

COOLIDGE POLICE DEPARTMENT		
	CHAPTER 52 PROFESSIONAL STANDARDS CALEA Standard(s):	General Orders
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52.1 INVESTIGATION OF COMPLAINTS OF EMPLOYEE MISCONDUCT

A. The Department is committed to maintaining a positive relationship with the community and to correcting any actions, practices, or behavior on the part of Department employees that are not professionally acceptable. To ensure that such investigations (“administrative investigations”) are conducted in a fair manner, and conducive to good order and discipline, the following procedures are established.

B. Critical to this effort is the Professional Standards function. The sensitivity and impact of these investigations requires that the commander of this function Support or Field Services Commanders have the authority to report directly to the Chief.

C. When receiving or investigating a complaint, whether against a sworn employee or professional staff, the agency shall follow all statutory requirements, personnel rules and regulations, and employee agreements.

D. Note that critical incidents, including any officer involved shooting, in-custody death, or other incident where the actions of a department employee result in death or serious injury, are not to be handled under this General Order, but rather under the procedure set forth in [46.1](#).

52.1.1 Receipt and Assignment of Complaints

A. The Department will accept all written and/or verbal complaints of employee misconduct, whether from an internal or external source including anonymous and third party complaints.

B. An employee who initiates, receives, or is notified of a complaint or allegation of employee misconduct shall immediately refer the matter to a supervisor. An employee who receives or refers a complaint shall not discuss the complaint or allegations with anyone other than the supervisor to whom the complaint is referred, an internal investigator, or with the employee’s chain of command.

C. The supervisor who receives the complaint must evaluate the complaint or allegation of misconduct and determine whether the complaint involves serious misconduct or misconduct. Regardless who investigates the complaint, the supervisor shall contact Professional Standards, who shall document receipt of the complaint.

1. Serious Misconduct- All complaints involving misconduct that by its very nature would result in suspension, demotion, or termination if the misconduct is proven (for example, excessive force, falsification of departmental forms or reports, corruption and discrimination and harassment) shall be referred by the supervisor to Professional Standards for investigation.
2. Misconduct- All other complaints (misconduct that would not normally result in suspension, demotion, or termination, such as failure to perform duties or maintain equipment, unsafe performance, failure to report for duty or training, minor errors or omissions in the field, procedural errors, or work deficiencies, etc.) shall be investigated by the supervisor.

D. The supervisor shall verbally report the receipt of a complaint to the supervisor's Commander who must concur with the assignment of the complaint prior to the initiation of the investigation. In cases requiring an immediate call-out of Professional Standards personnel to begin an investigation, the supervisor shall receive approval from the supervisor's Commander prior to call-out. In all other cases, the supervisor shall review the incident within 24 hours to confirm responsibility for investigation of the complaint.

E. When the allegation involves serious misconduct, the chain of command shall make a recommendation whether the involved employee should be placed on administrative leave or reassigned pending completion of the investigation. The Chief, or if unavailable the Chief's designee, shall make the determination.

F. Supervisors are cautioned not to interview a sworn employee concerning a complaint or allegation of misconduct that either the employer or the sworn employee reasonably believes could result in dismissal, demotion or suspension without complying with A.R.S. §38-1104 or an agreement replacing these provisions pursuant to A.R.S. §38-1102. A supervisor may discuss a complaint with an employee without a representative or notice of investigation pursuant to A.R.S. §38-1104 when:

1. done in the normal course of duty, counseling or instruction or an informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or other law enforcement officer.
2. doing preliminary questioning to determine the scope of the allegations or if an investigation is necessary
3. the questioning is conducted in the course of a criminal investigation or polygraph examination

52.1.2 Complaints assigned to Professional Standards

When appropriate, the commander may recommend to the Chief that a complaint be handled by an outside agency. If the Chief determines that an outside agency will handle the investigation, the Chief or Chief's designee will contact the selected outside agency and coordinate the transfer of the investigation to that agency.

A. Professional Standards complaint which is not assigned to an outside agency for investigation will be assigned to an IA investigator, who will complete the investigation.

52.1.3 Complaints investigated by the supervisor

All complaints which are not assigned to an outside agency or to Professional Standards shall be investigated by the affected employee's supervisor unless otherwise assigned.

52.1.4 Sequence of Criminal and Administrative Investigations

A. When an incident results in both criminal and administrative investigation, it is important that all involved investigators be fully aware of the legal requirements regarding the need to establish and maintain separation between the administrative investigation and the criminal investigation. To avoid these complications, criminal and administrative investigations will generally be done in sequence, with the interviews of witnesses and involved employees in the criminal investigation being completed prior to the initiation of the administrative investigation.

