

SUNRISE POLICE DEPARTMENT POLICIES AND PROCEDURES MANUAL CHAPTER 33 INTERNAL AFFAIRS INVESTIGATIONS	Effective Date	05/01/87
	Revision Date	07/21/20
	Revision No.	1.5
	No.	1 of 11
	Approval:	

33. PURPOSE

This policy establishes guidelines for the employee concerning internal affairs investigations.

33.1. REVISION HISTORY

<u>Date</u>	<u>Rev. No.</u>	<u>Change</u>	<u>Reference Section</u>
05/01/87	1.0	New Policy	Internal Affairs Investigations
11/26/91	1.1	Investigations during Chief's absence, case Status, Interviews, letters.	33.2.1., 33.2.3., 33.2.9., 33.2.16. 33.2.17.
02/01/09	1.2	New format, accreditation standards, incorporate Department Directive #08-08	33.6.1.1., 33.6.1.2., 33.6.4., 33.6.14. – 33.6.14.1.5., 33.6.18.1.
02/01/11	1.3	Interview procedures	33.6.2., 33.6.3., 33.6.4., 33.6.5.1.8., 33.6.5.1.9., 33.6.5.3., 33.6.6.2., 33.6.6.2.6., 33.6.6.7., 33.6.7., 33.6.8.
04/11/13	1.4	Reporting procedures to annual reports, Deleted CALEA.	33.6.8.4., 33.6.8.5., 33.6.8.6., Throughout policy.
07/21/20	1.5	Securing weapons	33.6.2.3.2.

33.2. PERSONS AFFECTED

All Department members.

33.3. POLICY

It is the policy of the Sunrise Police Department to establish procedures for conducting Internal Affairs investigations.

33.4. DEFINITIONS

33.4.1. Employee or Member - Any sworn or civilian personnel employed by the Department. This term also applies to police trainees who have not been certified by the Criminal Justice Standards and Training Commission nor sworn to act as a police officer.

33.4.2. Preliminary Complaint Report (PCR) – A Department form used to document allegations of employee misconduct.

33.4.3. Level I Complaint - Refers to complaints concerning: criminal violations, civil rights violations, brutality, or any major wrongdoing on the part of an employee.

33.4.4. Level II Complaint - Refers to complaints concerning: attitude, language, response to calls for service, manner in which a particular call was handled, any minor violation or situation in which the complainant was not satisfied with the action or lack of action taken by an employee.

33.5. RESPONSIBILITIES

33.5.1. All police personnel are responsible for complying with this policy. Supervisory Personnel are responsible for the enforcement of this policy. Unjustified violations may result in disciplinary action, up to and including termination.

33.5.2. This Policy is not intended to be all-inclusive. It is intended to be a general guideline to be read in conjunction with all other Department rules, regulations, policies and procedures, as well as other City policies, rules and ordinances, and all applicable state and federal laws.

33.6. PROCEDURES

33.6.1. The Internal Affairs Supervisor reports directly to the Chief of Police.

33.6.1.1. Pamphlets delineating procedures for filing a complaint against the Department or employee(s) will be made available to the public. These pamphlets will be made available through the Office of Community Policing.

33.6.1.2. Any complaint received against either the Department or its employee(s) shall be investigated, including anonymous complaints.

33.6.1.3. All Level I complaints are initially assigned to members of the Internal Affairs (IA) Unit for investigation or processing. This includes preliminary complaint reports (PCRs) that may be generated by any supervisor.

33.6.1.4. It is the responsibility of the Internal Affairs (IA) investigator to assure that all complaints are brought to the attention of the Chief of Police as soon as possible for authorization to investigate.

33.6.1.5. No Internal Affairs investigation is to be conducted without the authorization of the Chief of Police or designee.

33.6.1.6. When the nature of the complaint is identified then the complaint will either be handled by Internal Affairs or returned back to the Division level for investigation.

33.6.1.7. Once a determination is made at which level the incident will be investigated, Internal Affairs will record the case information within the Internal Affairs case log and a case number will be assigned.

33.6.1.7.1. The case log will reflect the date received, the subject employee, the complainant, the nature of the complaint, the date completed, the finding, and the case disposition. This case log may be a computerized version.

