



## LINCOLN POLICE DEPARTMENT GENERAL ORDERS

**NUMBER:** 1430  
**TOPIC:** INTERNAL INVESTIGATIONS  
**ISSUED BY:** MICHON MORROW, CHIEF OF POLICE  
**DATE:** 1-1-2024  
**SUPERSEDES:** G.O. 1430, 2023  
**REFERENCE:** G.O. 1440, N.R.S. 84-1202

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### I. POLICY

The Lincoln Police Department maintains a system for internal investigations into alleged or potential misconduct by employees. The department will conduct thorough, impartial, and timely internal investigations; take appropriate disciplinary action when misconduct is revealed; and respect the rights of the employees and the community involved.

### II. PROCEDURE

#### A. Professional Standards Unit

1. The chief of police will appoint personnel to the Professional Standards Unit to conduct internal investigations on their behalf.
2. The Professional Standards Unit reports directly to the chief of police. (26.2.3)
3. Professional Standards Duties
  - a. Investigate community complaints at the direction of the chief of police.
  - b. Conduct other investigations ordered by the chief of police.
  - c. Conduct investigations into firearms discharge and use of force and control incidents at the direction of the chief of police.
  - d. Brief the chief of police regarding each internal affairs complaint. (26.2.3)
  - e. Completes an annual review of agency practices including community concerns and corrective measures. (1.2.9)

#### B. Immediate Resolution of Complaints

1. From time-to-time complaints arise from lack of information or misunderstanding. Many of these apparent complaints can be immediately resolved by means of information and explanation. If such communication resolves the matter to the satisfaction of the complainant, no further action is required. These incidents shall be documented by an Employee Incident Report marked "Inquiry."

#### C. Limitations on Complaint Investigation

1. The complaint investigation process is not intended to be used as an adjudicatory process for matters that should be resolved by trial.
2. Level III complaint investigations will be completed within 14 days. Level IV complaint investigations will be completed within 30 days. Extensions may be approved by the chief of police, in which case the complainant and employee will be given a status report. (26.3.4) (26.3.3.)

#### D. Receipt of Complaints (26.2.1)

1. Complaints will be accepted from any source.
2. Whenever possible, complaints should be referred to an on-duty supervisor. If the on-duty supervisor determines the complaint to be serious in nature, Level IV Complaint, the on-duty supervisor shall document the complaint on an Employee Incident Report and send through the Chain of Command.
3. Supervisors presented with a complaint shall complete an Employee Incident Report (EIR) which includes:
  - a. Complainant's name and personal information;

- b. Type of complaint and brief summary of allegations;
  - c. Location, date and time the incident occurred;
  - d. Employee allegedly involved.
4. Supervisors shall deliver the EIR to the commanding officer or unit manager of the employee involved for review and routing.

#### E. Classification of Complaints

1. Complaints will be classified in general categories and designated as Level III or Level IV on the Employee Incident Report.
2. Level III complaints are of a minor nature and are investigated by a supervisor in the employee's chain of command. Examples of Level III complaints may include: (26.3.1, 26.3.3)
  - a. Discourtesy (Citizen complaints of rudeness, profanity, disinterest, inattention, etc..)
  - b. Minor procedural violations (Officer involved vehicle crash, equipment loss/damage, complaints of improper investigation, lack of follow-up, accidental taser discharge, etc..)
  - c. Minor conduct problems (Insubordination, attendance/improper use of leave, unprofessional behavior, driving complaints, etc)
3. Level IV complaints are of a serious nature and are investigated by the Professional Standards Unit. Examples include: (26.3.1)
  - a. Excessive force
  - b. False arrest: Complaint that the officer made an arrest without lawful justification, probable cause or confirmed warrant.
  - c. Harassment: Complaint of repeated or unwanted contact of a citizen without a legitimate purpose.
  - d. Discrimination and/or racial profiling: A detention or arrest of a citizen based on race or other protected classes.
  - e. Serious or criminal misconduct
  - f. Commission of a criminal offense
4. The chief of police or designee will review all complaints with the final authority to determine the classification of issued discipline. The following criteria may be considered in classifying a complaint as Level III or Level IV:
  - a. Severity of the alleged misconduct;
  - b. Any obvious mitigating or aggravating circumstances;
  - c. The severity of disciplinary action which might reasonably be anticipated if the allegations in the complaint are proven;
  - d. The past conduct of the employee involved.

