

# GENERAL ORDERS | SOUTH MIAMI POLICE DEPARTMENT



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<b>By Order of Chief of Police :</b> Rene G. Landa Chief of Police		<b>Revised:</b> 03/05/2021 <b>Status:</b> Revised

**SECTIONS:**

- 25.1.1 Definitions
- 25.1.2 Types of Employee Misconduct Investigations
- 25.1.3 Criminal Investigations
- 25.1.4 Plain View Violations
- 25.1.5 Direct Accessibility to Chief of Police
- 25.1.6 Notification to Chief of Police
- 25.1.7 Investigation Time Limits
- 25.1.8 Informing Complainant
- 25.1.9 Statement of Allegations/Rights
- 25.1.10 Internal Affairs Procedures
- 25.1.11 Complaint Processing and Investigation
- 25.1.12 Relieved From Duty
- 25.1.13 Conclusion of Fact
- 25.1.14 Records Maintenance and Security
- 25.1.15 Public Records Requests
- 25.1.16 Annual Statistical Summaries
- 25.1.17 Public Availability Complaint Registering Procedures

**RESCINDS:** All existing orders in conflict.

**PURPOSE:** To provide guidelines for those employees that investigate allegations of employee misconduct; to provide all employees with information necessary to understand the Internal Affairs investigative function and the investigation of employee misconduct process by supervisors; to establish authority and responsibility for conducting internal investigations; to ensure the professional conduct and integrity through fair and impartial investigations of alleged misconduct.

**SCOPE:** All departmental personnel.

**POLICY:** Effective law enforcement depends on a high degree of cooperation between the members of this department and the public it serves. The practice of courtesy in all public contacts encourages understanding and appreciation. The public rightfully expects and deserves fair and courteous treatment from members of this department. A courteous attitude contributes significantly to the professional image of the department.

The actions of the Police Department occasionally result in complaints of misconduct on the part of its members. The South Miami Police Department is responsive to the community and desires to provide a clear and simple procedure for the filing and resolution of such complaints.

A successful complaint procedure allows for the protection of both the complainant and the accused member. The complaint processing system must also provide Department officers and employees protection from false charges and provide a safeguard for due process. The implementation of these procedures shall be consistent with the statutory protections offered in FSS 112, referred to as: The Law Enforcement Officers' Bill of Rights.

### **25.1.1 DEFINITIONS**

- A. **BURDEN OF PROOF** – The burden of proof in an Internal Investigation IA/PC is “a preponderance of the evidence.”
- B. **CITIZEN CONTACT:** For purposes of this order, an inquiry or complaint received by an SMPD supervisor from a member of the public or another employee concerning the actions of an SMPD employee regardless of the review and/or investigation, if any, that occurs.
- C. **OFFICIAL COMPLAINT:** An allegation that gives reasonable suspicion to

believe that an officer's or employee's actions and/or omissions have violated Department General Orders, directives, State or Federal law or the City Employee Manual.

- D. **CONTACT REPORT:** A Contact Report would be completed under circumstances when the completion of a formal investigation is not warranted. Contact Reports shall not be part of an officer's personnel or IA files.
- E. **EXONERATED:** The incident occurred, however, the employee actions were justified, lawful and proper.
- F. **INTERNAL AFFAIRS COMPLAINT INVESTIGATION (IA):** Investigations of a moderate to serious nature. These complaints of employee misconduct may include, but are not limited to; corruption, brutality, misuse of force, breach of civil rights, criminal misconduct, immorality, narcotic/drug violations, sexual harassment, intoxication on duty, etc.
- G. **LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS:** Refers to Florida State Statute Chapter 112, Law Enforcement officers' and correctional officers' rights. Specifically, FSS 112.531, 112.532, 112.533, 112.534, and 112.535.
- H. **NOT SUSTAINED:** There is insufficient evidence to prove or disprove the allegation(s).
- I. **PERSONNEL COMPLAINT INVESTIGATION (PC):** Investigations of a minor nature. These complaints of alleged employee misconduct may include, but are not limited to;
  - 1. Discourtesy, profanity or verbal abuse;
  - 2. Minor Traffic Violations;
  - 3. Inadequate police service;
  - 4. Minor loss of property or negligent property damage;
  - 5. Other minor rule, regulation, policy or procedure violations; and/or
  - 6. Any other matter at the discretion of the Chief of Police
- J. **POLICY FAILURE:** The allegation is true, but the employee was acting in a manner consistent with Departmental policy, necessitating a review and revision of the policy as written; or no policy exists covering their actions.

