms, Administrative Tracking, and Review of Investigations by PSD"
Records Retention Policy
Labor Agreement

.03 DISCUSSION:

.04 POLICY:

It is the policy of the Frederick Police Department to provide citizens with a fair and effective process for addressing their complaints, concerns, or grievances against agency employees. Likewise, the Department acknowledges its obligation to protect its employees from false and/or frivolous allegations of wrongdoing as they perform their duties and will, if necessary, investigate even those accusations that appear to be implausible or unlikely in order to clear the reputation of the accused employee and ensure the integrity of its complaint process.

The Department will review, evaluate, and if warranted investigate all complaints which it receives, from whatever source and whether the complainant is known or unknown, or whether that complaint concerns the conduct or behavior of an employee or is against the Department as an organization because of one of its policies, practices, or procedures.

The Department will, based on court decisions, accept and evaluate any complaint alleging excessive force even if the complainant/reporting person refuses to swear to the complaint and/or sign the complaint. Based on its evaluation of the allegation/incident, the Department will determine if it will proceed with an investigation as permitted by law (Maryland State Police v. Resh, 65 Md. App. 167, 499 A.2d 1303 [1985]).

Any employee accused of wrongdoing will be afforded all of the due process safeguards to which they are entitled by law, rule, or other agreement.

.05 DEFINITIONS:

CITIZEN INFORMATION BROCHURE - A brochure, in English or Spanish, that outlines the complaint investigation process and contains an abbreviated Complaint Reception Form.

COMMAND OFFICER – Any sworn police officer of the Frederick Police Department of the rank of lieutenant or above, or a civilian manager or administrator.

COMPLAINT - Any report, allegation, accusation or statement in which an individual describes a problem or dissatisfaction with the behavior or performance of any departmental employee or departmental policy/procedure. The Department has divided Complaints into five distinct categories that are described in Section .12.

COMPLAINT FINDINGS (DISPOSITION) - The official result of the Department's inquiry or investigation into a Complaint that will determine whether or not any administrative and/or disciplinary action will be considered. **The Department uses seven Complaint Findings that are discussed in Section .14.**

COMPLAINT RECEPTION FORM (CRF) (FPD Form PSD-003) - The administrative form on which certain categories of Complaints are registered with the Department. There is an "abbreviated" CRF attached to the Citizen Information Brochure, which may be used by a citizen who wishes to complete a CRF, a "full" CRF that is to be used by Department personnel who complete a CRF on behalf of a complainant or for themselves, and a CRF on the Department's web site that may be printed and completed by citizens.

EMPLOYEE - Any person employed by the City of Frederick Police Department, either sworn or civilian.

GENERAL ORDERS - The General Orders of the Frederick Police Department, including all Special, Training or Personnel Orders issued.

INTERNAL INVESTIGATION – The administrative investigation of a Complaint by the Department.

IAU-INTERNAL AFFAIRS UNIT- The investigative office of the Professional Services Division responsible for completing investigations, maintaining investigative records, and assisting supervisors in their investigations.

INVESTIGATOR - The employee, regardless of rank or position, who actually conducts an Internal Investigation.

LABOR AGREEMENT - The current, written collective bargaining agreement between the Fraternal Order of Police, Francis Scott Key Lodge #91, Incorporated, and The City of Frederick.

LEOBR - The Law Enforcement Officer's Bill of Rights, Title 3, Subtitle 1 of the Public Safety Article of the Annotated Code of Maryland, or its successors, as it is amended and revised.

MINOR VIOLATION - A violation of the General Orders of the Department that usually would result in the imposition of punishment not to exceed "Summary Punishment" as defined by the LEOBR and this Order.

OFFICE OF THE CHIEF – For the purposes of the internal investigation process, the Chief of Police, the Department's bureau commanders and/or the Professional Services Division Commander.

PERFORMANCE ACTION FORM (PAF) (FPD Form PSD-003A) – An administrative form used to document the disposition of minor violations that are to be handled as performance matters.

PSD – The Professional Services Division of the Frederick Police Department.

SERIOUS INJURY - An injury that causes major disfigurement, severe tissue damage, broken bones, internal organ injury, or permanent paralysis.

SERIOUS VIOLATION – A violation of the general orders of the Department that usually would result in the imposition of punishment in excess of Summary Punishment as defined by the LEOBR and this order.

SUMMARY PUNISHMENT - Punishment which, according to the LEOBR, is “...imposed by the highest ranking member of a unit or a member acting in that capacity, which may be imposed when the facts constituting the offense are not in dispute. Summary Punishment may not exceed three days suspension without pay or a fine of \$150.” For the purposes of this Order and [G.O. 1620](#), “[Discipline](#),” Summary Punishment may also include written reprimands that may be included in an employee’s personnel file and noted on their service records, or the loss of leave not exceeding three days.

SUPERVISOR’S PERFORMANCE ACTION FORM (PAF)– A form (PSD-003A) that may be used in lieu of the Complaint Reception Form to document a supervisor’s handling of external complaints that are resolved at intake as no violation or a performance issue. The PAF may also be used for internal Complaints that come to a supervisor’s attention and are handled as performance issues.

TRACKING NUMBER (also referred to as a CRF or internal investigation number) - a unique numerical identifier provided by the Professional Services Division (PSD) which will be used to “track” each CRF received by the Department for accountability and/or statistical purposes.

