

 ORIGINAL

**TOWN OF ST. JOHN, LAKE COUNTY, INDIANA
BOARD OF METROPOLITAN COMMISSIONERS
RESOLUTION NO.: 171**

**A RESOLUTION ESTABLISHING AND APPROVING A POLICY FOR
INTERNAL INVESTIGATIONS, AND ALL MATTERS RELATED
THERE TO**

WHEREAS, the Board of Metropolitan Police Commissioners of the Town of St. John, Lake County, Indiana, has reviewed the current policies and general orders of the Town Metropolitan Police Department regarding Internal Investigations; and

WHEREAS, the Board of Metropolitan Police Commissioners of the Town has determined, after its review of the policies and general orders of the Town of St. John Metropolitan Police Department regarding Internal Investigations that the establishment of a current general order regarding the same will more fully promote the health, safety, comfort, and general well-being of the citizens of St. John; and

WHEREAS, the Board of Metropolitan Police Commissioners of the Town of St. John, Lake County, Indiana, has determined that the establishment and approval of a clear, current and concise general order for Internal Investigations will promote high quality services rendered to the residents of the Town of St. John by the Police Department, as well as enhance cooperative relationships between the Town of St. John Metropolitan Police Department and the Town residents.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF
METROPOLITAN POLICE COMMISSIONERS OF THE TOWN OF ST. JOHN, LAKE
COUNTY, INDIANA:**

SECTION ONE: That General Order for Internal Investigations known as General Order No. 2.04 - 2.10 attached hereto, incorporated herein, and referenced as Exhibit "A", is hereby established as the Standard Operating Procedure for Internal Investigations for the St. John Metropolitan Police Department.

SECTION TWO: That General Order No. 2.04 - 2.10 for Internal Investigations be published to the Officers of the St. John Metropolitan Police Department, with acknowledgment of the same by said Officers to be made, and with the general order to be posted as deemed appropriate by the Chief of Police.

SECTION THREE: That General Order No. 2.04 - 2.10 established herein replaces and supersedes all other Police Department Standard Operating Policies, Procedures and General Orders related to Police Department Internal Investigations as same are repealed and rescinded hereby.

ALL OF WHICH IS PASSED AND RESOLVED THIS 27th DAY OF AUGUST, 2018, BY THE BOARD OF METROPOLITAN POLICE COMMISSIONERS OF THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA.

TOWN OF ST. JOHN, LAKE COUNTY,
INDIANA, BOARD OF METROPOLITAN
POLICE COMMISSIONERS:



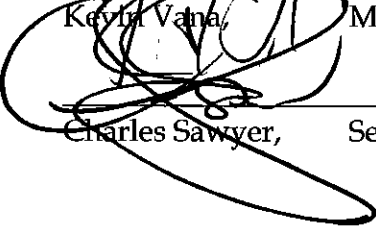
Rose Heil, Chairperson

Paul Haluska, Vice-Chairperson

Robert Long, Member



Keylin Vana, Member



Charles Sawyer, Secretary

ATTEST:

Recording Secretary



General Order 2.04-2.10

Internal Investigations



ORIGINAL

Revised / Amended 08/27/2018 Effective 08/27/2018

I. PURPOSE

A. The purpose of this General Order is to establish policy, procedures and guidelines relating to internal investigations and to establish responsibilities for those officers charged with internal investigations.

II. POLICY

A. It is the policy of the St. John Metropolitan Police Department to have an internal investigation process to record, register, and control all complaints and investigations of alleged or suspected misconduct within the Department. The Internal Investigations process will deal with those allegations made by employees and/or citizens against employees of the St. John Metropolitan Police Department. Citizen requests for complaint forms must be honored without unnecessary delays or referrals (ILEAC 2.04).

