



GENERAL ORDER

No. 211

Subject:

Internal Affairs

Issuing Authority:

Chief of Police

Effective Date:

08/16/2024

Supersedes:

- I. **PURPOSE:** The purpose of this order is to provide guidelines and procedures for the intake, investigation and disposition of complaints made against police department policies, procedures, rules, or personnel.
- II. **POLICY:** Community support for the police department and its mission is contingent upon citizen confidence in the integrity of the department and its policies, procedures, rules, and personnel. It is the policy of the Town of Manlius Police Department to courteously receive and fairly investigate all complaints made against the department and its activities, practices, and personnel. The goal of this policy shall be to correct deficiencies in policies and procedures, detect and deter misconduct, instill confidence in citizens regarding the integrity of the department and its personnel and seek redress for false accusations made against the agency and its members.
- III. **DEFINITIONS:**
 - A. **COMPLAINT** - For the purposes of this order, a complaint shall be defined as any allegation of an alleged act or omission which, if substantiated, is contrary to the rules, policies, and procedures of the department; any alleged act or omission which, if substantiated, would constitute a violation of law; or any allegation which tends to indicate an actual or potential defect in department policies, procedures, rules or in the delivery of police services.
 - B. **SUBJECT MEMBER** - A member of the department who is the subject of a complaint.
 - C. **GARRITY WARNING** - A warning given to a member by a supervisory officer during an internal affairs investigation that requires the member to either provide information or face potential punitive discipline or termination for refusing to provide information.
 - D. **LEVEL 1 COMPLAINT:** A complaint that has allegations that have the potential to damage the reputation of the department or its personnel, as well as those complaints that are violations of policy or law. [Added: 08/16/2024]
 - E. **LEVEL 2 COMPLAINT:** A complaint that is in relation to the service provided, or lack thereof, by a member of the department. These complaints are often referred to as tone complaints and do not involve allegations that reach a Level 1. [Added: 08/16/2024]
- IV. **PROCEDURE:**
 - A. **ADMINISTRATION**
 1. The Chief of Police shall designate a command member of the department to serve as the Internal Affairs Officer (IAO). The IAO shall be responsible for the internal affairs function and shall report directly to the Chief of Police in all matters relating to internal affairs.
 2. The department shall publish information entitled, "How to Commend or Complain about a Town of Manlius Police Officer or the Town of Manlius Police Department." This information shall be available to the public at headquarters, through any police officer or by mail if a citizen so requests.
 3. Source types of internal affairs complaints shall include, but are not limited to:

- a. Internal - Those generated by members of the department (e.g., supervisors, officers, civilian employees, etc.).
- b. External - Complaints made by known persons from outside the department (e.g., civilians) including third-party complainants (e.g., parents, attorneys).
- c. Precautionary - Complaints emanating from anonymous sources, civil claims with no formal complaint, and media reports.

B. DUTIES OF AND RESPONSIBILITIES OF MEMBERS OF THE DEPARTMENT

1. Report violations of laws, ordinances, rules, regulations, policies, procedures or orders by another member or a member of another public safety agency to a supervisor or the duty chief as soon as reasonably possible.
2. Assist citizens who wish to make complaints by explaining the complaint process and providing them with information on the complaint form.
3. Directing them to the appropriate supervisor, command officer or Duty Chief if circumstances dictate.
4. Co-operate fully and completely with all internal affairs investigations.
5. Refrain from communicating with anyone regarding an internal affairs investigation unless specifically authorized.
6. File a report through the chain of command to the Chief of Police when involved in a situation likely to generate a complaint.

C. DUTIES AND RESPONSIBILITIES OF SUPERVISORY OFFICERS

1. Receive, record (Department Complaint form) and investigate complaints regardless of their source (e.g., internal, external, or precautionary).
2. Conduct a thorough preliminary investigation at the time of intake.
3. Notify the IAO and provide them with the original copy of the Department Complaint form as soon as practical.
4. Conduct follow-up investigations and make findings and recommendations involving members of their command when the alleged offense is:
 - a. Non-criminal in nature; and
 - b. Involves a minor violation of department rules, regulations, or procedures.
5. Command officers will be responsible for conducting follow-up investigations and findings and recommendations involving supervisory members of their command holding the rank of police sergeant or above when the alleged offense meets the criteria specified in this order.
6. Complete investigations within 30-days of the complaint or receive approval for an extension from the IAO based on guidelines established by the Chief of Police.