.10 GENERAL:

1. It is incumbent on the Department, through its supervisors, to explain to citizens who come forward with Complaints the process by which these matters are addressed and that the Department takes their Complaints seriously. Supervisors and command officers, who are charged with the responsibility for resolving these Complaints using one of the five categories listed below, have the latitude to classify Complaints as they deem appropriate, pending administrative review/approval. The Department, however, reserves the right, after review of the information obtained, to change the category in which the Complaint has been placed, thereby changing its investigative and administrative response to it. The Professional Services Division Commander, after consultation with the appropriate supervisory or command staff personnel, will be responsible for changing a Complaint from one category to another if warranted.
2. Complaints concerning Equal Employment Opportunity (EEO) and discrimination issues, including sexual harassment claims, will be handled in accordance with [G.O. 1920](#), “[Discrimination and Sexual Harassment](#).” Likewise, Complaints concerning violations of the Americans with Disabilities Act (ADA) will be handled in accordance with [G.O. 500](#), “The Americans with Disabilities Act.”
3. Any investigator who desires assistance with an investigation will contact either their immediate supervisor or the Internal Affairs Unit of PSD. Investigators will not consult with personnel outside of their chain of command other than the PSD commander or IAU investigator.
4. Should it be determined at the conclusion of an investigation that deliberately false accusations and/or statements have been made by complainants or civilian witnesses during the course of the investigation in order to intentionally mislead the investigator, the investigator will confer with the Office of the Chief through the chain of command to determine if criminal charges should be sought against the maker of the false allegation and/or statement. False statements made by employees of the Department in the course of administrative investigations will be handled administratively unless directed otherwise by the Office of the Chief.

.12 TYPES OF COMPLAINTS:

1. Except as otherwise stated in this Order, **ALL EXTERNAL COMPLAINTS REQUIRE THE COMPLETION OF A COMPLAINT RECEPTION FORM (CRF) OR A PERFORMANCE ACTION FORM (PAF).**

2. The categories of Complaints the Department recognizes for purposes of this General Order are the following:
 - A. **CATEGORY ONE:**
An expression of dissatisfaction or concern by a citizen that does not involve any violation of laws, ordinances, or General Orders, and lend themselves to *direct and immediate* resolution by the supervisor/command officer who speaks to the citizen.

 - B. **EXTERNAL COMPLAINTS (CATEGORY TWO):**
 - (1) A Complaint about a Minor Violation (as defined in this Order) of the Department's General Orders, ordinances, or laws which is brought to the attention of the Department by an individual **outside** of the Department which, if sustained, usually would result in administrative and/or disciplinary action not to exceed Summary Punishment. External Complaints are further divided into two distinct types:
 - a. **External Disciplinary Complaints (Type A):**
A "formal" Complaint, wherein the supervisor/investigator will conduct an investigation into the allegation(s) and determine if there has been a violation of orders, ordinances, or laws. (A CRF is completed.)

 - b. **External Performance Complaints (Type B):**
The supervisor has determined that the violation is such that the appropriate course of action is informal correction, guidance, and/or training and the matter will not result in disciplinary action; however, the incident will be noted for evaluation purposes in accordance with [G.O. 1830, "Performance Evaluations."](#) Performance complaints will be documented using the Supervisor's Performance Action Form (PAF).

 - (2) External Disciplinary Complaints may be handled by the first line supervisor or by the PSD. Specific rules for Category Two Complaints can be found in Section .26.

 - C. **INTERNALLY-GENERATED COMPLAINTS (CATEGORY THREE):**
 - (1) A Complaint about a Minor Violation (as defined in this Order) of the Department's General Orders, ordinances, or laws which either a supervisor/command officer has observed or otherwise has direct, personal knowledge about or that another employee of the Department has brought to the attention of a supervisor/command officer. Internally generated Complaints are also further divided into two types:
 - a. **Internal Disciplinary Complaints (Type A):**
A "formal" Complaint, wherein the supervisor/investigator will conduct an investigation into the allegation(s) and determine if there has been a violation of orders, ordinances, or laws;

 - b. **Internal Performance Complaints (Type B):**
The supervisor has determined that the allegation/violation is such that the appropriate course of action is informal correction,

guidance, and/or training and the matter will not result in disciplinary action; however, the incident will be noted for evaluation purposes in accordance with G.O. 1830, "Performance Evaluations." A CRF will not be completed.

- (2) All internally generated Complaints that will be formally investigated (Type A) require the completion of a CRF. For complaints closed as performance issues supervisors will note the performance deficiency and retain that information to assist in the completion of performance evaluations. A Performance Action Form (PAF) may be completed.
- (3) Internally generated Complaints are normally handled by the first line supervisor.

D. PSD COMPLAINTS (CATEGORY FOUR):

- (1) A Complaint that falls under any of the following criteria:
 - a. Allegations that on their face appear to involve a **serious** violation of the General Orders of the Department;
 - b. Allegations of a criminal violation under the Code of The City of Frederick, Maryland law, or the laws of the United States;
 - c. Investigations that it is believed will require a detailed, extensive investigation to determine the truth of the allegation.
 - d. Any Complaint designated by the Office of the Chief as a Category Four Complaint.
- 2. Category Four Complaints are handled by the Internal Affairs Unit or an individual designated by the Office of the Chief.

