

Geneva Police Department GENERAL ORDERS		INTERNAL AFFAIRS AND PERSONNEL COMPLAINTS	
<input type="checkbox"/> new: <input checked="" type="checkbox"/> rescinds: Policy & Procedure 25.1 – 25..8 <input type="checkbox"/> amends:		cross-reference: City-Local 3471 AFSCME Contract City-Command Officers Association Contract	
effective date: 10.30.03		issue/amend date: 03.22.05 / 2.19.15 / 10.19.17 11.12.19 / 2.23.22	
		Accreditation/Recognition standards: C.A.L.E.A.: 52.1.1 NYS L.E.A.P.: 25.1	

I. PURPOSE	<p>The Administration realizes that Department members are often subjected to intense pressure in the discharge of their duties. Personnel are frequently required to remain neutral under circumstances that are likely to generate considerable tension, excitement and emotion. In such situations, words, actions or events occasionally result in misunderstanding and confusion. It is to the advantage to each member of this Department that the Department has sound internal procedures for the thorough and impartial investigation of allegations arising out of such circumstances. Therefore the purpose of this General Order is to establish proper and consistent procedures for the processing and investigation of complaints alleging misconduct, inadequate service, or other types of Internal Investigations against members of the Geneva Police Department, whereby an expeditious resolution of complaints in a fair and impartial manner will ensure that the present high level of integrity and efficiency enjoyed by the Department is maintained.</p>
II. POLICY	<p>A. It is the policy of the Geneva Police Department to :</p> <ol style="list-style-type: none"> 1. Encourage citizens to bring forth legitimate complaints regarding misconduct and/or inadequate police service. These allegations shall be received courteously and without delay. 2. Equitably and reasonably determine whether the allegation(s) are valid or invalid and whether further action is necessary. 3. Make every effort to seek fairness to both personnel and person filing the complaint. 4. Conduct internal investigations in full compliance with applicable legal standards and the contractual requirements contained in the Geneva Police Command Officers Association, Teamsters Local 118 contract, the Geneva City Police Officers Union, Local 3471 Council 82 AFSCME contract and CSEA Local 1000 AFSCME Municipal Employees contract.
III. INTERNAL INVESTIGATION AUTHORITY	<p>A. The Department Lieutenants (LT) shall serve as the internal investigation authority for the Department and shall have the duty and responsibility to review all complaints against personnel and to coordinate investigative efforts by supervisory personnel. The LT with such authority shall report directly to the Chief of Police in all matters relating to the Internal Affairs function.</p> <ol style="list-style-type: none"> 1. In the event it is not appropriate for the LT to conduct a particular investigation, the Chief of Police will designate another qualified supervisor to conduct that investigation. <p>B. The duties and responsibilities of the LT include but are not limited to:</p> <ol style="list-style-type: none"> 1. Conduct a preliminary review of all complaints of alleged misconduct by personnel. 2. Make an initial determination whether to personally assume primary investigative responsibility for the case or assign it to another supervisor to conduct the investigation.

III. INTERNAL INVESTIGATION AUTHORITY (CONT.)	<ol style="list-style-type: none"> 3. Conduct the investigation of those cases in which the LT has assumed primary responsibility. 4. Monitor and ensure the proper conduct of investigations delegated to other supervisors. 5. Maintain a log of complaints received. 6. Coordinate with the Chief of Police in maintaining a Central Complaint File for complaints, which shall be kept in the Chief's Office.
IV. TYPES OF INTERNAL COMPLAINTS	<p>A. Internal complaints are categorized as follows :</p> <ol style="list-style-type: none"> 1. <u>Field Conciliation</u>- Lowest level of complaint usually involving an explanation of Department or legal (e.g., vehicle towing) procedure. 2. <u>Incident/Administrative (Precautionary Investigation)</u>- Information has been brought to the attention of the Department by a citizen or City Official that warrants further and more in-depth inquiry than a field conciliation. 3. <u>Departmental Investigation</u>- Information has been brought to the attention of the Department by a member of the department, either command or other, that warrants investigation. 4. <u>Formal/Personnel Complaint</u>- The initiation of a formal personnel complaint against an employee of the Department.
V. TYPES OF INTERNAL INVESTIGATIONS	<p>A. Internal Investigations generally fall into one of the categories listed below:</p> <ol style="list-style-type: none"> 1. <u>Procedural</u>- allegation of a violation of Departmental policies or procedures 2. <u>Use of Force</u>- allegation of excessive force 3. <u>Missing Property</u>- investigation into missing property 4. <u>Criminal</u>- allegation of a criminal violation 5. <u>Civil</u>- investigation of a pending or anticipated civil claim 6. <u>Fleet Vehicle Accident</u>- investigation of a police vehicle MVA
VI. INVESTIGATION OF COMPLAINTS	<p>A. <u>Complaint Procedure</u></p> <ol style="list-style-type: none"> 1. Any personnel below the rank of Sergeant who is made aware of a personnel complaint alleging member misconduct shall immediately notify his/her duty supervisor of such complaint. 2. If the complaint is against a supervisor, the complainant should be referred to the next level of supervision. 3. A supervisor who receives a complaint either personally or by referral shall: <ol style="list-style-type: none"> a. Receive the complaint courteously without an attempt to dissuade any person from lodging their complaint. b. If the complaint is of a minor nature, the result of a misunderstanding, needs little or no investigation or could be resolved by an explanation of applicable legal standards or Department policies and procedures, the supervisor receiving the complaint will make every effort to mediate or explain the reason for the personnel's action. Supervisors shall make a good faith effort to mediate complaints in appropriate situations.

