

403.00 COMPLAINT PROCEDURES

403.01 Policy

Complaints alleging misconduct or policy violations by the Police Department or its members shall be thoroughly and impartially investigated. Anonymous complaints will be accepted and investigated if the allegations concern criminal violations of the law or major policy violations. Complaints will be accepted in person, in writing, by e-mail or telephone. Retention of anonymous complaints and the resulting investigation will be the same as for other complaints.

The Police Department accepts and investigates complaints against its operations and personnel for several reasons:

- To protect police employees from false accusations
- To protect citizens from police misconduct
- To protect the Department and the City from false allegations
- To identify defective Department policies, procedures and practices so that they may be corrected.

Complaints resulting from differences of opinion between an officer and a citizen concerning the issuance of a traffic summons or the guilt or innocence of an individual accused of a criminal offense are matters to be decided by the judicial system and are not subject to be adjudicated by the Department's complaint process.

403.02 Procedures

The following guidelines describe how a citizen complaint of employee misconduct is to be received, investigated and adjudicated by the Police Department.

A. Complaint Reception

- A citizen's complaint may be received by any supervisor of the Department. Any employee of the Department who is approached by a citizen wishing to make a complaint of employee misconduct shall immediately contact a supervisor. The supervisor shall contact the citizen without unnecessary delay. A complaint or request to contact a citizen shall not be left on a supervisor's voice mail or e-mail. A complainant shall not be told to call back when the involved employee(s)' direct supervisor is on duty.
- A supervisor may attempt to resolve a complaint by an explanation of policies and procedures. If the supervisor determines that the actions taken by the police employee were appropriate and he/she can resolve the issue to the citizen's

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satisfaction, no further action is required. If he/she cannot resolve the complaint or it appears that a defective policy or procedure is involved, the supervisor shall complete the "Complaint Form" and forward it via the chain of command to the division commander. The form is to be completed by the supervisor, not the complainant. It is not required that the complainant sign the form. (See complaint forms)

- The supervisor receiving a complaint will advise the complainant of the Department's process for investigating complaints. The complainant will be advised that he will be re-contacted.
- The supervisor who attempts to resolve the complaint shall normally be a least one rank higher than the employee(s) complained about.
- Upon receiving the complaint form, the division commander shall confer with the chief of police to determine how the complaint investigation will be classified (see types of complaints, below) and who will investigate the complaint.
- Complaints may also be received by the chief of police or the Professional Standards sergeant. In such instances the chief will meet with the division commander of the involved employee(s) to determine the classification and assignment of the complaint investigation.

B. Types of Complaints

Complaints or allegations of misconduct against police employees are classified into two types: Supervisory reviews and internal affairs investigations.

- Supervisory Review.**

A supervisory review is normally conducted by an employee's supervisor. The supervisor may complete the investigation by interviewing the employee, requesting memorandums from the involved employees, or both. Allegations for which a Supervisory Review may be appropriate include, but are not limited to, the following:

 - o Discourtesy
 - o Minor violation of a policy or procedure
 - o Minor driving infraction by the employee

If, during the investigation, evidence of a crime or serious violation is discovered, the investigation will stop and be turned over to the Professional Standards Unit for handling.

- Internal Affairs Investigation.**

An I.A. is normally conducted by the Professional Standards sergeant or another sworn supervisor assigned by the chief of

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police. Taped interviews may be a part of the investigation process. Allegations for which an Internal Investigation may be appropriate include, but are not limited to, the following:

- o Excessive force
- o Lying to a supervisor
- o Insubordination
- o Commission of a criminal act

If a criminal act is alleged, the Professional Standards sergeant will also advise the Weld County District Attorney's Office and the investigation will be assumed by the Investigations Section. The Professional Standards unit will pursue a separate administrative investigation into the allegation following the completion of the criminal investigation.

C. Complaint Investigation Procedures

- The involved employee(s) will be advised orally if the inquiry is a Supervisory Review or in writing if an Internal Affairs Investigation. Either type of investigation may result from either a citizen complaint or a complaint from a supervisor.
- The accused employee will be notified of the complaint/allegation as soon as practical, unless the allegation is such that the chief of police directs that a covert investigation be conducted. The notification will be in writing and will include:
 - o Specific allegations
 - o Policies/procedures/orders that the employee is alleged to have violated.
 - o Name of the complainant, unless there is a compelling reason (as authorized by the chief of police) that the complainant should remain anonymous, or unless the name of the complainant is unknown (anonymous).
 - o The involved employees(s) shall be asked to sign the notice of investigation and it shall be returned to Professional Standards for tracking purposes. A copy will be provided to the employee(s).
 - o The Supervisory Review or Internal Investigation will then proceed to gather information. The investigation shall not exceed 30 days in length unless authorized by the chief of police. If an extension is authorized, the involved employee(s) will be advised in writing.
 - o A Garrity admonition shall be given, when necessary, to employee witnesses.
 - o Citizen complainants and witnesses will be interviewed, as required.