E. ORGANIZATIONAL COMPLAINTS (CATEGORY FIVE):

- (1) A Complaint from a source outside the Department concerning its current use of a particular, specific departmental policy, practice or procedure. A Category Five Complaint will be handled by an individual designated by the Office of the Chief.
- (2) Employees with Organizational Complaints may use the "grievance procedure" as outlined in the Labor Agreement or the City Policies and Procedures, as applicable.

F. *The categorizing of a Complaint does not prohibit the Department from offering/imposing appropriate discipline, up to and including termination of employment, for sustained violations of Department General Orders, ordinances, and/or laws, regardless of the category of the Complaint.*

.14 COMPLAINT DISPOSITIONS:

- 1. The Department classifies allegations into seven (7) categories of "findings." The "findings" are:
 - A. **RESOLVED AT INTAKE- No Violation**
The supervisor has determined that the matter complained about is not a violation of orders, ordinances, or laws.

- B. **RESOLVED AT INTAKE- Performance closure**
The supervisor/command officer receiving the citizen Complaint/report of the incident has resolved the matter; informal counseling/supervisory direction was given to the employee at the time. The matter may be reflected in the employee's Performance Evaluation Report (by use of the Performance Action Form);
 - C. **EXONERATED:**
The incident complained about did occur but was justified, legal, and proper;
 - D. **NOT SUSTAINED:**
There is not sufficient evidence to support the allegation(s);
 - E. **SUSTAINED:**
The allegation is supported by sufficient evidence or there is sufficient evidence to show misconduct not based on the original Complaint;
 - F. **UNFOUNDED:**
The investigation has determined no facts to support that the incident complained about actually occurred: or
 - G. **ADMINISTRATIVELY CLOSED:**
The Department has deemed it inappropriate or unnecessary to proceed with further investigation or disciplinary proceedings.
2. A "finding" will be determined for each specific allegation.
 3. The closure of a complaint does not preclude the Department from reopening an investigation if information comes to light that may warrant a different closure. The accused will always be advised when a closed investigation is reopened.
 4. Any investigation, whether closed at intake or formally investigated, may ultimately be closed as a performance issue, based on circumstances, mitigating factors, etc. Likewise, an incident that is closed as a performance issue may be reopened if additional information comes to light indicating that a performance closure may not be appropriate.

.16 CONFIDENTIALITY OF INVESTIGATIONS:

1. All internal investigations and allegations against department employees are considered confidential personnel matters. **No material fact, statement, finding or other content of any internal investigation may be reproduced, disclosed, or otherwise divulged or released to anyone without the permission of the Office of the Chief and specified by the LEOBR .** Internal investigators and other persons in the review process will not allow access to or discuss information relating to the Complaint or investigation thereof with other Department employees nor anyone outside the Department other than those who have a lawful right to know and a bona fide need to know about a particular case. Persons having access to internal investigation information would usually include the Office of the Chief, Bureau Commanders, Professional Services Division Commander and IAU personnel, the accused's division commander, supervisors of accused employees, transcriptionists, and the City Legal Department. Supervisors and command officers may be granted access to selected investigations as deemed appropriate by the Office of the Chief or the Commander of the PSD for official purposes.
2. Internal investigation files are not available to litigants in criminal, civil, or administrative proceedings unless such cases involve the appeal of disciplinary action brought by an

employee and/or unless ordered by a court of competent jurisdiction.

3. Access to any internal investigation files, records, or reports, other than that listed above, is limited to:
 - A. A Subpoena Duces Tecum: In order to ensure that the privacy rights of all involved parties are protected, the Department will, upon receipt of a Subpoena Duces Tecum or similar order of a court, immediately forward such document to the City Legal Department. The Legal Department will be requested to analyze the subpoena in light of the relevant statutory and case law, and will take appropriate legal steps to seek to uphold the policy of confidentiality maintained by the Department.
 - B. Producing records by court order: When a court orders the Department to disclose internal investigation records, the City Legal Department will be immediately notified of such an order. The Department will proceed as determined by the Chief of Police with assistance from the City Legal Department.

.18 AUTHORITY OF INVESTIGATORS:

1. Personnel assigned to the IAU or individuals assigned to handle an internal investigation are vested by the Chief of Police with the authority to investigate Complaints as outlined in this Order. Individuals assigned to investigate a Complaint as described in this Order are granted the authority to:
 - A. Order the accused and/or other departmental employees, regardless of rank, to respond to questions that specifically, directly and narrowly relate to the issue(s) under investigation; and,
 - B. Order the accused to produce documents and materials, submit to a polygraph, blood, breath, or urine test, interrogation or to perform or submit to any other appropriate/necessary test or examination that specifically, directly and narrowly deals with the allegations against them or the matter under investigation, in accordance with the LEOBR (if applicable) or other applicable regulations.
2. Photographic arrays and lineups may also be used if the investigator believes it in the best interests of the investigation to do so. Financial disclosure statements may be requested in accordance with the provisions set forth in the LEOBR, if applicable.
3. If an accused is to be ordered to submit to any test or interrogation, it will be done in writing.