- K. **SUBJECT EMPLOYEE:** The employee alleged in the complaint of misconduct.
- L. **SUSTAINED:** The allegation is supported by sufficient evidence to indicate the employee committed one or more of the alleged acts.
- M. **SUSTAINED – OTHER:** The investigation revealed the employee committed a violation other than the alleged allegation(s).
- N. **UNFOUNDED:** The investigation revealed that the incident did not occur, the complainant admits to making false allegations, or the employee was not involved in the incident.

### 25.1.2 TYPES OF EMPLOYEE MISCONDUCT INVESTIGATIONS

A review of all complaints will be made by the supervisor of the Internal Affairs component for proper assignment and classification. Investigations are generally broken down into three categories:

- A. Complaints of a minor nature are classified as **Personnel (PC) Complaints** and are minor in nature. These types of complaints are to be investigated by **trained** line supervisors; [CFA20.01M(a)] these may be assigned by Internal Affairs to the employee's division for investigation, at the discretion of the Administration Bureau Captain.
- B. Complaints of a moderate to serious nature are classified as **Internal Affairs (IA) Complaints** and are assigned to Internal Affairs for investigation. [CFA20.01M(c)]
- C. A Contact Report shall be completed by the Internal Affairs Sergeant under circumstances when the completion of a formal investigation is not warranted and with the approval of the Administration Bureau Captain. A Contact Report can be prepared when:
  - 1. The allegation(s) do not include a violation of law, Departmental rules, policies, or procedures.

2. There is insufficient information to objectively investigate the allegation(s) at the time of the complaint.
3. An allegation should be addressed in court, e.g., complainant was issued a ticket and feels he/she is not guilty.

Contact Reports shall be stored in the Internal Affairs office upon their completion and review by members of the Internal Affairs Unit. [CFA20.01M(b), (f)] If allegations are detrimental, the IA investigator may find it appropriate to notify the subject officer of the existence of the Contact Report. All formal complaints by citizens shall be recorded on a Departmental **Allegation of Employee Misconduct Form (IA 001)**. Formal Complaints received by phone, email, or other forms shall be transcribed/ attached to the above form.

### **25.1.3 CRIMINAL INVESTIGATIONS**

- A. Officers and employees who may be the subject of a criminal investigation are not required to provide information relating to that criminal investigation.
- B. Should any supervisor handling a complaint against any officer or employee have probable cause to believe that a criminal act was committed, he or she shall end his or her investigation and forward all information to the Chief of Police for assignment to an investigator.
- C. The Criminal Investigations Division, FDLE, or any other agency designated by the Chief of Police may conduct the criminal investigation.
- D. I.A. investigators will maintain liaison with the State Attorney's Office and/or any other entity on all criminal investigations.
- E. In maintaining Departmental integrity, completed investigations that involve potential criminal conduct will be delivered to the State Attorney's Office (SAO). The SAO will review the facts and circumstances to determine if criminal charges are warranted. NOTE: This is applicable when either criminal allegations are made by complainants, or in instances where the investigation reveals potential criminal conduct.

#### **25.1.4 PLAIN VIEW VIOLATIONS**

- A. Supervisors who view violations that are not complaints; shall document their subordinate's actions in one of these methods:
  - 1. On a memorandum, when requesting retraining (when appropriate/ non-recurring minor violations), or
  - 2. Verbal Warning Supervisor's Notes Form (non-recurring minor violations), or
  - 3. On a Disciplinary Action Report (for coachings, written reprimands, and recommendations for punitive discipline).

#### **25.1.5 DIRECT ACCESSIBILITY TO THE CHIEF OF POLICE**

- A. Internal Affairs investigations will be conducted by an investigator assigned by the Internal Affairs Commander. The investigator shall have the authority to report directly to the Chief of Police on all matters concerning the investigation.