#### F. Level III Complaint Investigation

1. The Employee Incident Report will be assigned to a supervisor by the commanding officer or unit manager.
2. A control copy shall be immediately forwarded to the Professional Standards Unit.
3. The supervisor will be responsible for investigating the complaint. The supervisor's investigation shall include:
  - a. Review of any reports related to the incident;
  - b. Notify the employee, prior to interviewing, that they are the subject of a complaint and;
    - (1) a complaint was made
    - (2) the subject of the investigation
  - c. Interview of the involved employee regarding the allegation;
  - d. Interview of any witnesses;
  - e. Re-contact with the complainant, if necessary;
  - f. Other investigative steps that maybe necessary.
4. Upon completion of the investigation, the complainant will be re-contacted by the supervisor, commanding officer, or unit manager and informed of the findings, except in cases where the complainant has specifically requested no further notification.

5. The completed Employee Incident Report and any additional reports, will be returned through the chain of command to the Professional Standards Unit for review and retention in accordance with General Order 1440, "Disciplinary Action." The issuing supervisor shall provide the employee a copy of the EIR. A final copy of the EIR will be made available to the employee and can be obtained by contacting the Records Unit Manager.
6. The chief of police retains the authority to accept the findings, reach another finding, or direct further investigation.

#### G. Level IV Complaint Investigations

1. The Professional Standards Unit will investigate all Level IV complaints, as determined by the chief of police.
2. Whenever practical, the Professional Standards Unit will request that the complainant sign a complaint form that includes a brief description of the nature of the complaint.
3. A letter will be sent to the complainant acknowledging receipt of the complaint. (26.3.4)
4. Department employees who are the subject of a Level IV complaint shall receive written notification, which shall be hand delivered by a supervisor or commanding officer, who will complete the affidavit of receipt and return it to the Professional Standards Unit. (26.3.5)
5. A copy of the written notification shall be sent to the employee's commanding officer or unit manager and the division's assistant chief.
6. Upon receipt of a letter requiring an interview, the employee shall contact the Professional Standards Unit within five calendar days for the purpose of scheduling an interview that must be held within ten days of the date on the written notification. (26.3.5)
7. When ordered by the chief of police, employees shall submit a complete written report concerning the incident giving rise to the complaint. The report will be submitted to the Professional Standards Unit within five working days of the order.
8. The following guidelines apply to Professional Standards Unit interviews:
  - a. Interviews will be conducted during regular office hours. Reasonable attempts shall be made to schedule interviews at other times when necessary.
  - b. Any employee interviewed off-duty shall be entitled to overtime pay, however no overtime will be authorized for any off-duty employee who appears without an appointment. Approval is required for interviews conducted on an employee's regular days off.
  - c. Interviews with employees will be recorded, and whenever possible, interviews with community members should be recorded.
  - d. Community members and employees may be represented by an attorney, who may be present during interviews. Employees may also have Union representation present.
  - e. Reasonable rest breaks will be provided.
  - f. Professional Standards Unit shall give the Garrity warnings whenever:
    - (1) A separate criminal investigation is underway; or
    - (2) The complaint itself alleges conduct which may constitute a criminal offense; or
    - (3) In other circumstances authorized by the chief of police.
  - g. Professional Standards Unit shall not provide information to any criminal investigator concerning the statements made by the employee during the internal investigation, nor any information obtained in whole or in part from such statements.
9. Other Investigative Actions
  - a. The Professional Standards Unit may utilize other investigative techniques or procedures, as may be necessary, including but not limited to:
    - (1) Collection of evidence at the scene of the incident, including diagrams and photographs;
    - (2) Review of reports relating to the incident;
    - (3) Scientific, lab, medical, or polygraph examinations;(26.3.6)
    - (4) Utilize Identification procedures including audio, video or a line up\_(26.3.6)
  - b. Financial records or disclosure statements may be required only with a warrant or subpoena. (26.3.6)
  - c. Polygraph, medical, laboratory, or scientific examination will be ordered only at the direction of the chief of police, and as provided by law and labor agreements.
  - d. All complaints regarding unlawful or improper bias or disparate treatment based on an individual's race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or other identifiable groups made against an employee of the Department shall be investigated. (1.2.9)