.20 PROFESSIONAL SERVICES DIVISION (PSD):

1. The Professional Services Division (PSD) has been established by the Department, in part, to provide administrative oversight of **ALL** Complaints that are received by the Department and to conduct internal investigations as designated by this Order or as required by the Office of the Chief. The Professional Services Division Commander reports directly to the Chief of Police on internal investigations.
2. The PSD Commander will bring all allegations of excessive/inappropriate force, law violations, sexual harassment and incidents involving serious injury or death to the attention of the Chief of Police as soon as practical. The PSD will be responsible for bringing all Disciplinary Complaints to the attention of the Chief of Police by providing him, as well as bureau commanders, with a summary of Complaints received during the previous month by the tenth day of the current month. Discretion for notifying the Chief of Police of any performance Complaints will lie with the chain of command of the employee involved in the Complaint. The PSD will also provide the Office of the Chief and affected division commanders with a list of investigations that have been open in excess of 30 days.

3. Unless otherwise directed by the Office of the Chief, the IAU will investigate all PSD Complaints and Complaints/incidents in which any of the following are alleged:
 - A. Discourtesy as defined in [General Order 1650, "Standards of Employee Conduct,"](#) Section.96;
 - B. Bias-based profiling as defined in General Order 702;
 - C. Serious misconduct;
 - D. Criminal activity;
 - E. Excessive/inappropriate force;
 - F. Sexual harassment (per [General Order 1920](#));
 - G. Whenever any employee becomes involved in an incident involving a use of force which results in the death or serious bodily injury of another person; the use of any Department equipment in a manner that results in the death or serious bodily injury of another person, or is in any way a participant in actions that result in the death or serious bodily injury of another person (in conjunction with the Criminal Investigation Division (CID). **In such cases, the PSD and the CID are to be notified immediately after the event**);
 - H. Attempted uses of deadly force by discharges of firearms;
 - I. Serious injuries or death incurred by any person who is in the custody of the Department, whether or not alleged to have been inflicted by an employee; and,
 - J. As designated by the Office of the Chief.
4. The PSD Commander will prepare for the signature of the Chief of Police a Complaint reception letter for all External Disciplinary Complaints to be sent to the complainant. This letter will identify the investigator assigned to the Complaint and provide the investigator's telephone number.
5. The PSD will conduct its internal investigations in accordance with the standards and procedures established by the Department ([G.O. 1615, "Internal Investigations Procedures"](#)), as well as all applicable laws.
6. Additionally, the PSD will be responsible for administrative oversight of all Complaints for which a CRF or PAF has been completed and for the retention of ALL completed internal investigations in accordance with the Records Retention Policy of the City of Frederick and the LEOBR. The PSD will maintain the records relevant to any departmental investigation or inquiry in accordance with the procedures set forth in this Order or by other regulation.
7. Members of the PSD, if contacted directly by a citizen with an inquiry/Complaint, will process the inquiry/Complaint as outlined in this Order for the on-duty supervisor/command officer.

.22 RECEIPT OF COMPLAINTS:

1. GENERAL:
 - A. Whenever a citizen contacts the Department to make a Complaint in person, they will be given a Citizen Information Brochure.

- B. Any supervisor or command officer who learns of a Complaint by way of contact with a citizen by any means, other than a Category One Complaint handled by the receiving supervisor, will complete or cause to be completed a CRF or a PAF.
- C. An employee will provide a Citizen Information Brochure to any citizen who requests one, inquires about the Department's Complaint process or otherwise indicates that he wants to make a Complaint about the behavior or performance of any employee of the Department. Should a citizen give an employee a completed CRF, the employee will sign and date the CRF at the bottom of the front page and submit it directly to his supervisor who will forward it to the PSD. All sworn officers will have Citizen Information Brochures immediately available to provide to citizens upon request. Citizens may also be referred to the Department's web site where they can access a Complaint form.
- D. If a citizen contacts a non-supervisory employee to make a Complaint, that employee will contact their supervisor, if available, or the Patrol Division Supervisor or other supervisor to personally speak with the complainant. If a supervisor is unavailable, the employee will explain that circumstance to the citizen, and obtain their name, address, and telephone number so that a supervisor may contact them when one is available. The employee will inform the citizen that he may either immediately complete and submit the CRF attached to the Brochure (if a "walk-in" Complaint), wait to speak to the on-duty supervisor, or submit the CRF at a later time by mail, fax, or in person. If the citizen refuses to leave contact information, the employee will still make contact with the supervisor and advise them of all known information as soon as possible.
- E. Non-supervisory employees **will NOT inquire** into the nature of Complaints to protect confidentiality; however, if the complainant insists on discussing the incident or volunteers unsolicited information, the employee will note the information on the CRF.
- F. A supervisor will respond to speak with a complainant as soon as possible if he is not operationally prevented from doing so. If the supervisor cannot personally speak with the complainant at the time he makes his Complaint, the supervisor will contact the complainant before the end of his shift. If the on-duty supervisor is unable to contact the citizen by the end of his working day, he shall request the supervisor who relieves him to contact the citizen and complete the CRF. This action will be noted in the comment section of the CRF. Attempts to contact the complainant will be attempted by succeeding supervisors until the citizen is contacted by a supervisor or command officer. Common sense will be used when attempting to contact the complainant so that it is done at a "reasonable" time of the day (no later than 2200 hours) unless specifically waived by the complainant.
- G. Complaints from citizens will be considered confidential. Citizens who complain in person will be taken to an area conducive to a private discussion of the matter.
- H. The supervisor will discuss the Complaint with the citizen and complete the appropriate form, if necessary detailing the incident and complainant/witness information, as applicable. If the citizen requests/insists on completing a CRF at a later time, the supervisor will obtain as much information as possible from the citizen and, as appropriate for the Complaint, advise their Division Commander and/or the PSD of the pending Complaint.
- I. If a CRF is completed, a copy of the front of the form will be given upon request to

the complainant by the receiving supervisor.