#### **25.1.6 NOTIFICATION TO THE CHIEF OF POLICE**

- A. Upon the receipt of a complaint, the receiving supervisor will submit a Departmental **Allegation of Employee Misconduct Form (IA 001)**, and any other related materials (i.e. shift line-up, report, etc.) to the Chief of Police through the chain of command by the end of the supervisor's tour of duty. In the event a complaint of a serious nature is received, the receiving supervisor will follow proper staff duty officer notification protocol, through which the Chief of Police will be notified.
- B. When a complaint is received at the Office of the Chief of Police, it shall be forwarded to Internal Affairs for review.

#### **25.1.7 INVESTIGATION TIME LIMITS**

- A. Florida State Statute 112.532 affords law enforcement agencies 180 days to

investigate complaints filed against law enforcement officers. The law provides for only a limited number of exceptions which can be used by an agency to toll the running of the 180 days. An agency that fails to comply with the 180 day time limitation is prevented from imposing discipline on the involved employee(s).

- B. Per FSS 112.532 the 180 day time period begins to run on the date that a complaint is received by a person authorized by the agency to initiate an investigation into the alleged misconduct. The Chief of Police is the entity authorized to initiate an investigation into alleged misconduct. Therefore, the 180 day time period begins to run when a complaint is received by Internal Affairs.
- C. IA will investigate these complaints unless the PC investigation is assigned to the subject employee's division for investigation; the division commander may assign the investigation to a supervisor. An investigation conducted by the employee's division shall be completed and returned to Internal Affairs within forty-five (45) calendar days from the receipt of the referral from the Internal Affairs Unit. If an extension is needed, the extension request must be submitted in writing and approved by the Administration Bureau Captain prior to the deadline.
- D. All information shall be confidential and exempt from public records disclosure until the investigation ceases to be active, pursuant to FSS 112.533(2)(b). [CFA20.01M(e)]

#### **25.1.8 INFORMING COMPLAINANT**

- A. Notification to the complainant concerning the results of the investigation will be made upon its conclusion. The notification shall be made by letter from the Internal Affairs Commander or designee. Departmental **IA Final – Citizen (IA003)** shall be used to inform the complainant of the results of the investigation.

#### **25.1.9 STATEMENT OF ALLEGATIONS/RIGHTS**

- A. Whenever an Internal Affairs Investigation has been initiated regarding alleged employee misconduct, the following notification procedure, with applicable employee rights and responsibilities, will apply: [CFA20.02M]
  - 1. **Notification**: The employee will be notified that a complaint has been filed, at a

point in time determined appropriate by the investigator, using Departmental **Notification of Investigation (IA002) Form**. The form will be completed and delivered to the affected member who, upon receipt, shall email the investigator to confirm notification has been made.

2. **Rights:** Sworn police department employees have statutory rights pursuant to FSS 112.532, Law Enforcement Officers' Bill of Rights, and FSS 112.533, Receipt and Processing of Complaints. All law enforcement officers employed by or appointed to a law enforcement agency shall have the following rights and privileges under FSS 112.532: RIGHTS OF LAW ENFORCEMENT OFFICERS WHILE UNDER INVESTIGATION: Whenever a law enforcement officer is under investigation and subject to interrogation by members of his or her agency for any reason which could lead to disciplinary action, demotion, or dismissal, such interrogation shall be conducted under the following conditions:
  - a. The interrogation shall be conducted at a reasonable hour, preferably at a time when the law enforcement officer is on duty, unless the seriousness of the investigation is of such a degree that immediate action is required.
  - b. The interrogation shall take place at the Police Station.
  - c. The law enforcement 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. All questions directed to the officer under interrogation shall be asked by and through one interrogator at any one time.
  - d. The law enforcement officer under investigation shall be informed of the nature of the investigation prior to any interrogation, and he or she shall be informed of the name of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer. The complaint, all witness statements, including all other existing subject officer statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer. An officer, after being informed of the right to review witness statements,

may voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.

