

Cobb County Police Department

Policy 2.13

DISCIPLINARY INVESTIGATIONS

Effective Date: January 23, 2022	Issued By: Interim Chief O.S. Hamilton
Rescinds: Policy 2.13 (October 1, 2019)	Page 1 of 7
The words “he, his, him,” which may appear in this policy, are used generically for clarity and ease of reading. These terms are not meant to imply gender and relate to all employees of the Department.	

The purpose of this order is to outline procedures to be used in the investigation of disciplinary issues.

I. POLICY

All complaints against the agency or its employees will be investigated, to include anonymous complaints.

II. AUTHORITY

- A.** Generally, the Department of Public Safety Internal Affairs Unit will be responsible for the administrative investigation of:
 - 1. All allegations of serious employee misconduct (criminal activity, excessive force, discriminatory policy, sexual harassment, fitness for duty, drug/alcohol violations, etc.)
 - 2. All administrative investigations of allegations of misconduct that are likely to result in litigation against the Department or its members.
- B.** Generally, the appropriate chain of command will be responsible for the administrative investigation of:
 - 1. Infractions of a less-serious nature (courtesy, vehicle operations, report writing, etc.) when the investigation will not interfere with the supervisor’s primary responsibilities; and
 - 2. All inquiries (see Section VI for examples).
- C.** Concerns about a policy or practice of the Cobb County Police Department should be directed to the Special Projects Unit.
- D.** If a question arises concerning the proper investigative authority in a particular case, the matter shall be referred to the Commander of the Internal Affairs Unit.

- E.** As soon as possible, the Chief of Police will be notified, through the chain of command, of allegations of serious employee misconduct. The IA Commander has the authority to report directly to the Chief of Police.

III. ADMINISTRATIVE INVESTIGATIVE LEAVE

- A.** The Chief of Police, Deputy Chief of Police, or the Commander of the Internal Affairs Unit may place an employee on administrative leave in accordance with the Civil Service Board Rules and Regulations. Examples include, but are not limited to:

 - 1. When an employee must be relieved of duty pending the results of an investigation into allegations of misconduct;
 - 2. Fitness for duty; or
 - 3. An incident involving serious bodily injury or death.

Prior to an employee being released from administrative leave, the Chief of Police will be informed as to the progress and details of the investigation.

- B.** A supervisor has the authority to relieve a subordinate of duty and place him on administrative leave with pay for no more than one complete shift in emergency situations, where continuing the employee on duty would constitute a danger to the employee or others (e.g., an employee who cannot stay awake or who is believed to be under the influence of intoxicants). In such cases, the involved supervisor shall, before the employee's next regular shift, notify the chain of command.

IV. COMPLAINT RECEIPT PROCEDURE

- A.** A complaint can be taken in person, by phone, by mail or email, and can be submitted verbally or in any form of writing. The complaint can be made anonymously if the complainant chooses; it will be investigated regardless.
- B.** A complaint can be taken by any supervisor, regardless of the assignment of the employee(s) being complained on.

 - 1. A complainant should not be sent to another location to file a complaint. The complainant should be advised that his complaint will be received and forwarded to the appropriate authority for investigation. The complainant may choose to file the complaint directly with Internal Affairs or the employee's supervision.
 - 2. If a supervisor is not available to receive the complaint, non-supervisory personnel should take the complaint and immediately forward the information to their supervisor.

- C.** The receiving supervisor will enter the complaint into the Citizen Complaint module of the Records Management System (RMS).

 - 1. The “Page 1” tab should be completed as described in the Mobile Field Report Instruction Guide.
 - 2. Each complaint will receive a System ID Number (automatically generated by RMS), not each employee or complainant. For example, if two citizens complain about the same officer for the same actions, this is one complaint and it receives one System ID Number. The same holds true for one complainant making accusations against multiple officers arising from the same incident.
- D.** The receiving supervisor will send an email to his chain of command notifying them of the complaint. A synopsis does not need to be attached, but the email should include the System ID Number and name of the accused employee(s).

 - 1. Complaints should be forwarded to the appropriate investigative authority for investigation.
 - 2. Inquiries should be forwarded to the individual’s supervision for review.
- E.** The complainant, if known, shall be notified of the receipt of the complaint. Notification should be made by the investigating authority and may be done in person, by phone, or in writing (email or letter). Documentation of notification will be included with the investigation.

V. INVESTIGATIONS

Any member of the Police Department or Internal Affairs Unit tasked with conducting an investigation will have open access to all areas in the Department in relation to the investigation.

A. Purpose of Investigations

The purpose of investigations is to:

- 1. Clear the innocent.
- 2. Allow the Department to assist employees in job functions without resorting to disciplinary actions.
- 3. Establish guilt of employees engaged in misconduct.
- 4. Facilitate prompt and just disciplinary action.