- J. If the supervisor is receiving a Complaint regarding an employee they do not supervise and the Complaint cannot be resolved at intake, the supervisor will forward the completed CRF to the PSD. The PSD will send a copy of the CRF to the employee's supervisor if the Complaint is not a Category 4 Complaint. Upon receiving a CRF, the employee's supervisor will properly classify the Complaint and obtain a Tracking Number from the PSD.
- K. IN ALL CASES WHERE AN EXTERNAL COMPLAINT IS RECEIVED, A CRF OR A PAF WILL BE COMPLETED. IF THE RECEIVING SUPERVISOR IS UNSURE ABOUT HOW THE COMPLAINT WILL BE HANDLED, A CRF WILL BE COMPLETED. If it is later determined that an incident will be handled as a performance issue, the handling supervisor will complete a PAF and attach the CRF to it.

2. TELEPHONE COMPLAINTS:

Any non-supervisory employee who receives a telephone call in which a citizen states that he wishes to make a Complaint will determine if an on-duty supervisor is available and immediately transfer the call to that supervisor/command officer. ***In no case will any employee transfer a citizen who is making an inquiry or Complaint to a supervisor's voice mail unless the complainant specifically requests that this be done.***

3. COMPLAINTS BY FAX, MAIL, OR ELECTRONIC MAIL:

In the event that any non-supervisory employee receives or is forwarded an inquiry/Complaint about the behavior or performance of another employee, that employee will *immediately* give that correspondence to his supervisor if available or to the on-duty patrol supervisor/command officer. The supervisor/command officer will complete a CRF, attach the correspondence, and forward it to the employee's supervisor for classification/handling.

- 4. All citizen-completed CRF's will be submitted to the PSD, regardless of how the Complaint is handled or if a CRF is necessary.

.24 HANDLING OF CATEGORY ONE COMPLAINTS:

- 1. Category One Complaints, by definition, involve an expression of dissatisfaction or concern by a citizen but do not involve any violation of laws, ordinances, or General Orders, and lend themselves to *direct and immediate* resolution by the supervisor/command officer who speaks to the citizen.
- 2. The supervisor/command officer handling the Category One Complaint will discuss the incident with the citizen and make every effort to inform, educate, or otherwise assist the citizen in understanding the circumstances of the incident that led to their contacting the Department.
- 3. Category One Complaints normally **will not** be documented by the handling supervisor, but **may** be documented at the supervisor's discretion or upon the direction of a superior in an administrative report. **If there is any doubt as to whether a citizen's dissatisfaction indicates a violation of General Orders, laws or ordinances, the supervisor/command officer speaking with the citizen will complete a CRF or PAF as appropriate and follow the procedures in this Order.**
- 4. It is recommended that the supervisor make personal notes and retain them as to the contact with the citizen for a reasonable period of time, in the event that the citizen decides to appeal any decision of the supervisor to higher authority. In the event that a citizen does so, the

higher authority may require that an administrative report be completed by the receiving supervisor to document the contact with the citizen.

.26 HANDLING OF “MINOR” COMPLAINTS (Categories 2 and 3):

1. GENERAL:
 - A. Supervisory personnel are given the latitude to deal with Complaints that involve Minor Violations as defined in this Order. Consequently, supervisors, based on their experience, training, and/or direction from superiors, will make determinations as to whether the best interests of the Department are served by the imposition of formal discipline or the use of non-punitive measures such as counseling and/or supervisory direction, remedial training, or the inclusion of information about an incident in an employee's performance evaluation, in addressing Minor Violations. These minor Complaints are usually handled by an employee's immediate supervisor.
 - B. While the Department believes that the latitude to select the appropriate action should normally rest with the first-line supervisor when dealing with Minor Violations, the Department also believes that it is essential to provide them with written guidelines so that supervisors and subordinate personnel have a clear understanding of the limits of this supervisory discretion. Thus, minor Complaints have been further divided into two (2) separate types.
2. DISCIPLINARY COMPLAINTS (TYPE A):
 - A. A Complaint will be classified as a Disciplinary Complaint if, because of the nature of the violation and/or its frequency of occurrence, the violation has effected or, if allowed to go unaddressed, could have an impact on the effectiveness, discipline, good working order or professional reputation of the Department and requires, if sustained, that some form of discipline be imposed.
 - B. Because a Disciplinary Complaint may involve the recommendation of some form of administrative/disciplinary action, it must be formally documented and handled consistent with the LEOBR (if applicable) and/or this Order.
 - C. Non- PSD Supervisors/command officers who handle a Disciplinary Complaint will:
 - (1) Ensure that a CRF is completed and obtain a Tracking Number from the IAU. If the IAU is unavailable, the supervisor/command officer will leave a voice or electronic mail message requesting a Tracking Number be assigned to the Complaint. The IAU will provide the number by return call/voice mail or electronic mail as soon as possible. The supervisor/command officer conducting the investigation into a Complaint may proceed with the investigation pending receipt of the number from the IAU;
 - (2) Provide the IAU with the following information at the time the Tracking Number is requested:
 - a. date Complaint received;
 - b. complainant name;
 - c. accused employee name(s); and,
 - d. alleged violation(s);

