3100 INTERNAL AFFAIRS POLICIES

3110 GENERAL [CALEA 52.1.1]

The City has the right and the duty to investigate thoroughly all allegations of involvement in criminal activity or misconduct by its employees. All alleged or suspected violations of *General Orders*, other policies and procedures, and all complaints directed against employees of the Department shall be promptly and thoroughly investigated.

The mission of the Office of Internal Affairs (OIA) is to serve the public by addressing concerns and complaints regarding Department members. Honest, fair and thorough investigations shall be conducted to ensure the integrity of the organization, the safety of the community and the rights of citizens and employees alike.

3120 DUTIES OF EMPLOYEES

All employees have an obligation to report any misconduct that comes to their attention to a supervisor. All employees shall cooperate fully in Department investigations as required in *General Orders*.

3121 Supervisors

3121.1 General [CALEA 52.2.1 a]

Supervisors shall scrutinize all areas of police action and Department operations under their command to discover violations of *General Orders* or policies and procedures at the earliest stage.

3121.2 Handling of Complaints and Investigations [CALEA 52.2.1 a]

When accepting complaints that result in the initiation of any type of investigation involving an employee, an attempt to verify the sincerity of the complainant shall be made. Supervisors are responsible for maintaining the confidentiality of the contents of an investigation under their control.

3121.3 Supervisory Review [CALEA 52.2.8; 52.2.1 a]

Except as otherwise provided, supervisors in an employee's chain of command are responsible for evaluating the findings of an investigation, arriving at a conclusion of fact, and making recommendations regarding the disposition and discipline, if any, as a result of an investigation. An exception to this rule occurs if sworn employees report through non-sworn personnel and the incident deals with the exercise of police powers.

3130 DUTIES OF THE OFFICE OF INTERNAL AFFAIRS (OIA)

3131 **General** [CALEA 52.1.2; 52.1.3]

OIA shall act on behalf of, and report to, the Chief of Police as a staff investigative body with the following areas of responsibility:

- Recording, registering and controlling the investigation of alleged or suspected misconduct within the agency.
- Investigating or assuring the investigation of alleged or suspected misconduct within the agency.
- Recording, registering, and maintaining a file of the inspection of procedures, incidents, or activities, in order to monitor performance within the agency.
- Providing for coordination and follow-up on disciplinary actions within the agency.
- Maintaining the confidentiality of OIA investigations and records.
- Investigating alleged or suspected criminal activity by an employee.

3132 **OIA Commander Duties** [CALEA 52.1.3; 52.2.2]

The Commander of the OIA has the authority to report directly to the Chief of Police. The OIA Commander will make immediate notification to the Chief or his designee in cases of serious criminal allegations against members. The OIA Commander will otherwise oversee all operations of the office as conditions warrant. Investigations will be completed in a timely manner as established by Department policy.

3140 COMPLAINT INTAKE

3141 **Types of Complaints Accepted** [CALEA 52.1.1]

It is the policy of the Tucson Police Department to accept all first-party complaints against employees of the agency made in a timely manner. Complaints of a non-serious nature that have not been made within 180-days of the incident will not be accepted, unless directed by the Chief of Police or the OIA Commander. Anonymous complaints present significant investigative challenges but shall be accepted. The OIA commander shall review each anonymous complaint and make a recommendation to the Deputy Chief of Police regarding feasibility of further investigation. The Deputy Chief of Police shall decide if the anonymous complaint shall be pursued or closed.

In addition, the following types of complaints will also be accepted:

- Complaints made by parents on behalf of minor or dependent children.
- Misconduct allegations by a third party, at the discretion of the OIA Commander.

3142 **Complaint Intake Procedures** [CALEA 52.1.4]

Citizens may make a complaint to the Police Department in person, via the telephone, fax, e-mail, Internet, or by mail. Citizens may also communicate complaints through the Independent Police Auditor who relays the information to OIA for processing.

3142.1 **Normal Business Hours** [CALEA 52.1.4]

- **Police Main Station**

  Complainants made at the Main Police Station during normal business hours will be directed to OIA.

- **Other Locations**

  When a citizen wishing to make a complaint contacts a member of the Department at a location other than the Main Police Station, the citizen will be given the option of filing the complaint directly with OIA. If this is inconvenient for the citizen, any sworn supervisor may take the complaint and then forward it to OIA.

3142.2 **After Hours** [CALEA 52.1.4]

When a citizen wishing to make a complaint contacts a member of the Department after normal hours, any sworn supervisor may be called to take the complaint. The *Citizen's Complaint Form* will be completed and forwarded to OIA in an envelope marked *Confidential*.

3142.3 **Complaints of a Serious Nature** [CALEA 52.2.1 b]

If the complaint is of a serious nature, OIA shall be notified immediately. OIA after-hours callout information may be found in the computerized *INFO/INDEX* listing. A serious complaint is considered one that is criminal in nature, which could result in significant disciplinary action (i.e. termination) or which may result in embarrassment or other concern to the Department.

3142.4 **Resolution of Complaints** [CALEA 52.2.1 a]

If the complaint appears to arise from misinformation, misunderstanding, or acceptable police procedure, the supervisor shall try to resolve these issues at the initial contact.

3143 **Verification of Complaint Receipt** [CALEA 52.2.4 a]

Complainants will be provided with written verification that their complaint was received for processing by the Department.