- e. Interrogating sessions shall be for reasonable periods and shall be timed to allow for such personal necessities and rest periods as are reasonably necessary.
  - f. The law enforcement officer under interrogation shall not be subjected to offensive language or be threatened with transfer, dismissal, or disciplinary action. No promise or reward shall be made as an inducement to answer any questions.
  - g. The formal interrogation of a law enforcement officer, including all recess periods, shall 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. Upon the request of the interrogated officer, a copy of any such 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.
  - h. If the law enforcement officer under interrogation is under arrest, or is likely to be placed under arrest as a result of the interrogation, he or she shall be completely informed of all his or her rights prior to the commencement of the interrogation.
  - i. At the request of any law enforcement officer under investigation, he or she shall have the right to be represented by counsel or any other representative of his or her choice, who shall be present at all times during such interrogation whenever the interrogation relates to the officer's continued fitness for law enforcement.
3. **Responsibilities:** Any employee having knowledge of or involved as a subject or witness in a complaint shall **not**:
- a. Independently participate in the investigation;
  - b. Be present during any investigative contact with the complainant or complainant's witness;

- c. Contact the complainant or complainant's witness concerning the allegations;
  - d. Disclose or discuss the existence or facts of a complaint with anyone except designated departmental authorities conducting the investigation and as follows:
    - 1) Employees shall answer or render material and relevant sworn statements to the designated departmental authority when so directed. Employees shall answer all questions honestly, completely, and to the best of their ability. No employee will interfere in any matter connected with an internal investigation.
    - 2) Subject employees may discuss matters concerning departmental internal investigations with an attorney or representative of their choice. Employees may have an attorney or representative present during a compelled statement when the employee is the subject officer of an internal investigation that relates to the employee's fitness for duty. Witness officers are not entitled to, or permitted, representation during questioning in an internal investigation.
    - 3) Officers will not be permitted to possess wireless electronic devices, including those devices capable of recording audio and/or video, while inside the interview room.
4. Notice of Disposition:
- a. Upon completion of an Internal Affairs investigation, the subject employee(s) shall be notified of the disposition of the investigation as soon as practical.
  - b. Departmental **IA Final – Officer (IA004)** will be completed by Internal Affairs, providing information regarding the disposition of the investigation, and issued to the subject employee, with a copy retained in the Internal Affairs investigative file.
  - c. In the event a complaint is classified as Sustained or Sustained - Other, and the Department intends to discipline the employee, a memorandum will be issued to the

subject employee giving notice of the intent to discipline if the discipline cannot be imposed prior to the 180 day time limit. The memorandum shall be issued prior to the running of the 180 day time limit.

5. Collective Bargaining Agreement

- a. All procedures as set forth in the Collective Bargaining Agreement, as it relates to internal investigations, shall be adhered to.

**25.1.10 INTERNAL AFFAIRS PROCEDURES**

- A. The authority for directing those under investigation to comply with requirements stated in the following section lies with the Internal Affairs Investigator, upon having consulted with the Chief of Police.
- B. Medical or laboratory examinations may be administered in an effort to resolve an allegation of employee misconduct. [CFA20.03(a)] Evidence collection for Internal Affairs investigations may include a physical examination or laboratory tests. Accordingly, the Department and its employees are subject to and must adhere to the Drug and Alcohol-Free Workplace provisions contained in the City of South Miami Employee Policies and Procedures Manual.
- C. Subject employees may be required to submit to photographing as part of an Internal Affairs investigation and/or inclusion in the Departmental employee photograph book (omitting employee names and uniforms). [CFA20.03(b)]
- D. As part of an Internal Affairs investigation the subject employee may also be required to take part in a photographic or personnel line-up. [CFA20.03(c)]
- E. When it is material to a particular Internal Affairs investigation, the subject employee may be required to submit financial disclosure statements. [CFA20.03(d)]
- F. The South Miami Police Department cannot compel an employee of the Department who is the subject in an Internal Affairs investigation to submit to a polygraph examination or submit to other instruments for the detection of deception. [CFA20.03(e)]