- (3) Send the **original** CRF to the IAU with the assigned number on it. A copy of the CRF will be retained for investigative purposes by the supervisor;
- (4) Prepare a "Notification to Accused of Complaint" (Form PSD-007) and deliver it to the accused. A completed copy of the Notification will be included in the investigative file.
 - a. When a Disciplinary Complaint is based on the observation or direct personal knowledge of a supervisor/command officer (internally generated), the "investigation" into that type of violation will, in most instances, be limited to a report from the supervisor/command officer observing the infraction as well as accounts from any witnesses whom the supervisor/command officer determines to be necessary or appropriate. Likewise, while it may not be necessary to question an accused employee about his activity because of the supervisor's/command officer's first hand knowledge of the violation, the supervisor/command officer may offer the accused employee the opportunity to waive his LEOBR rights (if applicable) in order to explain and/or mitigate his behavior only. The Department relies on the good judgment of its supervisors/command officers regarding the appropriateness of this action.
 - b. If the accused waives his LEOBR rights and voluntarily discusses mitigation with the supervisor, his statement does not have to be tape recorded unless the supervisor believes it is necessary to do so. However, a written account of the statement will be made and signed by the supervisor, and countersigned by the accused. This statement will be included in the investigative file.
 - c. If an interview of the accused is deemed necessary to gather information about the allegation/incident under investigation, the accused will be accorded all rights under the LEOBR (if applicable) and all investigative procedures, including tape-recorded and transcribed statements, will be observed;
- (5) Conduct the investigation per established procedures ([G.O. 1615, "Internal Investigations Procedures"](#));
- (6) Ensure that the investigation is completed in a timely fashion. The investigator will maintain liaison with his supervisor to advise him of the status of the investigation in whatever manner the supervisor deems appropriate. Investigations open in excess of 30 days will be reported by the PSD to the Office of the Chief and affected division commanders, who will discuss the status of investigations with investigators and ensure a timely closure;
- (7) Prepare the investigative report as outlined in [G.O. 1615, "Internal Investigation Procedures"](#) Section .40;
- (8) Submit the completed investigation **DIRECTLY TO THE PSD**. If the investigation sustains any violation by the accused, the supervisor will submit a recommendation for administrative/disciplinary action with the investigation utilizing Form PSD-013, including any positive or negative factors that were considered in reaching their recommendation. **Note:** Recommendations for administrative/ disciplinary action, although submitted

with an investigation, are not a part of the investigative report; and,

(9) The PSD will, after review and approval of the investigation, submit it to the accused's chain of command for review. The PSD may also send an investigation back to the investigator for further investigation or documentation.

D. Supervisors/command officers who believe that it is inappropriate for them to investigate a Disciplinary Complaint either because the employee is not in their direct chain of command or because of some other articulable reason will:

(1) Complete a CRF per Section .22 of this Order;

(2) Explain to the complainant that an investigator will contact them to discuss the Complaint;

(3) Forward the completed CRF to the employee's supervisor on the same day it is received. The employee's supervisor will properly classify the Complaint and submit the CRF to the PSD on the same day it is received by them; and,

(4) If the receiving supervisor is the employee's supervisor and feels that it would be inappropriate for him to investigate the Complaint, the supervisor will discuss the matter with his division commander and be guided by the commander's instructions.

3. PERFORMANCE COMPLAINTS (TYPE B):

A. **ALL EXTERNAL PERFORMANCE COMPLAINTS THAT ALLEGE A VIOLATION OF GENERAL ORDERS OR LAW REQUIRE THE COMPLETION OF A PAF.**

B. A Complaint is classified as a Performance Complaint if the minor infraction is of such a nature and/or its frequency of occurrence is such that a supervisor/command officer believes the behavior must be immediately corrected and should be documented and noted in the individual's Performance Evaluation Report, as appropriate. Supervisors may administer informal discipline as outlined in [G.O. 1620, "Discipline"](#) subject to review.

C. A Performance Complaint will not involve the imposition of discipline unless the violation is of such a nature that higher command orders the violation to be reclassified as a Disciplinary Complaint. Normally, a Performance Complaint will result in the documentation of the infraction by the supervisor/command officer with that documentation serving as the basis for inclusion, as appropriate, in the individual's performance evaluation.