D. DUTIES AND RESPONSIBILITIES OF THE INTERNAL AFFAIRS OFFICER (IAO)

1. Record, register and provide staff control (for the Chief of Police) over investigations delegated to other levels of command within the department.

2. Provide subject members, at the appropriate time, with written notification of the complaint, including a summary of the allegations and the member's rights and responsibilities relevant to the complaint investigation.
3. Conduct or coordinate the investigation into any Level 1 complaints filed with the department. Level 1 complaints would include the following: [Revised: 08/16/2024]
 - a. Complaints alleging criminal conduct by department personnel.
 - b. Complaints alleging violations of a person's civil rights.
 - c. Complaints alleging excessive use of force.
 - d. Complaints of sexual and other forms of unlawful harassment.
 - e. Complaints involving multiple officers of various commands.
 - f. Allegations of a serious violation of department policy, procedure, or rules.
 - g. Incidents in which a Use of Force Report is submitted, to determine if the use of force was justified.
 - h. Actions by members that result in serious physical injury or death to another person.
 - i. Situations involving the use of deadly force by department personnel, to include the discharge of firearms in other than lawful sport activity, the destruction of dangerous or injured animals or at an approved firing range.
4. In addition, the IAO may also be tasked with any investigation where the following is applicable: [Added: 08/16/2024]
 - a. Investigations so complex that it would be impractical for supervisory personnel to undertake the task.
 - b. Any complaint when specifically directed by the Chief of Police.
5. Maintain a liaison with the town attorney and/or district attorney to ensure that the results of internal affairs investigations are adjudicated fairly, impartially, and thoroughly.
6. Maintain internal affairs records and prepare associated reports.
7. Report on all matters pertaining to internal affairs directly to the Chief of Police.

E. COMPLAINT PROCEDURE

1. Any member below the rank of police sergeant who is made aware of any complaint alleging member misconduct shall immediately notify their immediate supervisor or in their absence, a higher-ranking officer.
2. Supervisory personnel are authorized to receive complaints from citizens or members of the department. Complaints about a police sergeant or above shall be received by a higher-ranking officer.
3. Any supervisory officer who receives a complaint directly or has been summoned to receive a complaint shall:

- a. Receive the complaint courteously without attempt to dissuade any person from lodging their complaint. Complaints shall be received regardless of their source (in-person, telephone, letter, anonymous, third-party, etc.).
- b. If the complaint relates to a policy or a procedural issue, the supervisory officer shall explain the policy/procedure to the complainant. If, after the explanation and conciliation is completed, the complainant is satisfied, and the matter resolved no report is necessary.
- c. If the matter is not resolved, or if the complaint relates to other than a policy or procedural issue, the supervisory officer shall request the complainant to complete and sign a Department Complaint form and immediately initiate, conduct, and document a preliminary internal affairs investigation to include:
 - i. Interviewing the complainant.
 - ii. When appropriate, obtaining as soon as practical an affidavit (preferably in the complainant's own handwriting) containing details of their complaint.
 - iii. Locating, interviewing, and deposing witnesses, especially uninvolved witnesses.
 - iv. Identification of all department members involved.
 - v. Collection of any evidence pertinent to the complaint.
 - vi. Photographs of the scene and the complainant as appropriate. It is just as important to document lack of injury to a complainant as it is to document the extent of any injuries.
 - vii. Securing appropriate medical examination or treatment and obtaining an authorization for release of medical records, when appropriate.
 - viii. Neighborhood canvass.
 - ix. Collection of relevant information such as all reports relating to the incident, officer's log sheets, prior history of the complainant, etc.
- d. Supervisors shall have discretion in dealing with very minor non-repeated violations of Department procedures or rules (e.g., member is a few minutes late for roll call for the first time). These types of violations may be handled consistent with accepted supervisory practices (e.g., member counseled, and incident documented in supervisor's notes).
- e. If the complainant will not cooperate with the preliminary investigation, the supervisory officer shall fully document their attempt to complete the investigation. The supervisor shall complete the Department Complaint form if the complainant refuses or is otherwise unavailable.
- f. Complaints made by intoxicated complainants should be received at the time they are made to the supervisory officer. The complainant should be re-interviewed at a later time (e.g., when they are sober) and any discrepancies should be noted in the investigation report.