III. DEFINITIONS

- A. Clear and Convincing Proof: Standard of evidence that must be reached in order to sustain an allegation and which shows that the allegation(s) is highly probable based solely on the facts determined during an investigation or a preponderance of the evidence.
- B. Complaint: An allegation of misconduct or violation of procedure made against an employee of the St. John Metropolitan Police Department and may be made anonymously for those citizens or employees who wish to have their identity withheld.
- C. Exonerated: Clear and convincing proof was developed to disprove that the alleged act occurred or the investigation revealed that the act was justified, lawful, and proper.
- D. Misconduct: Wrongful actions or omissions by an employee that results, intentionally or unintentionally, from erroneous judgment or a disregard for established policies and procedures.
- E. Sustained: Based on the clear and convincing proof the investigation provided sufficient evidence to prove the allegation made in the complaint.

- F. Unsubstantiated: Based on the standard of clear and convincing proof, it could not be proven that the alleged act did or did not occur or the complainant has provided a written request to withdraw the original complaint.

IV. PROCEDURE

- A. All complaints against the Department or its employees will be investigated. Based upon the nature and seriousness of a complaint, all allegations of employee misconduct are classified either as an "informal investigation" or as a "formal investigation" by the Chief of Police.
 - 1. Categories of Internal Affairs Investigations:
 - a. Informal Investigation: the appropriate supervisor may informally investigate Complaints of a lesser nature. An informal investigation is conducted on minor allegations of misconduct not usually violations of law, but are infractions of rules, regulations or procedure. Discipline, if warranted, may involve counseling, verbal or written reprimand, or a recommendation, in writing, to the Chief of Police for suspension without pay.
 - 1. An informal investigation may lead to a conclusion by the Supervisor or may lead to a formal investigation.
 - 2. The Supervisor may request that a formal investigation be conducted without first conducting an informal investigation.
 - 3. A Supervisor's investigation may be stopped at any time by the Chief or Deputy Chief and full investigative authority assumed by the Deputy Chief at the direction of the Chief.
 - b. Formal Investigation: A formal investigation is conducted on serious allegations of misconduct, unlawful acts, or issues of a highly confidential or sensitive nature and shall include:
 - 1. Allegations of criminal conduct.
 - 2. Allegations of corruption.
 - 3. Allegations of brutality.
 - 4. Allegations of misuse of force.
 - 5. Allegations of civil rights violations.
 - 6. Allegations of serious or repeated breach of General Orders or Directives.
 - 7. Any other allegations deemed necessary by the Chief of Police or Deputy Chief of Police.

V. ALLOWED CONDUCT

- A. The Deputy Chief shall serve as the Department's Internal Affairs Investigator. The Deputy Chief has the necessary authority to personally investigate or delegate such investigation, internally or externally, as he or she deems appropriate and in the best interests of the Department.
- B. Internal Affairs Investigator's Duties: It shall be the responsibility of any Internal Affairs Investigator to initiate and complete investigative action on complaints and

misconduct against the Department, or any of its employees, including allegations of violations of General Orders or Directives of the Department.

C. Intake of Complaints:

1. Complaints will be accepted from any source, citizens, employees, or other sources, whether in person, by mail, electronic submittal, or by telephone. Each complainant will be informed of laws regarding filing a falsified report.
2. Anonymous complaints shall be accepted. 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 unsubstantiated.
3. All complaints should be referred to the Supervisor on duty. If there is no Supervisor on duty, the officer in charge of the shift will assist in taking the complaint. The complainant may complete and sign a Police/Citizen Complaint Form. Once the form is completed, the Supervisor or Officer in Charge will sign the form as acknowledgement of receipt and then provide a copy of the complaint form to the complainant. The complaint form will then be sealed in an envelope and marked "Personal and Confidential." If complaint is received by a non-supervisor, the envelope will be given to a supervisor as soon as one is available.
 - a. If the complaint is made against a supervisor, the sealed complaint will be given directly to the Deputy Chief.
 - b. If the complaint is serious in nature and requires immediate attention, the Deputy Chief shall be immediately contacted. The Deputy Chief will then forward the complaint to the Chief of Police.
4. Upon receipt of the complaint, the Supervisor will review the complaint and determine if the complaint warrants an informal or formal investigation (ILEAC 2.06).
5. After making a determination of the type of investigation, the Supervisor shall forward a copy of the complaint to the Chief of Police, who will log the complaint and issue an Internal Investigation case number. The log of complaints will include the name of the complainant and employee, date, offense, investigating officer, Internal Investigation case number and disposition. The log will be maintained indefinitely (LEAC 2.07).
6. Complaints Against the Chief of Police, Assistant Chief or Deputy Chief
 - a. In the event a complaint is made against the Chief of Police, Assistant Chief of Police or Deputy Chief of Police, such complaint shall be forwarded to the Chairperson of the Town of St. John Board of Metropolitan Police Commissioners for dissemination to the full Board. The Board may, at its sole discretion seek advice and direction from legal counsel.
 - b. Whenever the Chief of Police, Assistant Chief of Police or Deputy Chief of Police becomes the subject of a formal complaint and or investigation, the