### 25.1.11 COMPLAINT PROCESSING AND INVESTIGATION

- A. All official complaints (including anonymous) against the Department, its members or employees, shall be recorded and investigated.
  1. A supervisor on duty shall interview the complainant and supply them with the **Allegation of Employee Misconduct (IA001) Form**. In the event the complainant does not wish to speak with a supervisor directly, the **Allegation of Employee Misconduct (IA001) Form** shall be issued for them to complete. **Any South Miami Police member who receives a complaint against a Law Enforcement Officer or Corrections Officer must obtain the complainant's name and contact information, if provided.** The information must be forwarded to the IA supervisor by the end of the shift. The IA supervisor shall **forward the complaint within five (5) business days to the employing agency of the officer who is the subject of the complaint for review or investigation. If a department member is the complainant, he/she must forward their complaint to the Chief of Police, via the chain of command, within five (5) business days of becoming aware of the misconduct.**
  2. Complaints shall be accepted from any source provided that the complaint contains sufficient factual information to warrant an investigation. Supervisors will encourage complainants to submit their complaints in person so that a detailed account of the incident(s) can be obtained. If the complainant is unable to file a complaint in person, they shall be referred to Internal Affairs, who shall determine the appropriate method of registering the complaint. **If the complainant is a department member, they must submit their complaint to the Chief of Police, via the chain of command, using either an Allegation of Employee Misconduct form or a memorandum.**
  3. The complaint shall be forwarded to the Chief of Police through the chain of command by the end of the shift, who will then forward it to Internal Affairs. The complaint shall be recorded in a central log, assigned a case number, and reviewed by Internal Affairs to determine investigative responsibility. [CFA20.01(d)] The individual designated as the investigator shall be a member of Internal Affairs or a member assigned by the subject employee's division commander to whom the investigation has been referred. When a serious complaint against a member is received, the supervisor on duty shall immediately make notifications using the

appropriate staff duty officer notification protocol. Internal Affairs shall also be immediately notified.

4. The investigator shall assemble the necessary materials, such as physical evidence, photographs, reports, etc. for review.
5. The investigator shall take sworn, recorded statements from the complainant, complainant's witnesses, other witnesses, and witness employees, in that order. Any witnesses derived from these interviews shall also be interviewed, with their statements being sworn and recorded. Questions for interviews should be formulated from preceding interviewees and accessible materials. The appropriate forms shall be completed when interviewing the complainant and all witnesses. These forms are: **Complainant Statement Form (IA007); Witness Statement Form (IA005); Witness Employee Statement Form (IA006). Witness Employee Notification Form (IA008)** shall be used when notifying witness employee police officers that they are witnesses in the investigation. The original forms are to be made a part of the investigative file. A copy of **Form IA008** shall be issued to the witness employee officer if requested.
6. The investigator will then determine if there is any other information relevant to the investigation that needs to be included and reviewed prior to interviewing the subject employee. Any outstanding evidence shall be assembled and reviewed prior to questioning the subject officer.
7. The investigator shall notify the subject employee that he/she is the subject of an internal investigation using the **Notice of Investigation Form (IA002)**. The employee, if a police officer, shall be informed of their right to have a representative of their choosing to be present at the interview. A reasonable amount of time shall be afforded the employee to contact the representative when the investigator schedules the interview. The interview shall be scheduled while the employee is on duty, and shall be conducted at the South Miami Police Department.
8. The investigator shall take a sworn, recorded statement from the subject employee. Prior to taking any statements, the employee and their representative have the right to review ALL evidence, regardless of form. This shall be done immediately prior to taking the employee's statement. The employee shall be

advised of their “Garrity Rights” and shall be asked to sign a form **(IA002)** acknowledging that he/she was provided with the same. The employee shall then be advised that he/she is required to answer all questions truthfully, but that the answers and the fruits of those answers cannot be used against him/her in a criminal proceeding, except for perjury. If, at any time during the interview, the employee becomes the subject of a criminal charge, the investigator shall terminate the interview and advise the employee that the interview will be rescheduled. The investigator, if a division level supervisor, shall immediately contact Internal Affairs. Internal Affairs shall then refer the case to the State Attorney’s Office, who will make all prosecutorial decisions. The case will be tolled until a prosecutorial decision is reached. If the State Attorney’s Office decides not to prosecute, the administrative case will resume and the 180 day time limit will once again be running. The investigator will reschedule the subject employee and resume the interview. All evidence obtained since the termination of the previous interview shall be made available to the employee and their representative prior to questioning. Questions used during the interview should be developed from ALL evidence in the case, as well as statements made by the subject employee during the interview. During an interview or interrogation, subject employee may be ordered by the investigator to remove weapons from their possession.