- g. Arrangements shall be made to provide the complainant who signs a Department Complaint form with a copy of the form and their affidavit, upon request.
- 4. The Chief of Police or in their absence the Duty Chief, shall be notified immediately if a member of the department is:
 - a. Arrested or charged with a criminal offense.
 - b. Accused or questioned regarding conduct that would constitute a crime.
 - c. Temporarily relieved of duty.
 - d. Involved in an action resulting in physical injury or death to another person.
 - e. Accused of serious misconduct.
 - f. Accused of using excessive force or violating a person's civil rights.
 - g. Accused of sexual harassment.
- 5. The Chief/Duty Chief shall notify the Internal Affairs Officer immediately if the complaint is a level 1 complaint.
- 6. Upon completion of the preliminary investigation, the supervisory officer shall forward the Department Complaint Form and any completed documentation through the chain of command to the Internal Affairs Officer for recording and processing. If the preliminary investigation is not completed by the end of the tour, a copy of the Department Complaint Form and any completed documentation must be forwarded with an indication that further documentation is to follow. The supervisory officer shall retain a copy of the preliminary investigation for follow-up investigation, if appropriate. A copy of the Complaint Form shall be forwarded to the Chief of Police.

F. INVESTIGATIVE PROCESS

- 1. Upon receipt of the Department Complaint Form and any other documentation, the IAO shall:
 - a. Review the paperwork for completeness.
 - b. Assign a unique internal affairs case number to all Level 1 complaints and record the information in the internal affairs case log. [Revised: 08/16/2024]
 - c. Advise the Chief of Police of the complaint investigation.
 - d. Conduct any of those types of internal affairs investigations referenced in this this order.
 - e. Return the complaint, if necessary, to the appropriate supervisor/command officer, through the chain of command for follow-up investigation, if it is determined that responsibility for the complaint rests with the subject member's immediate supervisor.
 - f. Provide staff control over internal affairs investigations conducted by a subject member's immediate supervisor and monitor their progress to ensure fairness, accuracy, and timely completion.

2. A supervisory officer assigned to conduct an internal affairs follow-up investigation shall:
 - a. Conduct the investigation in a fair, accurate and timely manner.
 - b. File investigative status reports through the chain of command with the IAO every seven (7) days until the investigation is concluded. Every reasonable effort should be made to conclude a complaint investigation within 30-days of the date of the complaint.
 - c. Request the guidance of the IAO, when necessary.
 - d. Forward the completed follow-up investigation and their findings and recommendations, through the chain of command to the IAO for review and recording.
3. Internal affairs investigations are sensitive and confidential in nature. No member shall discuss or divulge any information concerning an internal affairs investigation to any unauthorized person. Authorized persons, when appropriate and relevant, are as follows:
 - a. Chief of Police.
 - b. Duty Chief, in the absence of the Chief of Police.
 - c. Internal Affairs Officer.
 - d. Division Commander of the involved officer.
 - e. Supervisor of the involved officer.
 - f. Assigned investigative personnel.
 - g. Department/PBA attorney.
 - h. Privately retained attorney.
 - i. Department/private psychologist.
 - j. Chaplain.
 - k. Subject member's PBA representative.
 - l. Physician.
4. Persons conducting internal affairs investigations should interview and depose, when applicable, the subject member. Generally, all facts and evidence shall be gathered before the subject member is interviewed and a preliminary decision as to the type of interview/investigation (administrative v. criminal) is made. Prior to being formally questioned, the subject member shall be:
 - a. Provided with a written statement of allegations with sufficient information to reasonably apprise them of the misconduct alleged, except when such notification would hinder or compromise the investigation.
 - b. If applicable, advise the subject member of their constitutional rights via the standard "Miranda Warning" utilized by this department when the investigation pertains to alleged criminal activity on the part of the subject member. When

the option to remain silent is exercised, the investigator must cease questioning regarding the criminal investigation until the subject member has had opportunity to obtain counsel.