Chairperson of the Board of Metropolitan Police Commissioners shall make written notification to the employee of the allegations and the employee's right and responsibilities relative to an investigation. The employee shall also receive a copy of the complaint, unless it would interfere with the investigation.

- c. An outside entity or person, not employed by the St. John Metropolitan Police Department or the Town of St. John, and not otherwise subordinate or responsible to or under the authority of the Chief of Police, shall be appointed by the Board of Metropolitan Police Commissioners for the purpose of conducting an independent investigation of such complaint.
- d. Upon conclusion of the investigation of a complaint made against the Chief of Police, the final report shall be delivered to the Town of St. John, Board of Metropolitan Police Commissioners through its Chairperson, for consideration.
- e. Upon conclusion of an investigation of a complaint made against the Assistant Chief of Police or Deputy Chief of Police, the final report shall be delivered to the Chief of Police for consideration.
- f. The Chief of Police, Assistant Chief of Police or Deputy Chief of Police shall not participate in or interfere in any way with an independent investigation of a complaint made against the Chief of Police, Assistant Chief of Police or Deputy Chief of Police and shall cooperate fully and truthfully when called upon.

D. Conducting Informal Investigations:

1. Whenever an employee becomes the subject of an informal investigation, the employee's Supervisor will notify the employee of the allegations and the employee's rights and responsibilities relative to the investigation. The employee shall also receive a copy of the complaint, unless it would interfere with the internal investigation.
2. To decrease the duration of the investigation, an Informal Investigation shall be a high priority until resolved. Investigations shall be completed as soon as possible and should not exceed fourteen (14) days. The Chief or Deputy Chief may extend an investigation as circumstances dictate (ILEAC 2.05).
3. Upon completion of their investigation, the Supervisor who completed the investigation will document and forward to the Chief of Police all reports, memoranda, and verbal statements, along with the results of the investigation. The Supervisor shall also include a recommendation of discipline, commendation, or other findings as appropriate. All records of the investigation (reports, memoranda, and verbal statements), will be kept in a secured (locked) drawer or cabinet during the investigation until forwarded to the Chief of Police.

4. Upon request, the employee affected shall be allowed to view all reports related to a disciplinary action.
5. After the investigation is completed, the Supervisor conducting the inquiry or informal investigation shall make every attempt to explain to the complainant why a particular policy, procedure, or tactic is sanctioned by the Department. This explanation shall be documented.
 - a. If a complainant does not accept the explanation of the authorized behavior, they will be given the opportunity to submit their disagreement in writing, which will be forwarded to the Chief of Police. The Chief of Police shall review the investigation and draft a letter to the complaining party.