B. In situations involving locations or scenes where evidence may be observed or collected, it may be appropriate for both criminal and administrative

investigators to be present at the scene. Criminal investigators are in charge of the scene and shall direct all of the collection of evidence and documentation of the scene. Administrative investigators may observe the work of criminal investigators.

C. Administrative investigators may be present during a criminal interview, but shall not ask any questions during the interview. If the officer declines to speak with the criminal investigators, or after the criminal investigators indicate that they are done interviewing the involved officers and will not need to conduct further interviews, those officers may be questioned (outside of the presence of the criminal investigators) by the administrative investigators.

D. Following the administrative interviews, if any, administrative investigators may become aware of additional evidence. If the criminal investigator(s) do not collect this evidence, the collection shall be done by the administrative investigators once the criminal investigators have left the scene.

E. Administrative investigators shall not accompany criminal investigators during a crime scene walk-through with an officer who was directly involved in an incident that is being investigated for possible criminal activity.

52.1.5 Criminal Investigations

Generally, criminal investigations will be completed by an assigned criminal investigator and will follow the ordinary investigative path for the investigation of crimes not committed by a Department employee. Department employees have the same rights, in a criminal investigation, as non-Department employees. The employee may agree to an interview or may decline to speak with an investigator. *Miranda* rights need not be read to an employee unless the employee is in custody and is to be interrogated.

52.1.6 Administrative Investigations

A. The person assigned to complete the investigation will conduct a thorough investigation, when possible making contact with the reporting party first to gather all pertinent information. All witnesses and any other parties will be contacted and interviewed, if available. Investigators shall comply with the requirements of Arizona law (see below) when contacting and interviewing Department employees.

B. Upon completion of the investigation, the investigator shall make findings and shall recommend discipline, based on the seriousness of the incident and the employee's disciplinary history, and in accordance with City and Department disciplinary policy. The investigator shall complete the Department Investigation

Form on all complaints. The completed investigation will be sent to the Chief of Police through the chain of command for review and final determination of discipline.

52.1.7 Administrative Interviews with Department Personnel

A. When so ordered by the Police Chief or the Chief's designee, employees shall submit to an interview during any administrative investigation into alleged misconduct. All employees are required to fully and truthfully participate in, and cooperate with, any administrative investigation to which they are a party, witness, or may have useful information. Employees shall provide all complete and truthful relevant information, whether specifically requested or not. Any and all acts of intentional untruthfulness and/or purposeful omission of relevant information shall result in discipline. Employees shall comply with all directions given by the investigator. All administrative investigations are confidential.

B. The interview of any department employee shall be conducted when the employee is on duty, unless the urgency of the investigation dictates otherwise. If the interview occurs when the employee is off-duty, the employee shall be compensated for this time in accordance with regular department procedures. The interview will not be conducted at the employee's home without authorization of the Police Chief.

C. The interview session shall be for a reasonable duration. The investigating officer will allow for reasonable interruptions of the interview to allow the employee to attend to personal or physical necessities, including telephonic or in person consultation with a representative, attorney, or other person.

D. During the course of the interview, the scope of the questions presented to the employee shall be limited to the specific allegations of misconduct. All interviews will be conducted in a professional manner. No threats or intimidation will be used or tolerated. The employee being interviewed will not be subjected to any offensive or abusive language.

E. The interview shall be recorded by the Department. A copy will be provided to the employee upon request.

F. The employee, at the conclusion of the interview, is entitled to a period of time to consult with the employee's representative, if any, and may make a statement not to exceed five minutes addressing specific facts or policies that are related to the interview.

G. An employee shall not discuss the investigation, including the employee's interview, with any unauthorized person. Other than the investigators, the only persons an employee may speak with concerning this investigation are the employee's attorney, minister, representative, or spouse.

52.1.7.1 Completion of a Notice of Investigation (NOI)

A. Prior to the interview, the investigator shall complete a written NOI. The notice shall include:

1. the alleged facts that are the basis of the investigation,
2. the specific nature of the investigation,
3. the officer's status in the investigation,
4. all known allegations of misconduct that are the reason for the interview,
5. the officer's right to have a representative present at the interview,
6. copies of all complaints that contain the alleged facts that are reasonably available (except for copies of complaints that involve matters pursuant to federal laws under the jurisdiction of the Equal Employment Opportunity Commission),
7. an explanation of the employee's rights under *Garrity*,
8. the date, time, and location of the allegations, if known.

