



Fishers Police Department



General Order 40

Internal Affairs

CALEA Standard 26.2.1-26.3.5

PURPOSE

To establish policy, procedures and guidelines relating to internal investigations and to establish responsibilities for those officers charged with those investigations.

POLICY

The Fishers Police Department requires the administration of internal affairs matters for the purpose of creating a process to ensure the integrity of the agency. The goal of the internal affairs function is to ensure that the integrity of the agency is maintained through an internal system whereby objectivity, fairness, and justice are ensured by an impartial investigation and review. The internal affairs function shall consist of the Assistant Chief of Police and/or his/her designee in performing formal internal investigations and reviewing informal investigations.

It is the policy of the Fishers Police Department that all allegations of employee misconduct be appropriately investigated.

PROCEDURE

40.1 Administration and Operations

40.1.1 Complaint Investigation

A. Internal Affairs Activities

It shall be the duty of all personnel to report allegations of employee misconduct through the chain of command. Any member of this Department, sworn or civilian, who fails or refuses to report employee misconduct, shall be subject to disciplinary action up to and including dismissal from the Department. Personnel may go outside the formal chain of command to directly report allegations of supervisor misconduct.

Upon receipt of information or complaint of employee misconduct, the Chief or Assistant Chief of Police may initiate an internal affairs investigation into the matter.

The activities of the internal affairs investigation shall include, but not be limited to, the following:

1. Recording, registering and controlling the investigation of complaints against employees
2. Supervising and controlling the investigation of alleged or suspected misconduct within the department; and
3. Maintaining the confidentiality of the internal affairs investigation and records [pursuant to IC 5-14-3-4(a)(2)].

B. Categories of Internal Affairs Investigations

1. Categories of complaints that require formal internal affairs investigations shall include:

- a. Allegations of corruption
 - b. Allegations of excessive force
 - c. Allegations of civil rights violations
 - d. Allegations of criminal misconduct; or
 - e. Any other allegations deemed necessary by the Chief of Police.
2. Complaints of a lesser nature may be informally investigated by the officer's Supervisor.
 - a. An informal inquiry may lead to a conclusion by the Supervisor or may lead to a formal investigation. Informal inquiries and conclusions may be documented only when notice is given to the affected officer and the affected officer is given the opportunity to provide input.
 - b. The Supervisor may request that a formal investigation be conducted without first conducting an informal investigation.
 - c. A Supervisor's investigation may be stopped at any time by the Chief or Assistant Chief and full investigative authority assumed by the Assistant Chief.
 3. Criminal allegations may be investigated by the Office of Professional Standards or can be assigned for investigation at the discretion of the Chief.

C. Initiation of an Investigation **<26.2.1>**

The department shall investigate all complaints against the department or its employees. Occasionally, malicious and deliberately false accusations are made against the department or its employees. These shall be investigated to protect the integrity of the department or the employee, thereby instilling confidence in the department. Complaint processing shall be in compliance with the following procedures:

1. A complaint is defined as an act of expressed dissatisfaction, which relates to department operations, personal conduct or unlawful acts.
 - a. If a complaint is to be investigated, it is preferable that it is given in person. All complaints shall be documented when possible by providing a written statement. The written statement may be received in various forms, for example handwritten on a "Citizen Complaint Form", typewritten, via the online link, or by electronic communication such as email. If a complainant cannot or refuses to sign this form, the reason and/or refusal to sign and an explanation for such refusal shall be recorded in the narrative portion of the form if known.
 - b. Anonymous complaints, or complaints from citizens who expressly request their names to be held in confidence, shall be accepted.
 - 1). When an anonymous complaint is made against an employee and there is no corroborative evidence of any kind, then the complaint shall be classified as unfounded. **<26.2.1>**
2. Complaints can be routed through the Office of Professional Standards; however, complaints may be accepted by any supervisor employed by the department who is approached for such assistance.
 - a. The supervisor shall document investigable complaints; or
 - b. The supervisor may attempt to resolve the complaint by explaining departmental policies and procedures, where applicable.
 - c. The supervisor shall advise the complainant of departmental procedures for the processing and investigation of citizen complaints.

40.1.2 Staffing

The Assistant Chief of Police is responsible for any internal affairs investigations and has the authority to report directly to the Chief of Police. The Chief or Assistant Chief may assign the appropriate Division Commander, Office of Professional Standards, or Supervisor to assist in the investigation if deemed necessary.

40.1.3 Notification of Chief of Police <26.3.2>

- A. The Chief of Police shall be immediately notified by the Assistant Chief in cases that if sustained could result in discharge, suspension, demotion, or criminal charges being filed.
- B. Allegations of minor rules violations may be investigated by the appropriate supervisor or Office of Professional Standards.
 - 1. Upon becoming aware of or receiving notification of potential rules violations by an officer under his/her command, the supervisor or Office of Professional Standards shall begin an immediate investigation of such allegations.
 - 2. Upon completion of the investigation, the following shall be forwarded to the Chief of Police or designee through the chain of command:
 - a. A report of the alleged violation;
 - b. All documents and evidence relating to the investigation; and
 - c. Recommendations for further investigation.

40.1.4 Investigation Time Limits <26.3.3>

The impact of an internal affairs investigation on the integrity of the department and on employee morale necessitates a timely resolution to such issues. Therefore, the Fishers Police Department requires a thirty (30) day limit for completing an internal affairs investigation with status reports to the Chief, complainant, and accused officer(s) due every seven (7) days. [Note: There may be exceptions to the thirty-day limit, but extensions should only be granted for those cases in which extenuating circumstances exist.]