33.6.1.7.2. The Preliminary Complaint Report (PCR) will be updated with the Internal Affairs case number, time received and such information as available, and attached to the IA investigator's work file.

33.6.1.8. When any employee is notified he/she is the subject of an Internal Affairs investigation, the employee will be issued written notification of the allegation as well as the employee's rights and responsibilities relative to the investigation. (CFA: 27.02)

33.6.2. Investigation Process - Sworn Officers:

33.6.2.1. The sworn officer must be informed in writing of the nature of the investigation before any interrogation begins, and must be informed of the names of all complainants.

33.6.2.2. Sworn officers shall obey the lawful orders of Internal Affairs Investigators or superior officers to answer questions related to the internal investigation.

33.6.2.3. Whenever a sworn officer is under investigation and subject to interrogation by members of his or her agency for any reason that could lead to disciplinary action, suspension, demotion or dismissal, the interrogation must be conducted under the following conditions:

33.6.2.3.1. The formal interrogation of a sworn officer, including all recess periods, must be recorded on audio tape, or otherwise preserved in such a manner as to allow a transcript to be prepared, and there shall be no unrecorded questions or statements.

33.6.2.3.2. Prior to providing a statement, all members, whether it be a witness officer or subject officer, will place and secure their lethal and less lethal weapons within the designated storage areas located in the Internal Affairs Suite.

33.6.2.3.3. Prior to questioning, officers under interrogation should be sworn in.

33.6.2.3.4. The interrogation shall be conducted at a reasonable hour, preferably at a time when the sworn officer is on duty, unless the seriousness of the investigation is of such a degree that immediate action is required.

33.6.2.3.5. Interrogating sessions shall be for reasonable periods and shall be timed to allow for such personal necessities and rest periods as are reasonably necessary.

33.6.2.3.5.1. At the resumption of the interview/interrogation, the investigator should make note of the time and ask if any questions have been asked off the record.

33.6.2.3.6. The sworn officer under interrogation may not be subjected to offensive language or be threatened with a transfer, dismissal, or disciplinary action. A promise or reward may not be made as an inducement to answer any questions.

33.6.2.3.7. The interrogation shall take place either at the office of the command of the investigating officer or at the office of another facility in which the incident allegedly occurred, as designated by the investigating officer or agency.

33.6.2.3.8. The sworn officer under investigation shall be informed of the rank, name, and command of the officer in charge of the investigation, the interrogating officer, and all persons present during the interrogation. (CFA: 27.02)

33.6.2.3.9. At the request of any sworn officer under investigation, he or she has the right to be represented by counsel or any other representative of his or her choice, who shall be present at all times during the interrogation whenever the interrogation relates to the officer's continued fitness for service.

33.6.2.3.9.1. Counsel does not have the right to cross-examine or interrupt the interrogation other than to confer with the employee. If counsel requests, the interrogator may allow counsel to make a short statement at the conclusion of the interrogation.

33.6.2.3.10. All questions directed to the sworn officer under interrogation shall be asked by or through one interrogator during any one investigative interrogation, unless specifically waived by the sworn officer under investigation.

33.6.2.4. The member conducting the interrogation or interview must determine who will be interviewed/interrogated and the sequence of each interview and interrogation. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the interrogation of the accused sworn officer.

33.6.2.5. The complaint, all witness statements, including all other existing subject officer statements, and all other evidence, including but not limited to, incident reports, any form of officer locator information, and audio or video recordings relating to the incident under investigation, must

be provided to each sworn officer who is the subject of the complaint before the beginning of any investigative interview of that sworn officer.

33.6.2.5.1. The member conducting the interview/interrogation will provide these documents regardless of their format, that is, handwritten, transcribed, taped, or other method of submission by the complainant, witnesses, or other agency employee(s).

33.6.2.5.2. A sworn officer, after being informed of the right to review witness statements, may voluntarily waive the provisions of 33.6.2.5.1., and provide a voluntary statement at any time.

33.6.2.6. Upon the request of the interrogated officer, a copy of any recording of the interrogation session must be made available to the interrogated officer no later than 72 hours, excluding holidays and weekends, following said interrogation.