E. Conducting Formal Investigations:

1. Whenever an employee becomes the subject of a formal complaint and/or investigation, the Chief of Police or Deputy Chief shall issue a written statement notifying the employee of the allegations and the employee's rights and responsibilities relative to the investigation. The employee shall also receive a copy of the complaint, unless it would interfere with the internal investigation. The employee's supervisor shall also be notified by letter.
2. To decrease duration of the investigation, Formal Investigations shall be a high priority until resolved. Formal Investigations shall be completed as soon as possible, and should not exceed thirty (30) days. In cases where extenuating circumstances exist, the time limit for the conclusion of the investigation may be extended by the Chief of Police. The reason for the extenuating circumstance shall be documented in the file.
3. Employees under investigation shall not have contact with the complainant(s) or witnesses involved in the investigation while the investigation is ongoing.
4. The Deputy Chief or their designee will conduct a thorough, complete, and impartial investigation. This investigation may include the taking of formal signed statements, gathering and preserving of physical evidence, and any other information relevant to the investigation. Both employee interviews and interviews with complainants shall be recorded (audio and/or video) whenever possible. Whenever an employee is questioned about matters, which may or may not result in a criminal prosecution against him/her, he/she shall be given "Miranda" or "Garrity" warning, whichever is applicable.
5. If an employee is suspected of committing a criminal act, two separate investigations shall be conducted. One investigation shall be for administrative purposes only and the other shall be for the potential filing of criminal charges. Any criminal investigation will be at the direction of the Chief of Police. Upon completion of the criminal investigation, the criminal case will be presented to the Lake County Prosecutor's Office for review.

6. The Chief of Police or designee has the authority to immediately relieve any subordinate employee from duty with pay. Temporary relief from duty may be necessary due to an employee's violation of policy, law, or question of physical or psychological fitness for duty.
7. The Chief of Police may, in writing, order an employee under a formal investigation to submit to the following:
 - a. The Chief of Police may order instruments utilized in the detection of deception during formal investigations. Use of these instruments shall comply with state and federal law.
 - b. Medical or laboratory examinations may be required when probable cause exists to believe criminal activity or violations of rules and regulations have occurred. Legal counsel retained by employees may be present during the examinations.
 - c. Photographs: Officers may be photographed when probable cause exists to believe a crime has been committed or a violation of rules or regulations has occurred, and that officer identification is in question. The Chief of Police or Deputy Chief will direct whom and under what circumstances officers will be photographed.
 - d. Financial disclosure statements: The decision to require officers to submit financial disclosure statements will be made by the Chief of Police. These requests will be based on probable cause to believe a criminal violation exists and/or a violation of Department rules and regulations has been committed.
 - e. Participation in a line-up.
8. When the investigation is completed, a copy of all reports will be forwarded to the Chief of Police as soon as possible. The Chief of Police may confer with other Command Staff as to their recommendations as to the findings. All records of the investigation will be kept in a secured (locked) drawer or cabinet during the investigation until forwarded to the Chief of Police.

F. Concluding Informal and Formal Investigations:

1. The Chief of Police will determine the following findings upon the conclusion of the informal or formal investigation:
 - a. Unsubstantiated: Based on the standard of clear and convincing proof, it could not be proven that the alleged act did or did not occur or the complainant has provided a written request to withdraw the original complaint.
 - b. Sustained: Based on the clear and convincing proof the investigation provided sufficient evidence to prove the allegation made in the complaint.
 - c. Exonerated: Clear and convincing proof was developed to disprove that the alleged act occurred or the investigation revealed that the act was justified, lawful, and proper.

2. Specific action(s) are available for consideration at the conclusion of an investigation and are listed here:
 - a. None, no action to be taken.
 - b. Commendation.
 - c. Remedial training.
 - d. Verbal counseling.
 - e. Verbal or written reprimand.
 - f. Suspension from duty without pay.
 - g. Demotion.
 - h. Transfer.
 - i. Resignation.
 - j. Termination.
3. A meeting consisting of the involved employee, their immediate supervisor, and the Chief of Police will be held within five (5) working days of the completion of a case in order to explain the findings to the employee.
4. Upon request, the employee affected shall be allowed to view all reports related to a disciplinary action unless a pending criminal investigation would be jeopardized.
5. After completion of the informal or formal investigation, all records pertaining to the investigation shall be stored in the employee's personnel file. The personnel files shall be maintained by the Chief of Police, and stored in a locked cabinet when not in use. In order to maintain confidentiality of the files, access to the files within the Department will be restricted. Only persons with a need to know the content of the files will be allowed to examine internal investigation documents.