9. Once the subject employee has been interviewed, the investigator shall review all the evidence, including statements from witnesses, the complainant, and the subject employee, and complete an Investigative Report in memorandum form, directed to the Chief of Police through the chain of command. The investigative report shall contain the following elements:
  - a. Allegation(s): A summary of the allegation(s) initially reported by the complainant.
  - b. Persons Interviewed: A list of the persons interviewed, in the order they were interviewed, with addresses and phone numbers.
  - c. Persons Not Interviewed: A list of persons not interviewed, the reason for not interviewing the persons, and (if appropriate) an explanation of the steps taken to contact such persons.

- d. Summary of the Investigation: A summary of the investigation shall include a chronological account of the incident and the relevant facts which bear on establishing whether the allegation(s) are factually supported. The summary shall include a summary of all persons interviewed and all relevant documentation reviewed.
10. Once the investigative report has been completed, the investigator shall forward the investigative file to the Chief of Police. A three (3) person review panel consisting of members designated by the Chief of Police shall be convened to review the material and determine a Conclusion of Fact utilizing the following classifications:
    - a. Exonerated
    - b. Not Sustained
    - c. Policy Failure
    - d. Sustained
    - e. Sustained – Other
    - f. Unfounded

The panel shall, within ten (10) working days of the investigative file being delivered to any panel member, conclude its deliberations and provide a Conclusion of Fact.

11. If a Conclusion of Fact of Sustained or Sustained-Other is made, a three (3) person panel consisting of members designated by the Chief of Police shall be convened to recommend the appropriate disciplinary action warranted, if any. The panel shall, within five (5) working days of the investigative file being delivered to any panel member, conclude its deliberations and provide a recommendation of appropriate disciplinary action pursuant to the established Disciplinary Matrix G.O. 12.2 . Once this has been accomplished, the investigative file shall be forwarded to the Chief of Police for review and the Chief shall decide what, if any, discipline shall be administered.
12. The disciplinary action to be taken shall be determined by the seriousness of the misconduct, and by the extent of the wrongdoing or injury to the victim/complainant. It shall also be commensurate with the circumstances surrounding the total incident and with the subject employee's employment record, including any record of prior substantiated complaints or similar policy violations. If prior complaints were for similar or identical incidents of misconduct,

the disciplinary action shall be more severe than for the prior offense. A scale of progressive penalties is used (see Disciplinary Matrix G.O. 12.2) by the Department to discipline employees against whom a complaint has been substantiated. The totality of the circumstances and the employee's prior employment history will be reviewed in determining the appropriate level of discipline. If the violation is serious enough, the discipline imposed may advance by multiple steps, up to and including, termination. The following is the scale of progressive penalties:

- a. Verbal
- b. Coaching
- c. Counseling
- d. Written Reprimand
- e. Suspension
- f. Demotion
- g. Termination

13. Once the level of discipline has been determined, a Notice of Intent To Discipline and Proposal of Action Sought form (IA008) shall be completed by Internal Affairs and forwarded to the Chief for review prior to the officer being served with the disciplinary action. The form will then be issued to the subject employee by the employee's division commander or designee. The division commander shall be responsible for meting out such discipline. A copy of the Disciplinary Action Report (DAR) shall be forwarded to Internal Affairs for inclusion in the investigative file.
14. In the event that the complainant wishes to withdraw their complaint, a **Complaint Resolution Form (IA010)** shall be completed. The complainant shall be asked to sign the form. If the complainant refuses, a witness officer shall testify that he/she heard the complainant express a desire to withdraw the complaint but refused to sign the form. The witness officer shall sign the form under the investigator and the investigator shall write "Refused" in place of the complainant's signature.
15. After the findings panel has rendered their decision, the investigative file shall be returned to Internal Affairs where it will be maintained.
16. In the event of an uncooperative complainant (missed scheduled appointments, unreturned telephone calls, etc.), the investigation shall proceed through all available investigative sources to conclusion without said cooperation.