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(CONT.)**

- c. Alleged behavior involving tardiness, rudeness, insubordination or the reckless driving of a police vehicle, shall also be investigated by the supervisor receiving the complaint.
 - d. If the personnel about whom the citizen is making a complaint is assigned to a different shift, the on-duty supervisor receiving the complaint may refer the complaint to the appropriate supervisor for resolution. In such cases, the supervisor to whom the complaint is referred will contact the complainant as soon as practicable and attempt to resolve the matter.
 - e. If after the investigation, allegation or conciliation is completed, the complainant is satisfied and the matter resolved, the supervisor shall document the nature of the complaint and submit a report to the Chief of Police who after review will forward the report to the LT for review and recording.
4. If the complaint does not qualify for mediation (as outlined below) or cannot be resolved through mediation, the supervisor will initiate a personnel complaint as set forth in §VI C (1) of this Order. The Supervisor will document the failed mediation in his/her report.

B. Complaints that WILL NOT be mediated by Line Supervisors

1. Allegations of excessive force involving physical injury, serious physical injury, or death;
2. Allegations of criminal conduct;
3. Alleged deprivation of civil rights;
4. Allegations of corruption or dishonesty, or false statement, report, or testimony;
5. Any allegation, regardless of its seriousness or nature, in which the complainant wishes to pursue a complaint after attempts to mediate have failed.

C. Receiving and recording complaints

1. If the complaint cannot be resolved by the supervisor initially receiving it or is one of a nature as listed in §VI B (1-5) of this Order, the complainant shall be given a Geneva Police Department **Complaint Action Form**-GPD #50.-See Attachment A.
2. The complainant upon receiving the Complaint form will be advised of the perjury statement that is on the top of page five of the form and be asked to complete the form as complete as possible. Upon completion of the form, the complainant will again be advised of the perjury statement that is written at the end of the form and be asked to sign the form under the penalty of perjury in the presence of the supervisor, City Clerk, Deputy City Clerk or a Notary Public. If the complainant refuses to sign the form, the supervisor receiving the form will write, "Refused to sign" on the complainant's signature line, witness the refusal with his/her signature and document the reason for refusal in his/her report.
3. A refusal to sign the Complaint Action Form shall not be grounds to reject or not investigate the complaint.
4. If the complaint is received by phone, the Supervisor should as soon as practicable contact the complainant and attempt to resolve the matter if possible. If the matter cannot be resolved, the complainant should be encouraged to come to the Public Safety Building (PSB) to complete the Complaint Action Form in an effort to add credibility to the substance of his/her complaint. If the complainant is reluctant about coming to the PSB, then arrangements will be made to meet the supervisor at a more neutral site.