D. Subject Employee Interviews

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- The Notice of Inquiry will be prepared by the Supervisor conducting the investigation and/or the Professional Standards Sergeant.
- The Notice of Inquiry will contain a statement of allegations/policy violations.
- The Notice of Inquiry will contain a "Garrity" Admonition.
- The Notice of Inquiry will contain a list of questions for the accused employee to answer during an interview. Additional, unlisted questions may be asked during the interview.
- The Notice of Inquiry will contain the location, date and time of the interview, and the name of the supervisor conducting the interview. The interview will be scheduled to take place no sooner than 24 hours following service of the Notice of Inquiry.
- The Notice of Inquiry will be served on the accused employee by the supervisor who is conducting the investigation and/or the Professional Standards Sergeant. The accused employee's chain of command will be notified of such service.
- A copy of the Notice of Inquiry, signed by the employee, will be returned to the Office of Professional Standards. The employee will likewise receive a copy.
- The accused employee will notify the supervisor serving the Notice of Inquiry who, if anyone, will be attending the interview with him. The one person allowed may be an attorney, association member or some other employee of the organization. The City also may have one person attend the meeting in addition to the interviewer.
- The employee will be given a Garrity Admonition prior to being allowed to present evidence and give a statement concerning the allegations, if necessary.
- The interview will be tape-recorded. A copy will be given to the employee, if requested.
- The interview will be scheduled during the employee's regular duty hours. Should the interview exceed the employee's regular duty hours, he/she shall be compensated in accordance with City policy and procedure and the Collective Bargaining Agreement.
- The line of questioning will be pertinent to the issues of the investigation. If during the course of the interview the employee makes admissions of criminal conduct, the administrative interview addressing the non-criminal allegations will cease. Admissions of criminal conduct by an employee will be forwarded to the Criminal Investigations Section for investigation. The administrative interview shall be resumed at a later time.
- When a department employee is giving a statement during an administrative interview and refuses to answer questions which are pertinent, the interviewer will stop the interview and give the employee a direct order to answer and admonish the employee

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(via Garrity warning) that this is an administrative interview and he/she will face disciplinary action including dismissal if he/she fails to answer. If the employee fails to comply, the employee will be subject to disciplinary action up to and including dismissal for refusal to obey an order (insubordination).

- Employees under investigation shall not be subjected to offensive language. No promise or reward shall be made by the internal investigators as an inducement to answer questions.
- **All employees involved in an internal investigation shall be instructed not to discuss the merits of the internal investigation with anyone else other than those investigating the allegation, their attorney, or the Chief Executive Officer or their designee. AS 170.5**
- Upon completion of the investigation, the supervisor completing it will prepare a summary, which will include:
 - Alleged violations from the initial complaint.
 - Possible violations uncovered during the investigation.
 - A summary of the investigation's findings.

E. Review

- The investigative report will be forwarded to the employee's immediate supervisor for the review process. Review of the investigation shall continue through each level of supervision through the employee's division commander. Each level of supervision will make recommendations and the division commander will make the final decision as to the disposition of the investigation and discipline, if any, to be assessed.
 - The employee's supervisory chain of command, as noted above, will review the investigative report and determine:
 - Whether there is enough factual information in the investigative report to make a finding of fact for each allegation.
 - Whether further investigation is needed prior to making any findings.
 - If further information is required, the investigative report will be returned to the investigating supervisor for follow-up.
 - When the information requested is obtained and documented, the investigating supervisor will return the investigative report to the reviewing supervisor and he/she will then determine their findings.
 - After sufficient facts are gathered concerning each allegation, the immediate supervisor will recommend discipline, if indicated by the findings. Each subsequent level in the chain of command will concur or recommend differently.

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- The division commander will review the findings and, if indicated, disciplinary recommendations of the employee's supervisors and approve or revise them as appropriate.
- F. Findings for each allegation made against the Department or one or more of its employees will be one of the following:
- Unfounded — Allegation is false.
 - Exonerated — The actions complained about did occur but were proper under pertinent laws, policies and procedures.
 - Failure of policy — The employee adhered to existing directives but the policy, procedure or directive was defective.
 - Sustained — The allegation of improper conduct is supported by clear and convincing evidence.
- G. Disposition of Complaint/Notification of Findings:
- The employee will be notified in writing when the complaint investigation has been completed, reviewed and findings determined.
 - If no disciplinary action is recommended the employee will be so advised in writing.
 - If discipline is being considered, the Department will follow the guidelines contained in General Order 404 and the policies contained in the City of Greeley Employee Handbook.
 - The results of Supervisory Reviews and Internal Investigations involving employees are governed by statute and will not be released to the public unless there is a court order compelling such release.
 - The complainant will be notified of the complaint's disposition but will not be given the specifics of any disciplinary action taken.
- H. Filing/Retention of Complaints:
- All documentation regarding Supervisory Reviews and Internal Affairs Investigations shall be forwarded to the Professional Standards Unit where it will be kept secure.
 - Internal Affairs investigations and Supervisory Reviews normally shall be retained in file for four years plus the current year.
 - The chief of police may, for cause, direct that a Sustained, Unfounded, Exonerated and Failure of Policy Supervisory Review or Internal Affairs Investigation be retained beyond the destruction date.

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General Order 403.00

Reviewed 07/11

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Authorized by Jerry Garner, Police Chief

Effective: July 5, 2011

Jerry Garner
Signature

Date: 7-5-11