D. Supervisors/command officers who receive a performance Complaint will:

(1) If EXTERNAL:

a. Document the infraction on a PAF;

b. Obtain division commander approval;

c. Once approved, discuss the incident with the employee;

d. Provide a copy of the PAF to the employee;

e. Retain a copy of the PAF and forward the original to PSD; and

- f. If the division commander does not approve the performance closure he will return the PAF to the supervisor with instructions for follow-up.
 - (2) If INTERNAL:
 - a. Bring the infraction to the employee's immediate attention for correction;
 - b. Note the incident for evaluation purposes (per [G.O. 1830, "Performance Evaluations"](#)) so that the matter can be included in the individual's next performance evaluation, as appropriate;
 - c. Exception: If the violation is "Improper Vehicle Operation," document the infraction on a PAF and the follow steps above in D(1)b-e.
- E. The PSD sends a letter to the complainant in all complaints outlining the Department's response to their Complaint.
- 4. PSD personnel who handle Category 2 complaints will follow the procedures outlined in this order and [G.O. 1615, "Internal Investigation Procedures."](#)

.28 HANDLING OF PSD COMPLAINTS (CATEGORY FOUR):

1. The Department recognizes that there are other allegations that, because they are serious or may require a detailed, time-intensive investigation, need to be investigated by an individual outside the accused's direct chain of command. These Complaints are Category Four Complaints.
2. Because of the time-intensive nature of a PSD Complaint, the PSD or an investigator designated by the Office of the Chief will be responsible for conducting the investigation into a Category 4 Complaint. Upon receipt of a CRF alleging a violation or incident that falls within a Category 4 Complaint as described in this Order, the PSD will:
 - A. Review the CRF to ensure that it is a PSD Complaint and that the information contained in it is complete;
 - B. Assign a tracking number to the Complaint;
 - C. Assign an investigator to the case;
 - D. Prepare a letter for the signature of the Chief of Police to the complainant acknowledging receipt of the Complaint and identifying the name and contact information of the investigator assigned to the case;
 - E. Notify the complainant as soon as possible, by telephone or in person, that the Complaint has been received and set up a date, time, and location for an interview;
 - F. Prepare and deliver to the accused (through their supervisor, if possible) a "Notification to Accused of Complaint" (Form PSD-007). In excessive force Complaints, the Notification will not be made until a sworn Complaint is made or a decision has been made to proceed with an excessive force Complaint without a sworn Complaint. In the case of allegations of ongoing misconduct, the PSD Commander may determine that the notification be delayed if such notification would be detrimental to the investigation. Supervisors will always be made aware of

allegations against their subordinates

- G. Conduct the investigation per procedures (G.O. 1615, "Internal Investigation Procedures"). The investigation of sworn personnel will be conducted according to the provisions of the LEOBR (if applicable), as well as the procedures established by the Department;
 - H. Send a letter to the complainant outlining the status of the investigation a minimum of once a month, until the internal investigation is completed and adjudicated;
 - I. Consult with the City Legal Department as appropriate;
 - J. Submit the completed investigation to the accused's chain of command for review and concurrence/non-concurrence;
 - K. Prepare charging paperwork and/or Personnel Orders as appropriate and necessary;
 - L. In consultation with the City Legal Department, make preparations for an Administrative Hearing Board when necessary; and,
 - M. Send a letter to the complainant explaining the Department's findings upon the conclusion of the case.
3. In the event that an employee is accused of criminal misconduct, any criminal investigation will be conducted by the appropriate investigator or agency **PRIOR TO ANY DEPARTMENTAL INITIATION OF DISCIPLINARY ACTION**. An administrative *investigation* may be conducted. The Chief of Police may, at his discretion and based on available, relevant facts, elect to suspend an employee, with or without pay, or suspend an employee's police powers, pending the conclusion of the investigation as permitted by law and/or Department policy.

.30 HANDLING OF ORGANIZATIONAL COMPLAINTS:

- 1. The Office of the Chief may, at its discretion, assign any employee of the Department to investigate issues brought to its attention by citizens outside the Department which deal with a legitimate question about an administrative or operational policy, practice, or procedure, e.g., its hiring practices or vehicle stop procedures. The Department will address these Complaints, although the length of the investigation and the type of response given by the Department is significantly different than when addressing individual behavior issues. The Department has created this final Complaint category to deal with concerns it determines to be organizational Complaints, i.e., Complaints leveled at the Department as a law enforcement agency by individuals outside the Department.
- 2. If the Office of the Chief determines that there is sufficient reason to address the issue as an Organizational Complaint the initiating official will:
 - A. Cause a CRF to be completed and forwarded to the PSD;
 - B. Designate a member of the Department to address the issue. This individual will maintain liaison with the PSD until the matter is resolved; and,
 - C. Respond to the complainant when the matter is resolved as appropriate and approved by the Office of the Chief.
 - D. Forward a copy of the resolution of the matter to the PSD for filing.

3. Understanding that concerns of this type may require a period of extensive and/or prolonged research, the Department reserves the right to determine the length of time that each Organizational Complaint will require to be resolved on a case by case basis. The individual assigned by the Office of the Chief to resolve the issue will be responsible for providing the initiating official with periodic updates as directed.
4. Organizational Complaints will NOT require that the internal investigation report format be followed. The initiating official will designate the appropriate reporting format needed to respond to Organizational Complaints.
5. Organizational Complaints filed by employees of the Department will be handled in accordance with established grievance procedures.