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(CONT.)**

- a. Arrangements have been made with the ***Geneva Housing Authority*** to use an office at their facility as a neutral site to meet with complainants who are reluctant or unwilling to come to the PSB. Should it become necessary to use the Housing Authority's facilities, they should be contacted to make the necessary arrangements. The Housing Authority's address is:

Geneva Housing Authority
41 Lewis Street
Geneva, New York 14456
Tel: (315) 789-8010

5. In the event that the complainant is unable to meet the supervisor at either location (due to illness or injury), the supervisor will meet the complainant at their residence or place of confinement to receive the complaint.
6. If the complainant will not cooperate with the preliminary investigation, the supervisor shall fully document in his/her report the complainant's unwillingness and the supervisor's attempt to complete the report.
7. Should the complainant refuse to meet the supervisor, and if in the supervisor's judgment the complaint should be processed, the supervisor will complete the complaint form as fully as possible with available information.
8. The complainant need not be the person who was actually involved in the incident. A complainant can be anyone who makes an allegation against a member of the Department regardless of the complainant's role in the incident.
9. Complaints made by an intoxicated person should be received at the time they are made aware to the supervisor and basic information gathered at that time. The complainant should then be advised to see the supervisor at a later time when the complainant is sober so as to be re-interviewed and any discrepancies noted in the supervisor's report:
- a. If the allegation involves injury/excessive force, the presence/absence of injuries should be fully documented with photographs immediately.
- b. Allegations of property damage should also be documented with photographs.
10. Any complaint that is received by mail should immediately be referred to the Chief of Police for review and forwarded to the LT for further action.
11. Complaints can be found at the Public Safety Building, the City Clerk's Office or on the City's website at www.cityofgenevany.com
12. Complaints can also be given and turned in by an approved Complaint Resource Assistant.

D. Complaint Procedure

1. Upon receiving the completed Complaint Form, the supervisor, shall create a Call for Service and depending upon the nature of the allegation, shall conduct a preliminary investigation which may include the gathering of critical evidence and information that could be lost if not collected or documented quickly. This may include:
- a. Locating, identifying or interviewing potential witnesses;
- b. Identifying all Department members involved;
- c. Collection of evidence critical to the complaint;

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(CONT.)**

- d. Photographs of the scene and the complainant (e.g., to document injuries or lack thereof, alleged property damage, etc.) as appropriate;
 - e. Securing medical examination or treatment as appropriate;
 - f. Neighborhood canvass;
 - g. Collection of all related reports.
2. Upon completion of the preliminary investigation, the supervisor shall forward the Complaint Action Form and any other documentation to the Chief of Police who shall be apprised of the complaint.
 3. Upon review, the Chief shall forward the report(s) to the LT.
 4. Upon receipt of the reports, the LT shall:
 - a. Review the preliminary report for completeness;
 - b. Review the complaint with the Chief of Police;
 - c. If appropriate, contact the complainant and attempt to resolve the complaint by mediation or explanation;
 - d. If the complaint appears frivolous or totaling lacking merit and further investigation is not warranted, the LT in consultation with the Chief of Police, will close the case without any further investigation.
 5. If the decision is made to proceed with the investigation, the LT will either personally assume the investigation or delegate responsibility of the case investigation to a qualified supervisor. Other supervisory personnel as deemed necessary may be directed to assist in the investigation.
 6. The following complaints will be assigned to the LT for investigation and not delegated to other supervisors:
 - a. Allegations of excessive force involving serious physical injury or death and/or the use of deadly physical force;
 - b. Allegations of criminal conduct;
 - c. Allegations of civil rights violations;
 - d. Allegations of corruption, dishonesty;
 - e. Allegations of false statements, reports, or testimony.
 7. The Chief of Police will either by mail or otherwise advise the complainant that the case will be investigated.
 8. If the decision is made not to proceed with an internal investigation, the Chief will forward a letter to the complainant indicating same and the reason for the decision.

E. Internal Complaints

1. If the complaint is internal, whereby a member of the department is lodging a complaint against another member, the same basic process outlined above will be followed. The following additional procedures will be followed:
 - a. The department member wanting to file the complaint shall notify his immediate supervisor. The supervisor will interview the member and complete a Complaint Action Form, which shall be signed by the member. The form will be forwarded to the Chief of Police who will after being apprised of the complaint, forward the form and consult with the LT.

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(CONT.)**

- b. The supervisor, Lieutenant, or Chief of Police may attempt to mediate the complaint in appropriate cases. If mediation fails, or the matter is not suitable for mediation, the LT will begin the internal investigation process.
- c. In the event the member wishing to file the complaint believes that it is inappropriate to approach his/her supervisor with the complaint, the member may contact a Lieutenant or Chief of Police to file the complaint.