33.6.3. Investigation Process - Civilian Employees:

33.6.3.1. The employee will be informed in writing of the nature of the investigation before any interrogation begins, and must be informed of the names of all complainants.

33.6.3.1.1. Employees shall obey the lawful orders of Internal Affairs Investigators or superior officers to answer questions related to the internal investigation.

33.6.3.1.2. Interrogations shall be conducted at a reasonable hour, preferably at a time when the employee is on duty, unless the seriousness of the investigation is of such a degree that immediate action is required.

33.6.3.1.3. Interrogating sessions shall be for reasonable periods and shall be timed to allow for such personal necessities and rest periods as are reasonably necessary.

33.6.3.1.4. The interrogation shall take place either at the office of the command of the investigating officer or at the office of another facility in which the incident allegedly occurred, as designated by the investigating officer or agency.

33.6.3.1.5. The employee under investigation shall be informed of the rank, name, and command of the officer in charge of the investigation, the interrogating officer, and all persons present during the interrogation. (CFA: 27.02)

33.6.3.1.6. All questions directed to the employee under investigation shall be asked by or through one interrogator during any one investigative interview, unless specifically waived by the employee under investigation.

33.6.3.1.7. The member conducting the interview must determine who will be interviewed and the sequence of those interviews.

33.6.3.1.8. The employee under interrogation may not be subjected to offensive language or be threatened with a transfer, dismissal, or disciplinary action. A promise or reward may not be made as an inducement to answer any questions.

33.6.3.1.9. At the request of any member under investigation, he or she has the right to be represented by counsel or any other representative of his or her choice, who shall be present at all times during the interrogation whenever the interrogation relates to the employee's continued fitness for service.

33.6.3.1.9.1. Counsel does not have the right to cross-examine or interrupt the interrogation other than to confer with the employee. If counsel requests, the interrogator may allow counsel to make a short statement at the conclusion of the interrogation.

33.6.4. Criminal Charges:

33.6.4.1. When investigations involve alleged criminal conduct, the Internal Affairs investigator will maintain close liaison with the State Attorney's Office for the purpose of obtaining any necessary legal advice and possible assistance in case preparation.

33.6.4.2. If during the course of an administrative interview/interrogation, the sworn officer or employee under investigation makes a self-incriminating statement regarding a criminal offense which might lead to disciplinary action, the following actions will be taken:

33.6.4.2.1. The investigator will cease all further questioning and the sworn officer or employee will immediately be notified that the interview/interrogation is being suspended.

33.6.4.2.1.1. The sworn officer or employee should be advised why the interview is being suspended and advised of possible further actions.

33.6.4.2.2. If the investigator has any further involvement with the sworn officer while the possibility of criminal or administrative action exists then he/she should follow the guidelines in this policy for accused sworn officers.

33.6.5. Investigative Requirements:

33.6.5.1. As part of an Internal Affairs investigation an employee may be required to:

33.6.5.1.1. Submit to a polygraph examination, per the employee's current collective bargaining agreement. (CFA: 27.04E)

33.6.5.1.2. Submit to a medical or laboratory examination. (CFA: 27.04A)

33.6.5.1.3. Submit to a Breathalyzer test.

33.6.5.1.4. Be photographed. (CFA: 27.04B)

33.6.5.1.5. Participate in a line-up. (CFA: 27.04C)

33.6.5.1.6. Submit financial disclosure statements. (CFA: 27.04D)

33.6.5.1.7. Submit to a psychological examination.

33.6.5.1.8. Provide a handwriting exemplar.

33.6.5.2. An employee may be required to submit to an examination when the examination is specifically directed and narrowly related to a particular internal affairs investigation being conducted. The requirement will not apply if in conflict with current applicable law. An example of the use of this process would be in the determination of drug use by an employee. (CFA: 27.04A, E)

33.6.5.3. Employees who are participants in an internal investigation, the subject of the investigation, the investigator conducting the investigation, or a witnesses in the investigation, are prohibited from willfully disclosing any information obtained pursuant to the agency's investigation, including, but not limited to the identity of the employee under investigation, the nature of the questions asked, information revealed, or documents furnished in connection with a confidential internal investigation, before such complaint document, action or proceeding becomes a public record.