B. Investigators are required to give the employee specific notice of the allegations of misconduct that are being investigated. General, catch-all statements included in the NOI will not meet the requirements of Arizona law; investigators should be as specific as the allegations allow.

C. The NOI need not disclose any fact to the employee that would impede the investigation.

52.1.7.2 Service of a Notice of Investigation

A. The completed notice of investigation (NOI) will be given to the employee prior to any interview in an administrative investigation.

B. The investigator shall go over the form with the employee paragraph by paragraph. Both the investigator and the employee will review the form, sign it, and be provided a copy of the form prior to the interview. If the employee refuses to sign the document, the interviewer should note on the form that

signature was refused and that the document was served, serve the document and proceed with the interview.

C. The interview will not be stopped to issue another notice of investigation for allegations based on information provided by the employee during the interview.

52.1.7.3 Employee representative

A. The employee may request to have a representative present during the interview at no cost to the Department. The representative must be available on reasonable notice so that the interview is not unreasonably delayed. The representative shall participate in the interview only as an observer. The representative shall be from the Department and shall not be an attorney.

B. The Department shall not discipline, retaliate against or threaten to retaliate against an employee for requesting a representative for acting as a representative.

52.1.8 Use of Polygraphs

The Department may require the employee to submit to a polygraph examination if the employee makes a statement during the investigation that differs from other information relating to the investigation that is known to the Department and reconciling that difference is necessary to complete the investigation. The complete polygraph procedure shall be audio recorded and a copy of the recording shall be provided to the employee.

52.1.9 Gathering of Evidence

During an administrative investigation, if related to the investigation, an employee may be required to:

- Submit to being photographed or to participate in a line-up.
- When reasonable suspicion exists, submit to a test for alcohol or drug use while on duty.
- Complete financial disclosure statements or provide financial records.
- Provide records related to the use for business purposes of any personally owned electronic equipment, or provide the equipment itself for examination (including cell phones and computers).

52.1.10 Duration of Investigations

A. Once a supervisor who is authorized to initiate an investigation of employee misconduct receives notice of an allegation of employee misconduct, the Department shall make a good faith effort to complete any investigation of the misconduct within one hundred eight (180) calendar days. The investigation is considered complete, for purposes of the 180 calendar day limit, on the date the employee is served with a notice of discipline or the notice of findings of the investigation. If the Department determines that disciplinary action is appropriate, the Department shall give specific notice of any proposed discipline, including the length of suspension, if any, within the same time frame.

B. No investigation may continue beyond 180 calendar days without the written permission of the Chief. Any investigation continuing beyond 180 calendar days requires written explanation of the delay to the employee. The 180-day limit:

1. is suspended during the time that any criminal investigation or prosecution is pending in connection with the act, omission or other allegation of misconduct.
2. is suspended during the period of time in which an officer who is involved in the investigation is incapacitated or otherwise unavailable.
3. may be suspended for a period prescribed in a written waiver of limitation by the officer.
4. may be suspended for emergencies or natural disasters during the time period in which the governor has declared a state of emergency with the jurisdictional boundaries of the Department.
5. in a multijurisdictional investigation, may be extended for a period of time reasonably necessary to facilitate the coordination of the involved Departments.

52.1.11 Completion of the investigation; Final Report

Upon completion of the investigation, the investigator and investigator's supervisor will sign off on the written investigative report.

52.1.12 Dispositions

Each allegation shall be resolved with one of the following dispositions:

EXONERATED - The incident occurred, but the conduct was lawful and within policy.

UNFOUNDED – It is found that the reported misconduct did not occur or did not occur as alleged.

NOT SUSTAINED – There is insufficient evidence to either prove or disprove the allegation.

SUSTAINED – The allegation is supported by sufficient evidence to justify a reasonable conclusion that the alleged misconduct occurred.

COMMENDATION – The reported misconduct did not occur and the employee's conduct was found to be exemplary.

52.1.13 Review

A. Investigations where the recommended action is less than that of a suspension, demotion or termination will be reviewed by the chain of command through the commander, who shall make the final decision and approve the counseling, retraining, or reprimand.

B. Investigations where the recommended action is a suspension, demotion, termination or commendation will be reviewed by the chain of command through the Police Chief, who shall make the final decision.