17. Failure of a supervisor to take appropriate action upon being informed of a violation of statutes, ordinances, City and Department Rules and Regulations, and/or orders, and this General Order will subject said supervisor to disciplinary action.
18. External factors, such as the service record and prior substantiated complaints, shall be considered for a possible referral to appropriate counseling programs. Participation in a counseling program may be required in lieu of a more serious disciplinary action if, in the determination of the Chief of Police, the employee would benefit. Such a disposition may be revoked in favor of the more severe penalty if the employee fails to participate, or fails to participate successfully, in the program.
19. All written correspondence for civilian witnesses and complainants shall be sent via certified mail.

#### **25.1.12 RELIEVED FROM DUTY**

- A. Employees may be placed on Administrative Leave for alleged violations of any Employee Code of Conduct or other Departmental or City policy by the Chief of Police. Upon completion of the investigation, employees may be suspended by the Chief of Police or his designee without pay for not more than twenty (20) work days. Such action is governed and supported by the City of South Miami Employee Policies and Procedures Manual, Chapter VIII.

In an extreme situation calling for immediate action, an employee may be suspended pending an investigation by Internal Affairs. Such a situation would then be brought to the attention of the Chief of Police immediately.

1. Any Supervisor in Charge may temporarily relieve an employee from duty under the following circumstances:[CFA2.07M]
  - a. If the employee's misconduct is serious in nature and/or creates potential harm to the employee or others;
  - b. The employee is not properly prepared for, or is unfit for duty;

- c. The employee's behavior has caused an environment that substantially interferes with other employees' lawful execution of duty;
  - d. Relieved from duty under this section will be with full pay and benefits, pending the outcome or any subsequent internal investigation.
  - e. If other than normal business hours, the employee will be instructed to report to the office of the Chief of Police at 9:00 A.M. the next business day.
2. A memorandum shall be submitted by the subject employee's supervisor outlining the factors that caused the action. The memorandum shall be submitted to the Chief of Police, through the chain of command, by the end of the shift. The Chief of Police will review the circumstances surrounding the relief from duty and decide whether an internal investigation is warranted. If the Chief feels an investigation is necessary, he will contact Internal Affairs so that an investigation is generated.
3. When an employee is relieved from duty, the supervisor will (based on circumstances):
- a. Have a second supervisor or acting supervisor present during the notification;
  - b. Collect the employee's Department issued weapon(s) and extra magazine(s);
  - c. Collect the employee's Department issued badge;
  - d. Collect the employee's Department issued security access card;
  - e. Collect the employee's Department issued identification;
  - f. Collect the employee's assigned vehicle, with vehicle keys, and any Department building keys. Transportation will be made available by a supervisor;
  - g. Collect the employee's Department issued handheld radio;
  - h. Complete a property receipt and the employee will be required to sign. In the case number field enter "IA Investigation";

- i. Verify with the employee their correct address and telephone number;
- j. Inform the employee that they are to immediately respond to the office of the Chief of Police, if during normal business hours. If outside of normal business hours, they are to respond at 9:00 A.M. the next business day;
- k. Inform their division Lieutenant, if during normal business hours. If outside of normal business hours, make staff notifications according to proper staff duty officer notification protocol; and
- l. If an employee is relieved from duty with pay for an extended period of time, they will be required to remain at home between the hours of 8:00A.M. and 4:00 P.M (unless otherwise directed), and shall be required to call Communications at 9:00 A.M. and 2:00 P.M. Monday through Friday. Each call will be documented by the on-duty Communications Officer.
  - 1) If the employee requests to take personal leave, they will submit a leave request to the Office of the Chief for approval.
  - 2) Should an emergency arise for the employee to be away from their residence between the hours of 8:00 A.M. and 4:00 P.M. they will notify Communications as soon as possible.
  - 3) Any time an employee is relieved from duty by a line supervisor, proper staff duty officer notification protocol will be followed.

### **25.1.13 CONCLUSION OF FACT**

- A. Personnel Complaints and Internal Affairs investigations into employee misconduct require that a conclusion of fact and final disposition be provided to the complainant and subject employee. The following are the possible dispositions for allegations of such employee misconduct: “Not Sustained”, “Sustained”, “Policy Failure”, Sustained – Other”, “Exonerated” or “Unfounded”. Written notification will be sent to the complainant and the subject employee, regarding the conclusion and final disposition, in the form of an official notification letter from Internal Affairs. [CFA20.04M] The complainant and subject employee shall be notified using the **IA Final – Citizen (IA003)** and **IA final –Officer (IA004)** forms, respectively.