33.6.6. Final Action:

33.6.6.1. When all the facts have been gathered, a complete report will be submitted to the Chief of Police with a synopsis of the event, statements, and any findings of fact for review.

33.6.6.1.1. When the Investigator assigned the responsibility of investigating the complaint prepares the investigative report or summary, regardless of form, the person preparing the report shall, at the time the report is completed, verify, pursuant to section 92.525, Florida Statutes, that the contents of the report are true and accurate based upon the person's personal knowledge, information, and belief.

33.6.6.1.2. The Investigator shall also include the following statement, sworn and subscribed to pursuant to section 92.525, Florida Statutes:

"I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in sections 112.532 and 112.533, Florida Statutes."

33.6.6.1.3. The requirements of sections 33.6.6.1.1. and 33.6.6.1.2, above, shall be completed prior to the determination as to whether to proceed with disciplinary action or to file disciplinary charges.

33.6.6.2. Disciplinary action, suspension, demotion, or dismissal may not be undertaken by the Department against any sworn officer for any act, omission, or other allegation of misconduct if

the investigation of the allegation is not completed and written notice of the department's intent to proceed with disciplinary action, along with a proposal of the specific disciplinary action sought, including the length of suspension, if applicable, is not provided to the sworn officer within 180 days after the date the Chief of Police receives notice of the allegation of misconduct, with the following exceptions:

33.6.6.2.1. The accused sworn officer provides a written waiver of this 180 day limitation period.

33.6.6.2.2. There is a pending criminal investigation or prosecution arising from the act, omission or other allegation of misconduct.

33.6.6.2.3. The accused sworn officer is incapacitated or otherwise unavailable.

33.6.6.2.4. There is a multi-jurisdictional investigation requiring an extension to facilitate coordination of the involved agencies.

33.6.6.2.5. The Governor of the State of Florida has declared a state of emergency within the jurisdictional boundaries of the City.

33.6.6.2.6. During the time that a sworn officer's compliance review hearing procedure is pending as a result of an intentional failure of the investigator to comply with the requirements of Chapter 112.532.

33.6.6.3. An investigation against a sworn officer may be reopened, notwithstanding the limitations period stated above for commencing disciplinary action, demotion, or dismissal, if:

33.6.6.3.1. Significant new evidence has been discovered that is likely to affect the outcome of the investigation.

33.6.6.3.2. The evidence could not have reasonably been discovered in the normal course of investigation.

33.6.6.3.3. The evidence resulted from the pre-disciplinary response of the officer, or,

33.6.6.3.4. When one or more of the exceptions that triggered the tolling as indicated above no longer exists.

33.6.6.4. Any disciplinary action resulting from an investigation that is reopened must be completed within 90 days after the date the investigation is reopened.

33.6.6.5. Based on all the information available, the Chief of Police will make a determination of fact and issue findings in one of the following categories:

33.6.6.5.1. Unfounded.

33.6.6.5.2. Not sustained.

33.6.6.5.3. Sustained.

33.6.6.5.4. Exonerated.

33.6.6.6. If the Chief of Police makes a determination that the allegation is sustained, the Chief will be the final arbiter in determining the level of discipline to be administered. The Chief of Police will advise the Internal Affairs Investigator of the finding and the level of discipline appropriate.

33.6.6.7. Written notification will be made to the affected member advising him/her of the conclusion(s) of fact and disposition. (CFA: 27.06)

33.6.6.8. Two (2) notices of the conclusion(s) of fact for the involved sworn officer will be prepared, which will include: the original for the sworn officer and a copy for the investigation file. (CFA: 27.06)

33.6.6.9. Upon conclusion of the investigation, the Internal Affairs investigator will prepare a letter to the complainant advising them of the conclusion of fact and the findings. (CFA: 27.06)

33.6.7. Security of Internal Affairs Files: (CFA: 11.05, 27.01F)

33.6.7.1. The Internal Affairs Unit will maintain records of all employee conduct complaints within a secured, locked room, separate from personnel records.