C. At the conclusion of the review, the employee shall be provided with a copy of the final investigative report, with the proposed personnel action (if any) attached. If the disciplined employee is sworn, the Department shall also provide either a basic summary or copies of the disciplinary case files for any discipline ordered against any other Department officer of generally similar rank and experience within the previous two years for the same or a similar violation.

D. In addition, the investigator shall provide for the Chief of Police's signature a Complaint Response Letter, explaining the results of the investigation to the original complaining party. Specific disciplinary action is generally not disclosed in the Complaint Response Letter.

52.1.14 Professional Standards File Maintenance and Security

A. Professional standards shall prepare an analysis of complaints annually. This analysis shall include any patterns or trends that could indicate training needs and/or recommended policy modifications.

B. All administrative investigations files will be segregated from all other department files and maintained in a locked file cabinet located in the office of the Administrative Assistant. If the files are maintained electronically, they shall be kept in a manner that is secure.

C. All files will be maintained as required in the established records retention and destruction schedules.

52.1.15 Release of Reports

A. Generally, administrative investigations files are considered confidential, and access is limited to the following:

4. the Police Chief,
5. Professional Standards and other personnel assigned to complete an internal investigation may have limited access when necessary, as determined by the Chief of Police
6. the accused employee and/or the employee's legal counsel shall be provided a copy of the file upon written request and in compliance with A.R.S. §38-1101,
7. other law enforcement agencies completing background investigations,
8. AZPOST as required to perform its statutory duties, and
9. a prosecutor in compliance with *Brady v. Maryland*.

B. In addition, administrative investigations files are, like all other files of the Department, official Department records. As such, they may in certain circumstances be subject to release in response to public records requests, subpoenas, and court orders. All persons or agencies, other than those listed above, requesting copies of administrative investigations reports shall be advised that a written request or subpoena must be provided prior to the reproduction of such files.

The City Attorney shall be consulted with regard to requests from outside entities for copies of these records and reports.

C. A.R.S. §38-1101 prohibits the release of investigative files until the investigation is complete or it has been discontinued by the Department. If the employee appeals a disciplinary action, the investigation is not complete until the conclusion of the appeal process.

D. Information will not be released when it is not subject to release under the Arizona Public Records Act. The release of records, and their redaction prior to release, is fully discussed in [G.O. 82.3](#).

E. Whenever copies are made of an Internal Investigations file, the date the file was copied and the name and contact information of the individual to whom the copy was provided shall be entered into the file. Whenever an internal investigation file is redacted and released, the redacted copy and any notes related to the redaction shall be maintained in the original internal investigation file.

52.1.16 Professional Standards file

This file shall contain a completed Professional Standards investigation, including a record of the complaint investigated, witnesses identified and interviewed, and evidence gathered. If completed, the investigation shall conclude the final report and recommendation from the investigator as well as the chain of command review and the final action taken regarding the complaint.

52.2 BRADY/AZ RULES OF CRIMINAL PROCEDURE, RULE 15.1

A. Police Departments have a legal requirement to provide to prosecution offices, on any case presented for prosecution, all evidence favorable to the defense (*Brady* material). This includes both material exculpatory evidence as well as information that could be used to impeach government witnesses, including police employees. Any material in an employee's files that reflects upon the employee's reputation for truthfulness or bias, or which reflects crimes committed by the officer, must be disclosed to the prosecutor's office.

B. All prosecution offices (United States Attorney's Office, Arizona Attorney General's Office, County Attorney's Office, or City Prosecutor's Office) shall be provided with the *Brady* material contained in the files of any police employee, as noted below. If feasible, an officer should be advised when *Brady* material is being provided to a prosecution agency.

1. U.S. Attorney's Office – the U.S. Attorney's Office will contact the Department if they are in need of *Brady* material on a particular employee/witness. If the prosecutor requests an opportunity to review the employee/witness files, the prosecutor shall be permitted to do so.

2. Arizona Attorney General's Office – The Attorney General's Office shall be provided, upon request regarding a specific employee/witness, with the final report of any administrative investigation or other personnel action that contains a finding that an employee was untruthful, expressed bias, or committed a criminal act. If the Attorney General's Office requests the entire file on the incident, it shall be provided.

3. County Attorney's Office and City Prosecutor's Office – these offices shall be routinely provided with the final report of any administrative investigation or other personnel action that contains a finding that an officer was untruthful, expressed bias, or committed a criminal act. If either office requests the entire file on the incident, it shall be provided.

C. Each prosecution office is charged with deciding whether the *Brady* information released to them will be made available to the defense in a specific case, or whether it will be presented to the court for a determination of whether it will be released to the defense.