In addition to the above dispositions, the investigation may determine the need for a review of the appropriateness of the applicable departmental policy and procedure(s), or, if no policy and/or procedure exists that covers the employee's actions, the implementation of a policy and/or procedure. In this case, the Findings Panel shall recommend such to the Chief of Police detailing the applicable policy change or implementation recommendations.

1. Internal investigations pertaining to sworn officers with sustained findings will be reviewed by the Chief of Police or his designee, and Internal Affairs for appropriateness to be submitted to the Criminal Justice Standards and Training Commission. Cases involving sustained findings involving moral character must be reported to the Criminal Justice Standards and Training Commission.
2. A letter will be provided to the concerned officer advising that the internal investigation file has been forwarded to the Criminal Justice Standards and Training Commission for possible certification action.

#### **25.1.14 RECORDS MAINTENANCE AND SECURITY [CFA 20.01M(D)]**

- A. Internal Affairs will assign and record on a sequential Complaint Control Log both Personnel Complaint and Internal Affairs Investigation case numbers. The Complaint Control Log will contain the following:
  1. Case Number:
    - a. Personnel Complaint case numbers will run sequentially by calendar year, i.e. PC 05-01, PC 05-02, etc.;
    - b. Internal Affairs Investigation case numbers will run sequentially by calendar year, i.e. IA 11-01, IA 11-02, etc.
    - c. Date and nature of complaint;
    - d. Name of complainant (if known);
    - e. Name of employee(s) against whom the complaint was made; and

- f. Disposition of the complaint.
- B. Access to the Complaint Control Log will be prohibited to all personnel with the exception of Internal Affairs personnel and the Chief of Police or his designee.
- C. All documents relating to investigations will be maintained in a file identified by an Internal Affairs case number.
- D. The Internal Affairs Unit will maintain records of all complaints in accordance with the State of Florida General Records Schedule for Law Enforcement Agencies.
- E. The Internal Affairs Unit is responsible for maintaining and securing all Internal Affairs records and for ensuring that the appropriate master logs and files are maintained. All Internal Affairs files (designated IA, PC, or Contact), open and closed, will be kept secured in the Internal Affairs office. [CFA20.01M(f)]
- F. Internal Affairs records for cases in which a lawsuit has been filed will be held until the case has been adjudicated, then they will be disposed of in accordance with the State of Florida General Records Schedule for Law Enforcement Agencies.

#### **25.1.15 PUBLIC RECORDS REQUESTS**

- A. Upon the conclusion of an Internal Affairs complaint, if a public records request is made, and proof that the required fees have been paid is supplied, Internal Affairs shall complete a **Public Records Request Form (IA013)**. The form, and a copy of the proof of fee payment, shall be included in the appropriate file. The release of public records shall be in accordance with FSS 119. All exempt information shall be redacted. [CFA20.01M(g)]

#### **25.1.16 ANNUAL STATISTICAL SUMMARIES, PUBLIC AVAILABILITY**

- A. Internal Affairs will prepare an annual report containing a statistical summary based on the records of the Complaint Control Log, maintained and submitted by Internal Affairs, for the previous annual period. This summary will contain the total number of personnel complaints and their disposition, along with the total number of

Internal Affairs investigations and their disposition. This summary will be made available to department personnel as well as members of the public in the Department's Annual Report.

#### **25.1.17 COMPLAINT/ COMMENDATION REGISTERING PROCEDURES**

- A. It is the policy of the Department to receive all complaints and/or commendations of its members.

Complaints against Departmental members may be:

1. Made at the police station through a supervisor;
  2. Made directly to Internal Affairs;
  3. Made to any member who will forward it through proper channels;
  4. Through the Departmental website via the "Complaint or Commendation" link;
  5. By any other form of communication;
  6. Anonymous Complaints.
- B. Any commendations from the public will be noted and placed in the respective officer's personnel file.