33.6.7.2. Personnel assigned to the Internal Affairs Unit and the Chief of Police are the only authorized person(s) to have access to the room.

33.6.7.3. Case files that are removed from the locked room will be replaced with an insert indicating the case number, the date it was removed, and the name of the person who removed the file.

33.6.8. Retention and Reporting:

33.6.8.1. Retention of Internal Affairs investigations will be kept in compliance with the current State of Florida records retention schedule.

33.6.8.2. Copies of employee misconduct complaints will not be released to any source without the prior approval of the Chief of Police unless otherwise provided by the public records law of the State of Florida, or pursuant to a court order or subpoena.

33.6.8.3. Public records requests will be processed through the Public Information Officer(s) and the Internal Affairs Unit.

33.6.8.4. Annually, the IA investigator will send a report to the Chief of Police containing a brief summary of all investigations conducted during the year. The cover sheet will note any possible emerging trends of misconduct.

33.6.8.5. The IA investigator will compile an annual statistical summary based upon records of internal affairs investigations.

33.6.9. Compliance Review Procedure:

33.6.9.1. If during an investigation of any sworn officer, an Internal Affairs Investigator intentionally fails to comply with the requirements of the Law Enforcement Officer's Rights as provided in section 112.531, et seq, of Florida Statutes, the following procedures apply:

33.6.9.1.1 The sworn officer shall advise the investigator, via department memorandum, of the intentional violation of the requirements of the Law Enforcement Officer's Rights as provided in section 112.531, et seq, of Florida Statutes, which is alleged to have occurred. The sworn officer's notice of violation is sufficient to notify the investigator of the requirements of that statute, which are alleged to have been violated and the factual basis of each violation.

33.6.9.1.2. If the investigator fails to cure the violation or continues the violation after being notified by the sworn officer, the sworn officer shall request the Police Chief or his designee be informed of the alleged intentional violation. Once this request is made, the interview of the sworn officer shall cease, and the sworn officer's refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.

33.6.9.1.3. Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the Police Chief or designee, which must contain sufficient information to identify the requirements of section 112.531, et seq, of Florida Statutes, which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.

33.6.9.1.4. Unless otherwise remedied by the Department before the hearing, a compliance review hearing must be conducted within ten (10) City working days (Monday through Friday, excluding weekends and Holidays) after the request for a compliance review hearing is filed, unless, by mutual agreement of the sworn officer and Department or for extraordinary reasons, an alternate date is chosen. The panel shall review the circumstances and facts surrounding the alleged intentional violation. The compliance review panel shall be made up of three members: one member selected by the agency head, one member selected by the sworn officer filing the request, and a third member to be selected by the other two members. The review panel members shall be active sworn law enforcement officers. Panel members may be selected from any state, county, or municipal agency within Broward County.

33.6.9.1.5. It is the responsibility of the compliance review panel to determine whether or not the investigator or the Department intentionally violated the requirements of the Law Enforcement

Officers Rights provided in section 112.531, et seq. of Florida Statutes. The panel may hear evidence, review relevant documents, and hear argument before making such a determination; however, all evidence received shall be strictly limited to the allegation under consideration and may not be related to the disciplinary charges pending against the sworn officer. The investigative materials are considered confidential for purposes of the compliance review hearing and determination.

33.6.9.1.6. The sworn officer bears the burden of proof to establish that the violation of this part was intentional. The standard of proof for such a determination is by a preponderance of the evidence. The determination of the panel must be made at the conclusion of the hearing, in writing, and filed with the Police Chief and the sworn officer.

33.6.9.1.7. If the alleged violation is sustained as intentional by the compliance review panel, the Police Chief shall immediately remove the investigator from any further involvement with the investigation of the sworn officer. Additionally, the Police Chief shall direct an investigation be initiated against the investigator determined to have intentionally violated the requirements provided under the Law Enforcement Officers Rights provided in section 112.531, et seq., of Florida Statutes, for purposes of agency disciplinary action. If that investigation is sustained, the sustained allegations against the investigator shall be forwarded to the Criminal Justice Standards and Training Commission for review as an act of official misconduct or misuse of position.