- c. If applicable, members will be provided with a Garrity Warning Form, asked to read the form, ask any questions, and then sign the Garrity Warning Form acknowledging that the member understands their Garrity rights.
 - d. Provided with a copy of their administrative rights if the allegations against the member constitute administrative non-criminal violations of rules, regulations, policies, or procedures. During administrative internal investigations, all members must cooperate to the fullest. All members are required to answer truthfully and completely. Failure to cooperate fully or deception or hindering the investigation may result in disciplinary action including dismissal. Compelled statements or the fruits thereof cannot be used against a member in any subsequent criminal action. The admissions obtained from compelled statements can be used to form the basis of administrative disciplinary action.
 - e. Entitled to exercise their rights pursuant to the terms of the collective bargaining agreement, if applicable.
- 5. Internal affairs investigations may require that a member submit to certain specific examinations. Examples include, but are not limited to, medical, psychological, laboratory and polygraph examinations, breath, blood, and urine test analysis, in person line-up with the member participating, photographs of the member, and the disclosure of financial or personal records. The scope of the demand for information, or for submission of person for testing or examination must be directly and narrowly related to the particular investigation. If the internal affairs investigation pertains to alleged criminal conduct, search warrants or court orders may be necessary before examinations are conducted.
 - 6. The express authorization of the Chief of Police shall be obtained prior to requiring a member to submit to records, photographs or their person for testing or examinations.
 - 7. Examinations ordered by the Chief of Police shall be conducted at the department's expense.
 - 8. A member under investigation may request that examinations be conducted when the member believes such actions would be beneficial to their defense. Such requests shall be submitted in writing to the Chief of Police. Authorization for such examinations shall be at the discretion of the Chief of Police.
 - 9. Member shall be provided with copies of the results of all examinations in which the member participates.
 - 10. Medical examinations must be performed under the supervision of a licensed physician. These tests involve the taking of blood, body fluids, removal of body hairs or fingernail clippings and scraping.
 - 11. A licensed psychologist selected by the department shall conduct psychological examinations. The Chief of Police may order a psychological examination to be initiated when a member:
 - a. Exhibits behavior that may be indicative of severe emotional disturbance.

- b. Receives complaints of a similar nature.
 - c. Receives complaints that are sustained
12. Polygraph examinations may be ordered, and their results may be utilized during internal affairs investigations.
 13. When a polygraph is used, the subject member shall be informed of the questions to be asked prior to participating in the examination. The polygraph examiner may add questions of their choice, but those questions will be common in nature and not related to any other incident.
 14. Complainants and witnesses may be requested to submit to a polygraph examination.
 15. Breath test analysis shall be conducted by a breath test operator certified by the New York State Department of Health.
 16. A member may be required to submit to participation in an in-person identification line-up conducted in accordance with the rules of evidence.
 17. Photographs may be taken of the member to show to complainants or witnesses. If photographs are used for identification purposes, the photographs should be shown in accordance with the rules of evidence.
 18. Members may be required to cooperate with the creation of an audio/video recording exemplar.
 19. Members may be required to submit financial statements or other personal papers which are specifically and narrowly related to active internal affairs investigations.
 20. Lockers, desks, computers, vehicles, equipment, and facilities assigned to department members remain the property of the department. As such, no grant of property right or privacy right is made or implied. Whenever practical, searches of departmentally owned lockers, desks, computers, or vehicles shall be conducted by a supervisory officer in the presence of the member or in the member's absence, a representative of the bargaining unit, if applicable. Members should be notified in writing that such searches have been conducted and provided with an inventory of any items collected.
 21. Internal affairs investigations shall be completed within thirty (30) days of receipt of the complaint. Any extension beyond the limit must be requested in writing and approved by the Chief of Police. If after thirty days from the time the case was initiated the matter is still pending, the investigating officer shall advise the complainant of the case status.

G. CONCLUSION OF INTERNAL AFFAIRS INVESTIGATIONS

1. Upon completion of an internal affairs investigation, the investigating officer shall prepare a written summary containing:
 - a. An outline of the alleged conduct.
 - b. The findings relative to the alleged actions.
 - c. Specific violations if any are shown by the evidence.

- d. Ancillary issues developed during the investigation.
 - e. A conclusion with a recommended finding for each allegation as follows:
 - i. SUSTAINED - Allegation(s) are substantiated.
 - ii. UNFOUNDED - Allegation(s) are false or not factual.
 - iii. EXONERATED - Incident occurred but the member acted lawfully and within department policy.
 - iv. NOT SUSTAINED - Allegation(s) are not substantiated. No sufficient evidence was revealed to substantiate or disprove the allegation.
 - v. MISCONDUCT NOT BASED ON COMPLAINT - Substantiated misconduct which was other than the allegation(s) identified in the original complaint.
 - vi. INCOMPLETE INVESTIGATION - Complainant failed to cooperate with the investigation and there is not enough evidence available to draw a fair conclusion and apply a finding.
 - f. Recommended actions may include, but are not limited to:
 - i. Changes in policy or procedure.
 - ii. Remedial training.
 - iii. Disciplinary action.
2. The investigating officer, if other than the IAO, shall forward the written summary, along with their recommended findings and actions, to the IAO for their final review and processing.
 3. After review, the IAO shall forward the investigation, to include documentation, together with the statement of findings and recommendations for action, to the Chief of Police.
 4. The Chief of Police shall review the investigation and statement of findings and recommendations and make a final determination for each allegation in the case. The Chief shall then serve, or cause to be served, notice of their determination upon the following parties:
 - a. Complainant. The degree of specificity of the complainant's notice shall be left to the discretion of the Chief of Police. Notification to the complainant need not be in writing.
 - b. Subject member in writing.
 - c. Subject member's division commander in writing.
 - d. Subject member's immediate supervisor in writing.
 - e. IAO (receives original written determination).
 5. When a complaint is sustained, or a determination of misconduct not based upon complaint is made, the Chief of Police shall cause a copy of the determination to be made and placed in the subject member's personnel file which details:

- a. Date of incident/report, member's name, case number.
 - b. Nature of complaint.
 - c. Adjudication.
 - d. Disposition.
 - e. Name of investigating officer.
6. When disciplinary action against a subject member is the result of a sustained finding, a copy of the disciplinary action shall be forwarded to the IAO for inclusion in the internal affairs case file.

H. TEMPORARILY REMOVING/SUSPENDING OFFICERS FROM DUTY

1. Temporary Relief from Duty – The Chief of Police has empowered supervisory officers to temporarily relieve a member from duty, with pay, (e.g., sending subject member home, arranging for subject member to be transported home, etc.) under the following circumstances:
 - a. Intoxication on duty.
 - b. Being under the influence of a controlled drug or narcotic.
 - c. Apparent mental instability.
 - d. Illness.
 - e. If the member is deemed a threat to the community, other department members or employees, or themselves.
 - f. Any situation for which temporary relief from duty would best serve the needs of the community, the department, or the individual.
2. If a member is temporarily relieved of duty, the supervisory officer shall immediately notify the member's division commander, or in their absence, the Duty Chief, who shall immediately notify the Chief of Police.
3. Suspension from Duty-The Chief of Police has the power to suspend a member from duty, with or without pay, in accordance with applicable laws.
4. The suspension may be executed by a command officer or a sergeant at the direction of the Chief of Police.
5. The suspending supervisory officer shall ensure that the following articles are obtained from the suspended member and placed in an evidence locker with an evidence/property receipt forwarded to the Internal Affairs Officer:
 - a. Breast badge(s).
 - b. Wallet badge.
 - c. Identification card.
 - d. Firearms (pistol and long gun(s) if applicable).

- e. Personally owned handguns if suspended member does not possess a valid New York State Pistol License.
 - f. Locker keys.
 - g. Other keys, key fobs or electronic devices that allow access to department facilities.
 - h. Any other department owned equipment (e.g., portable radio, radio charger, department owned vehicle and keys, etc.).
- 6. The suspending supervisory officer shall advise the suspended member that for the duration of the suspension the member may only enter those areas of the headquarters building that are open to the general public.
 - 7. The suspending supervisory officer shall immediately notify the Administrative Division Commander who shall ensure that all access codes (e.g., CHAIRS 2, Ejustice, department email, BEAST, etc.) and any other access codes (e.g., property room, armory, etc.) are deactivated.

I. INTERNAL AFFAIRS RECORDS

- 1. The Internal Affairs Officer shall maintain a record of all Level 1 complaints received and investigated by the police department and shall be responsible for maintaining the confidentiality and integrity of case files.
- 2. Internal Affairs records shall be secure and have limited access by only the IAO and the Chief of Police. The contents of these records are confidential and must be protected from unauthorized disclosure. [Revised: 08/16/2024]
- 3. Access to internal affairs files shall be limited to:
 - a. Internal Affairs Officer.
 - b. Chief of Police.
 - c. Division Commanders, with need to know.
 - d. Affected member (closed files, with need to know and permission of the Chief of Police).
- 4. Internal affairs records shall be maintained in accordance with the records retention and disposition schedule established by the New York State Education Department.
- 5. The Internal Affairs Officer shall prepare, and make available to the public and department members, an annual summary of citizen complaints and internal investigation incidents. At the conclusion of each calendar year, they shall prepare a statistical report which identifies:
 - a. Number of investigations conducted.
 - b. Adjudication of those cases.
 - c. Disciplinary action taken.

6. The Internal Affairs Officer shall conduct an annual analysis of Use of Force Reports in order to identify patterns or trends that could indicate training needs or policy modifications.
7. Where allegations contained in the complaint are determined to be false and evidence exists of intentional misrepresentation or filing of false statements, the Internal Affairs Officer may make a recommendation to the Chief of Police to pursue criminal action against the complainant.

[Original: 04/15/1995]

[Revised: 04/15/1997]

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