G. Appeals Procedure (ILEAC 2.08) :

1. Upon notification of the recommended disciplinary action the accused may:
 - a. Accept the disciplinary action as recommended.
 - b. Appeal a written reprimand to the Board of Metropolitan Police Commissioners. The Chief of Police may, without a hearing, reprimand a sworn Officer of the Department. A sworn Officer who is reprimanded in writing may, within forty-eight (48) hours after receiving notice of the reprimand, request in writing that the Board of Metropolitan Police Commissioners review the reprimand and either uphold or reverse the Chief's decision I.C.36-8-3-4.1(b).
 - c. Appeal a suspension without pay for a maximum of five (5) days (based on an eight (8) hour workday for a total of forty (40) hours), to the Board of Metropolitan Police Commissioners. The Chief of Police of the Department may, without a hearing, suspend without pay a sworn Officer, for a maximum of five (5) working days (based on an eight (8) hour workday or a total of forty (40) hours). A sworn Officer who is suspended may, within

forty-eight (48) hours after receiving notice of the suspension, request in writing that the Board of Metropolitan Police Commissioners review the suspension and either uphold or reverse the Chief's decision I.C. 36-8-3-4 (b).

- d. Appeal a suspension without pay of more than five (5) days to the Board of Metropolitan Police Commissioners. A sworn Officer may appeal a suspension of more than five (5) days by the Chief of Police to the Board of Metropolitan Police Commissioners. The appeal must be filed with the Board of Metropolitan Police Commissioners not more than five (5) days from the time the Officer is notified of the suspension I.C. 36-8-3-4 (c).
- e. Appeal a demotion to the Board of Metropolitan Police Commissioners. A sworn Officer may appeal a demotion by the Chief of Police to the Board of Metropolitan Police Commissioners. The appeal must be filed with the Board of Metropolitan Police Commissioners not more than five (5) days from the time the Officer is notified of the demotion I.C. 36-8-3-4 (c).
- f. Appeal a termination to the Board of Metropolitan Police Commissioners. A sworn Officer may appeal a termination by the Chief of Police to the Board of Metropolitan Police Commissioners. The appeal must be filed not more than five (5) days from the time the Officer is notified of the termination I.C. 36-8-3-4 (c).

VI. PROHIBITED CONDUCT

A. No Retaliation

1. An employee who is the subject of a misconduct complaint shall not intentionally take any action against the complainant in retaliation for filing the complaint. Any employee who retaliates against another because of the filing of such complaint shall be subject to disciplinary action up to, and including, dismissal from the Department.
2. 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.

VII. REPORTING REQUIREMENTS

A. Records Maintenance and Security

1. The Chief of Police shall maintain a record of all valid complaints against the Department or its employees in a secure location. This records activity is an exception to personnel records or centralized records system. All such records of complaints are confidential pursuant to I.C. 5-14-3-4 (ILEAC 2.09).

B. Disciplinary Records Management:

1. The Chief of Police will ensure that all disciplinary findings are included in the member's personnel file.
2. Conclusion of discharge or demotion will be made a permanent part of the member's personnel file.

3. Documentation of suspension, oral, and written reprimands will remain in the member's personnel file for as long as the inappropriate behavior continues.
 - a. The disciplinary files for suspension and oral and written reprimands shall be removed from the member's file by the Chief of Police if:
 1. One (1) year has passed since the suspension, oral or written reprimand has been issued; and
 2. No further evidence exists of continued inappropriate behavior.
- C. Notification of Complainant
1. As soon as practical, following the final conclusion of an internal or external investigation, the Department will make written notification to the person who filed the complaint against the Department or employee, of the results of the investigation (ILEAC2.10).