40.1.5 Complainant Information

- A. Written verification shall be provided to complainants that a complaint has been received for processing. This standard does not apply to anonymous complaints.
- B. During and at the conclusion of the investigation the department shall notify the complainant concerning the status of the complaint against the department or its personnel.

40.1.6 Employee Notification & Rights <26.3.5>

When employees are notified that they have become the subject of an internal affairs investigation, the department shall issue the employee a confidential written statement of the allegation(s) and the employee's rights (under Garrity) and responsibilities relative to the investigation.

40.1.7 Investigation Procedures

- A. Personnel overseeing or conducting internal affairs investigations shall ensure that the rights of police officers granted under IC § 36-8-2.1-5 are preserved during all components of the internal affairs investigation.

B. Polygraph Examinations

When an administrative investigation is being conducted, a polygraph examination may be used as an investigative aid. However, as outlined in General Order 32.2.8 E., no law enforcement officer who is subject to criminal prosecution shall be ordered or coerced to waive any right granted by law.

C. Other Evidence Collection

1. An employee may be required to submit to a medical or laboratory examination, at the department's expense, when the examination is specifically directed and narrowly related to a particular internal affairs investigation being conducted by the department. An example is the use of this process in determining drug use by personnel.
2. An employee may be required to be photographed and the photos used in an internal affairs investigation being conducted by the department.
3. An employee may be required to participate in a line-up when such action is material to a particular formal internal affairs investigation being conducted by the department.
4. An employee may be required to submit financial disclosure statements when such requirement is material to a particular internal affairs investigation.
5. Personnel of the department may be assigned departmentally owned property such as, but not limited to: electronic items, vehicles, lockers, desks, cabinets and cases for the mutual convenience of the department and its personnel. All personnel are advised that the storage of personal items in such containers or facilities are at the risk of the employee and the department will not be responsible for any losses. This assigned equipment is subject to entry and inspection during a particular internal affairs investigation being conducted by the department, where the department has a reasonable suspicion that evidence of work-related misconduct will be found. Assigned personnel shall have the right to be present during such inspection and shall be served with notice as to the basis for such an inspection.

40.1.8 Relief from Duty

A member may be placed on paid administrative leave during a criminal or internal affairs investigation when allegations are serious enough to, if sustained, warrant a suspension, demotion or dismissal. A member placed on paid administrative leave is entitled to the member's allowances for insurance benefits to which the member was entitled before being suspended or placed on administrative leave. In addition, the City of Fishers may provide the member's allowances for any other fringe benefits to which the member was entitled before being placed on administrative leave.

If the member is subject to criminal charges, the merit commission may place the member on administrative leave until the disposition of the criminal charges in the trial court. Any other action by the merit commission is stayed until the disposition of the criminal charges in the trial court. An administrative leave under this subsection may be with or without pay, as determined by the merit commission. If the member is placed on leave without pay, the merit commission, in its discretion, may award back pay if the member is exonerated in the criminal matter.

40.1.9 Conclusion of Fact

The Department will end each investigation concerning allegations of misconduct with one of the following conclusions:

- A. Proper Conduct: The incident was found to have occurred, but the action of the department or the officer is consistent with department policy.
- B. Improper Conduct: The allegation is true, and the action of the department or officer was inconsistent with department policy.
- C. Policy Failure: The allegation is true, and although the action of the department or officer was consistent with department policy, the complainant was wronged. Or, the allegation is true, the complainant was wronged, but there is no FPD policy that addresses the issue.
- D. Insufficient Evidence: There is insufficient proof to confirm or deny the allegation.
- E. Unfounded Complaint: Either the allegation is demonstrably false or there is no credible evidence to support it.

40.1.10 Records, Maintenance & Security <26.2.2>

- A. A record of all complaint investigations against the department or its employees shall be maintained in a secure location by the Assistant Chief of Police. This records activity is an exception to personnel records or centralized records system. All such records of complaints are confidential pursuant to IC 5-14-3-4; and the schedule for retaining internal affairs records should be consistent with legal requirements of the state.
- B. All record requests for Internal Affairs investigation documents and/or personnel files shall be directed to the Fishers City Attorney for review.
- C. Individual personnel file information shall be made available to the affected employee or the employee's representative upon request to the Assistant Chief of Police.

40.1.11 Statistical Summaries

The Assistant Chief of Police shall create annual statistical summaries, based on the records of internal affairs investigations. Dissemination to the public and the department will be made upon request. This summary may be a part of the department's annual report.

The annual statistical summary shall serve as the basis for identifying training needs in such areas as policy and procedure, tactics, sensitivity/cultural awareness and supervisory responsibility.

40.1.12 Complaint Registering Procedures

Information on procedures to be followed in registering complaints against the police department or its employees shall be disseminated to the public upon request.

40.1.13 No Retaliation

An employee who is the subject of a misconduct complaint shall not intentionally take any action, whatsoever, against the complainant, in retaliation for filing the complaint. Any employee who retaliates against another as a result of the filing of such complaint shall be subject to disciplinary action up to and including dismissal from the department.

This does not prohibit the affected employee from filing a civil suit or taking other lawful action against the complainant in any case where the complaint is determined to be intentionally false and malicious.

40.1.14 Additional Review of Complaint

Any person who believes his or her allegations have not been taken seriously, investigated thoroughly, or resolved satisfactorily by the Fishers Police Department Office of Professional Standards, may contact the Chief of Police stating his or her concerns. The Chief of Police then has the option to notify the City of Fishers Mayor if the complaint is still not satisfied.