.32 EXCESSIVE FORCE COMPLAINTS:

1. Because Complaints of excessive force carry special requirements under law, the proper handling of the receipt of these Complaints is critical. Supervisors who speak with citizens about an excessive force Complaint will:
 - A. Determine if medical treatment by a medical professional is required;
 - B. Photograph any and all injuries or alleged injuries;
 - C. Explain the requirements of law set forth in LEOBR (Public safety Article, Section 3-104):

Complaint that alleges brutality

(c)(1) A complaint against a law enforcement officer that alleges brutality in the execution of the law enforcement officer's duties may not be investigated unless the complaint is signed and sworn to, under penalty of perjury, by:

- (i) the aggrieved individual;*
- (ii) a member of the aggrieved individual's immediate family;*
- (iii) an individual with firsthand knowledge obtained because the individual

 - (1) was present at and observed the alleged incident; or*
 - (2) has a video recording of the incident that, to the best of the individual's knowledge, is unaltered; or**
- (iv) the parent or guardian of the minor child, if the alleged incident involves a minor child.*
- (2) Unless a complaint is filed within 366 days after the alleged brutality, an investigation that may lead to disciplinary action under this subtitle for brutality may not be initiated and an action may not be taken.*

- D. Explain that a sworn statement will be requested in the course of the investigation. A citizen-completed CRF may be sworn to at the time it is received. If a complainant refuses to swear to and sign a completed CRF, the supervisor will inform the individual that the Department's investigation may be hampered by their lack of cooperation. The unsigned CRF will be forwarded directly to the PSD with a notation that the complainant *refused to swear to and sign the CRF*;
- E. Complete a CRF and submit it directly to the PSD by the end of the working day.

.34 CITIZEN REPRESENTATION:

1. Citizens may be accompanied by an attorney at the time a Complaint is filed or at any other stage of the process. Attorneys will not be allowed to hinder, obstruct, or interfere with any interview. Should they attempt to do so they will be excused from the process.
2. Juvenile complainants should be accompanied by a parent or guardian, however the Department will accept Complaints from juveniles without a parent/guardian present if they can articulate their Complaint in a reasonable manner.

.36 TIME LIMITATIONS:

All internal investigations will be completed as soon as possible. The Department has mandated a time limitation of one hundred and twenty (120) days from the date in which the complaint is received by the Department to complete any Category 2 or Category 3 investigation unless authorization is granted by the PSD Commander to extend beyond the time limitations. Any requests for extensions must be documented in writing through the Division Commander to the PSD stating the reason for the request. Category 4 investigations must be completed and charges placed (if applicable) within one year, unless exempted by statute and granted an extension by the Chief of Police.

.38 RETENTION OF INTERNAL INVESTIGATIONS/COMPLAINTS:

1. The retention and security of all documents connected with a complaint or part of an internal investigation file or report is the responsibility of the PSD. The PSD will ensure the secure storage of all internal investigation files, dispositions and materials, and will develop appropriate filing procedures that ensure that:
 - A. Each type of Complaint is filed separately from each other and that CRF's and investigative files/materials within each category are maintained in numerical order;
 - B. Access to investigative files/reports is limited to individuals authorized access by the Office of the Chief or the PSD Commander;
 - C. Complaint Reception Forms, Remedial Action Forms, investigations, and related materials are purged from files in accordance with existing procedures or requests for expungement; and,
 - D. An index of Complaints by category is maintained as a ready reference for the Office of the Chief and to assist in the compilation of an annual statistical breakdown of Complaints.
2. Personnel Orders or written documentation indicating the disposition of sustained disciplinary matters will be included in all sustained investigation files.

.40 EXPUNGEMENT OF RECORDS:

1. Any internal investigation which cleared the employee of all charges, or in which he was found not guilty on all charges in an administrative hearing, and in which three years have passed since the findings by the agency or administrative hearing board, will be automatically expunged by the Department.
2. There may be occasions where a sustained Disciplinary Complaint is closed as a performance issue. Any performance closure of a sustained Disciplinary Complaint will cause the closure of the complaint to be changed from "sustained" to "administratively closed," thereby subjecting the investigation to expungement in accordance with the City's Records Retention Policy.

.42 STATISTICAL SUMMARY OF COMPLAINTS:

1. The PSD will be responsible for maintaining a statistical summary of the Department's present year Complaint experience as well as an annual summary of that year's Complaint history, which will be provided to the Office of the Chief in the first quarter of the succeeding year. The format of the summary and the data to be included will be developed by the PSD and revised as directed by the Chief of Police.

2. The Office of the Chief will disseminate an annual summary of the Department's Complaint history to anyone requesting the information and include it in an annual Professional Services Division report. Identities of accused employees will not be released.

.45 SUMMARY CHART OF COMPLAINTS:

Source	How handled	CRF/PAF?	Action
External- No Violation (Category 1)	Address concern	None	Make personal notes if necessary
External (Category 2)	Disciplinary (2A)	CRF	PSD may handle; Investigation, submit to PSD upon completion
	Performance (2B)	PAF	Note for evaluation; complete PAF and submit to PSD; maintain copy for unit file and copy to employee
Internal (Category 3)	Disciplinary (3A)	CRF	Investigation, submit to PSD upon completion
	Performance (3B)	PAF*/None	PAF*/Note for evaluation as appropriate
Internal/External- PSD Complaints (Category 4)	Disciplinary	CRF	Refer to PSD for investigation
Organizational Complaints (Category 5)	To be determined by the Office of the Chief	CRF	To be determined by the Office of the Chief

*A departmental at-fault accident handled as performance matter must use a PAF.