F. Allegations of Criminal Conduct

- 1. The Chief of Police or in his absence, the senior ranking member of the department, shall be notified immediately if a member is:
 - a. Arrested or charged with a criminal offense
 - b. Accused of conduct that would constitute a crime
 - c. Violation of a person's civil rights
 - d. Unnecessary or excessive use of force

G. Confidentiality

- 1. Internal affairs investigations are sensitive and confidential in nature. No member shall discuss or divulge any information regarding an internal affairs investigation to any unauthorized person. The Chief of Police shall be consulted to ascertain who may be authorized to receive information regarding the investigation.

H. Liaison with City/District Attorney

- 1. The Chief of Police and LT shall maintain a liaison with the City Attorney in cases where the liability of the City is at issue and with the District Attorney's Office for cases in which criminal conduct is indicated.

I. Timeliness

- 1. All Internal Affairs investigations shall be investigated in a timely manner with the Complainant being advised of the progress of the investigation at a minimum of six week intervals until the case is completed.

J. Reporting of Offenses

- 1. Any employee of the Police Department shall report promptly to the NYS Attorney General Law Enforcement Misconduct Investigative Office any information concerning corruption, fraud, use of excessive force, criminal activity, conflicts of interest or abuse by another officer or employee relating to his or her office or employment, or by a person having business dealings with a covered agency relating to those dealings as pursuant to NYS Executive Law §75 subdivision 5(a)(b)(c).

VII. INTERNAL AFFAIRS FINDINGS

- A.** Upon completion of an Internal Affairs investigation, the LT, or other supervisor conducting the investigation, shall prepare a case investigative summary that outlines:
1. The specific allegation(s);
 2. The evidence that supports or refutes the allegation(s); and
 3. The recommended finding(s) for each allegation as listed below:
 - **EXONERATED:** The act alleged occurred and was legal, proper and justified.
 - **UNFOUNDED:** The act alleged did not occur.
 - **NOT SUSTAINED:** Insufficient evidence exists to prove or disprove the allegation.
 - **SUSTAINED:** The act complained of did occur and constituted a violation of policy, procedure, rules, regulations, or statute.
 - **MISCONDUCT NOTED:** Act(s) of misconduct that were discovered during the investigation that were not alleged in the complaint.
 - **TRAINING ISSUE:** Act occurred due to lack of or insufficient training.
 - **WITHDRAWN BY COMPLAINANT:** The Complainant expresses a desire to terminate the investigation and no longer pursue the complaint. Whenever possible, a written signed statement withdrawing the complaint will be obtained from the Complainant.
 - **NO FINDINGS/CLOSED (OFFICE):** An allegation is closed because the complainant failed to cooperate with the investigation or other circumstances exist that prevent the investigation from being properly completed.
 - **POLICY ISSUE/POLICY FAILURE:** Act occurred due to lack of, poorly designed, or outdated police policy. This finding will be used when the employee followed existing departmental policy or procedure but, upon review, that policy or procedure appears flawed or needs revision.
- B.** The Case Investigative Summary and recommended findings shall be forwarded to the Chief of Police. The Chief of Police will review the Case File, Investigative Summary, and recommended findings. If necessary, the Chief of Police will refer the case back for additional investigation. If satisfied that the investigation is complete, the Chief of Police will write a Final Report, making a finding for each allegation as outlined above.
- C.** The Chief of Police will forward a written notice (return receipt requested) of the disposition of the complaint to the complainant.
- D.** In cases where the allegation(s) are sustained, the Chief of Police will determine if discipline is warranted and if so, begin the disciplinary process.
- E.** The Chief of Police may also elect to consider counseling and/or training in appropriate cases where no misconduct is sustained as well as in cases where they are sustained. The goals of counseling and training in such situations are to improve employee performance, productivity, effectiveness, attitude and motivation through positive and constructive methods. It will also demonstrate to the community that the Police Department will proactively address issues as they arise.

**VII. INTERNAL
AFFAIRS
FINDINGS (CONT.)**

F. If in the final disposition it is found that the act occurred due to a lack of, poorly designed, or outdated police policy, the policy in question will be reviewed and revised. If it is found that the act occurred due to a lack of or insufficient training, the training officer will review the training in question and see that the necessary revisions are made to correct the training.

Approved By

MICHAEL J. PASSALACQUA
CHIEF OF POLICE

ATTACHMENTS

A: Citizens Complaint Form

B: Commendation Action Form