- (1) A copy of each allegation of racial profiling shall be forwarded to the Nebraska Commission on Law Enforcement and Criminal Justice by the Professional Standards Sergeant.
  - (2) The Commission shall also be provided with a written notification of the review and disposition of the allegation.
  - (3) No information revealing the identity of the law enforcement officer, or the complainant shall be used, transmitted or disclosed in the documentation alleging racial profiling sent to the Commission.
10. Disposition of Level IV Complaints (26.3.8)
- a. The Professional Standards Unit will complete a detailed investigative report concerning the findings, and will recommend one of the following dispositions:
    - (1) Unfounded: The investigation conclusively established that the act giving rise to the complaint did not occur.
    - (2) Exonerated: The investigation showed that the act giving rise to the complaint occurred, but the actions of the employee were justified, lawful, and proper.
    - (3) Sustained: The investigation conclusively proved the allegation.
    - (4) Not sustained: The investigation failed to conclusively prove or conclusively disprove the allegation.
  - b. Professional Standards Unit will make no disciplinary recommendations.
  - c. Once the investigative report is concluded, written notification will be provided to the employee notifying them of the completion. The chief of police then reviews the report and determines the final outcome.
  - d. The Professional Standards Unit investigative report will be forwarded to the chief of police, who may accept the disposition, make another finding, or direct further investigation. If additional investigation is required, the employee will be notified the investigation is ongoing. (26.3.3)
  - e. The employee will be notified of the disposition in writing. This notification will be delivered by a supervisor or commanding officer who will complete the affidavit of receipt and return it to the Professional Standards Unit.
  - f. The employee's commanding officer or unit manager and the division's assistant chief will also be notified of the disposition.
  - g. The chief of police shall prepare a letter to the complainant regarding the disposition. This letter will be held 10 days, or until the first court disposition if a case is pending.
  - h. If determined the complainant made a false statement during the investigation, the decision to make an arrest will be made by the Chief of Police.
11. Sustained Complaint Hearing (26.3.4)
- a. When the Professional Standards Unit has recommended that a Level IV complaint be sustained, the chief of police may schedule an administrative hearing. The employee may waive the hearing in writing to the chief of police.
  - b. The employee may be represented by counsel, Union representative, and up to one other person with advanced approval by the chief of police.
  - c. The hearing may be attended by the employee's supervisors, the legal advisor and others designated by the chief of police.
  - d. The Professional Standards Unit investigator will present their findings, and the employee may present any evidence, rebuttal or other statement.
  - e. The chief of police shall determine whether the complaint is sustained, and the corrective action to be taken, if any.

#### H. Criminal Investigations

1. The chief of police may order an investigation into alleged criminal conduct by employees. The criminal investigation will be separate from the Professional Standards Unit investigation and is for the purpose of determining if a crime has been committed, if the employee is responsible, and to collect evidence for prosecution.
2. Provisions of this General Order regarding notification to employees concerning complaints may be abrogated when such notice would jeopardize a criminal investigation.

3. The chief of police may designate an outside law enforcement agency to conduct a criminal investigation when an employee is allegedly involved and appoint a command officer to function as liaison with the outside agency during the investigation.
4. An internal investigation for administrative purposes may be ordered by the chief of police in addition to any criminal investigation.

I. Other Investigations

1. Civil claims and lawsuits against the department or its personnel may be directed by the department legal advisor to the Professional Standards Unit for an investigation of the circumstances giving rise to the action, for the sole purpose of defending a lawsuit.
2. Internal investigations for the purpose of fact finding may be initiated at the direction of the chief of police concerning employee conduct, procedures, or any other issue.
3. While these investigations may follow the general format of complaint investigation outlined in this General Order, the chief of police retains the fundamental management right to examine employee and department performance.

J. Records of Internal Investigations (26.2.2, 82.3.5)

1. The Professional Standards Unit is responsible for the safekeeping and maintenance of Professional Standards files and records.
2. Professional Standards Unit shall maintain a summary record of each complaint per the State of Nebraska records retention laws, including:
  - a. Name of officer and complainant;
  - b. Date of complaint;
  - c. Nature of complaint;
  - d. Department and Professional Standards case numbers;
  - e. Disposition of complaint.
3. Professional Standards Unit shall annually review and report complaint trends and disciplinary actions to identify areas of concern. The report will be provided to the chief of police or designee to determine any training needs and other policy revisions. (26.2.5)
4. Professional Standards Unit files, records, and investigative reports are for the internal administrative purposes of the department and shall not be released or maintained outside the department except as required by court order, state law or labor agreements.
5. Access within the department will be restricted to those persons with a need to know the content of the files, based on some part in the Professional Standards Unit or the discipline process. Access must be approved by the chief of police.
6. The department shall comply with all provisions of labor agreements concerning the maintenance and retention of Professional Standards Unit records.