B. Interviews with Employees

All personnel will ensure the following guidelines are adhered to when interviewing employees of the Department:

1. The rights and privacy of all involved employees will be protected at all times. Employees will not be threatened or subjected to offensive or abusive language; they will be treated with respect and dignity.
2. Interviews with employees will take place at a location designated by the investigating officer and at a reasonable hour (unless the urgency of the investigation dictates otherwise).
3. The employee should be advised of the nature of the investigation and the name of the complaining party in the matter before the interview begins.
4. The interview will be conducted for a reasonable length of time. At reasonable intervals, breaks will be taken for personal necessities, meals, and rest if requested by the employee.
5. Interviews may be recorded. The employee being interviewed will be told he may take notes and is also allowed to audio record the interview with their own standalone recording device, but his recording will remain in the custody of the investigating authority. Upon conclusion of the investigation and disposition of the case, the recording will be authorized for release to the employee.
6. When there is an allegation of misconduct, the employee may request to have his attorney present during the interview. The attorney may be allowed to sit in during the interview but will not be allowed to participate in any way. If the lawyer does not respect the guidelines established by Internal Affairs, he will be removed from the interview and the employee told that the refusal to answer questions without the attorney could subject him to disciplinary action, including dismissal from the Department.
7. When there is an allegation of criminal misconduct, the employee will be advised of the administrative nature of the investigation and will be advised of the Garrity Rights.

C. Periodic Status Reports

Should an investigation take longer than ten (10) business days, the complainant, if known, should be notified that the investigation is on-going. Periodic notifications should be made as needed. Notifications may be made by phone or in writing (email or letter) but will be included with the documentation of the investigation.

D. Investigative Results

1. A detailed synopsis of the investigation will be entered into the “Supervisor’s Actions” section under the “Page 2” tab.
2. Completed investigations shall be forwarded to the employee’s chain of command. The chain of command will categorize the results of the investigation into one of the following categories:
 - a. **Unfounded**

The investigation reveals the allegation is false or was not factually based. No disciplinary action is warranted.
 - b. **Exonerated**

The incident complained of did occur but was lawful or proper. No disciplinary action is warranted.
 - c. **Not Sustained**

There is insufficient evidence to either prove or disprove the allegation. No punitive discipline may result, but remediation in the form of training, counseling, etc., may be appropriate.
 - d. **Sustained**

The allegation is supported by sufficient evidence. Appropriate disciplinary action is warranted.
 - e. **Mixed-Sustained**

The investigation reveals that at least one charge has been sustained, but other categories apply as well.
 - f. **Mixed-Not Sustained**

The investigation reveals a mix of unfounded, exonerated, and/or not sustained, but no charges have been sustained.
3. Complaints determined by Internal Affairs to be unfounded on their face, or containing false statements and information, can be classified as Unfounded by the commander of Internal Affairs at the conclusion of the investigation without tracking the completed investigation to the employee’s chain of command for a disposition. In these cases, Internal Affairs will be responsible for informing the employee, chain of command, and complainant of the disposition and documenting the disposition in RMS.

4. The complaint report generated from RMS will be signed by both the subject(s) of the complaint and his supervisor.
5. The subject(s) of the complaint will respond to the allegations in writing. Written responses should be documented by the accused employee(s) in a memorandum through their chain of command to the respective Deputy Chief for consideration. If an employee does not wish to respond, he should document that in the memorandum referred to above. Responses will be uploaded to RMS and attached to the complaint.
6. For sustained charges see Policy 2.14.
7. The complainant, if known, shall be notified of the results of the investigation upon its conclusion. Notification will be of the category only, not the discipline administered. Notification may be done by phone or in writing (email or letter), but will be included with the documentation of the investigation.
8. Completed investigations, and all associated investigative materials (video/audio, witness statements, investigative synopsis, etc.) will be forwarded through the chain of command to the Bureau Deputy Chief.
9. After review by the Chief's Office, completed investigations will be forwarded to Internal Affairs for retention purposes. Records will be stored in a secure area with limited access to protect confidentiality.

VI. INQUIRIES

Occasionally, persons may call with questions or disagreements about the actions of an employee, but there are no accusations of misconduct. These questions or disagreements will be received in the same manner as complaints, but will be documented in the RMS Complaint Module as an "Inquiry" under the "Complaint Type" of the "Page 1" tab.

A. Examples of inquiries include:

- Questions or disagreements about valid charges
- Questions or disagreements about properly written reports
- Unintentional mistakes or omissions that can be corrected on reports

B. All inquiries will be reviewed by the employee's supervisor to ensure that no allegations of misconduct exist and no violations of policy/procedure have occurred. If a violation of policy/procedure is alleged or discovered, the "Complaint Type" will be changed and the incident should be handled as a complaint, as noted in Section II of this policy.

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- C.** The investigating supervisor will document the inquiry, note that no allegations of misconduct were alleged, and list any actions taken in the “Supervisor’s Actions” section under the “Page 2” tab of the RMS Complaint Module (e.g. corrected report, valid charge, etc.).

 - 1. The employee’s supervisor will inform the employee and complainant of the results of the inquiry. However, a complaint report should not be printed as signatures are not required.
 - 2. All inquiries should be tracked to the precinct/unit commander through RMS.
- D.** Repeated inquiries may be indicative of performance related issues that may require a more detailed investigation by supervision.