3144 **Status Reports on Complaints** [CALEA 52.2.4 b]

If, after 45 days, a complaint remains open and without a disposition, the complainant will be notified by telephone or in person that the investigation is still pending.

3150 TYPES OF INVESTIGATIONS

3151 Criminal Investigations

3151.1 General [CALEA 52.2.1 b]

Criminal investigations focus upon alleged or suspected criminal activity by an employee. The Chief of Police shall regularly review the progress of the investigation until criminal charges are filed or refused by the appropriate charging authority. Criminal investigations will be completed within a reasonable period of time, consistent with the particular requirements and circumstances of each case. Employees shall be informed of the existence of a criminal investigation within thirty (30) days of the termination of the investigation if the investigation shows that the allegations are not true or are without foundation.

3151.2 Responsibility [CALEA 52.2.1 b]

If criminal prosecution of an employee is a possibility, OIA will assume responsibility for conducting the criminal investigation. OIA may enlist assistance from specialized units or outside agencies, i.e. the FBI.

3151.3 Reporting Alleged Criminal Acts [CALEA 52.2.1 b]

When a member is made aware that an employee may be involved in criminal or apparent criminal activity, or when a citizen alleges criminal acts, the advised member shall immediately notify an OIA supervisor. Supervisors who are aware that an employee may be involved in criminal activity shall neither direct the involved member to make a *Personnel Report*, nor shall the employee be questioned, until the criminal investigation has been concluded.

3151.4 Disclosure of Criminal Investigations [CALEA 52.1.2]

The contents of a criminal investigation in which a criminal complaint has been issued shall be disclosed in accordance with applicable law, and state and federal rules of criminal procedures. These records shall be retained in accordance with the Citywide records retention and disposition schedule. No reference to the investigation shall be placed in the employee's personnel file maintained by the Police Human Resources Division or the City Human Resources Department, either by direct reference or within an evaluation.

3151.5 Subsequent Department Action [CALEA 52.2.1 b]

Acquittal on a criminal charge does not prevent the Department from taking appropriate administrative action against an employee.

3152 **Administrative Investigations** [CALEA 52.2.3]

Administrative investigations are non-criminal investigations. Criminal investigations regarding alleged or suspected criminal activity by an employee shall always supercede administrative investigations. Unless otherwise directed by the Chief of Police, administrative investigations may be conducted concurrently with the criminal investigation. Under no circumstances, will information obtained during the administrative investigation be shared with the criminal investigation.

The Department will strive to complete administrative investigations within thirty working days of complaint initiation. A request for extension must be made in writing to the involved member's Bureau Chief and includes the reason for the extension request. Such requests, and their responses, shall become a permanent part of the investigative file.

Administrative investigations may fall into any of the following categories:

3152.1 **Internal Investigations (II)** [CALEA 52.2.1 a]

Internal Investigations (II) are generated for a variety of reasons and generally are initiated within the Department. This type of investigation may result when there is an internal allegation related to misconduct or operational actions of employees on or off duty. Internal Investigations may be derived from a concluded criminal investigation or may be derived from some other source within the agency. The majority of Internal Investigations are initiated within the employee's chain of command and related to operational actions conducted during the employee's performance of duties. Normally, unless serious or complex in nature, these operational concerns are investigated by the employee's Chain of Command and then forwarded to OIA for tracking and filing. In the latter instance, an Assistant Chief or above shall authorize the investigation via memorandum that shall become a part of the investigative file. OIA shall be responsible for conducting Internal Investigations of a serious nature.

3152.2 **External Investigations (EI)** [CALEA 52.2.1 a, b]

External investigations may be categorized by two separate methods: Formal or Informal. They are generated when a citizen makes an allegation of misconduct of a serious or non-serious nature, or nonperformance of duty against a member of the Department. Examples of this type of investigation would include allegations such as excessive force, illegal search and seizure, false arrest, civil rights violations, quality of service, professionalism, attitude, disparate treatment, or unresponsiveness to the community.

- **Category 1 (Formal)** [CALEA 52.2.3]

  The OIA will investigate External Investigations (EI-C1) that require extensive follow up. This includes complaints involving three (3) or more non-departmental witnesses, complaints that are pending civil litigation or other complaints as directed by the commander of OIA. An internal due date of 30 days shall be assigned.

External Investigations (EI-C1) will be documented by OIA and forwarded to the affected member's Chain of Command for investigation.

The immediate supervisor of the member will be responsible for contacting the complainant and conducting the investigation. A Commander shall contact the complainant and advise them of the disposition once the investigation has been completed. The commander making such contact will explain the procedure involved in the complaint process and attempt to answer any questions from the citizen. This contact shall be documented on the appropriate paperwork and returned to OIA.

External Investigations (EI-C1) are due from the Chain of Command thirty (30) calendar days from the date of distribution. An extension may be granted by the appropriate Bureau Commander.

- **Category 2 (Informal)**

  Category 2 External Investigations (EI-C2) involve allegations of a non-serious nature where the citizen elects not to pursue a formal investigative process. The citizen may simply request notification be made to the supervisor via e-mail for notification purposes only. The complaint will be classified as an EI-C2 and closed within OIA.

- **Category 3**

  Category 3 External Investigations (EI-C3) involve allegations of a non-serious nature where the citizen is unable to articulate a bonafide complaint. Additionally this category is used for concerns regarding police conduct that do not rise to the level of a Formal or Informal External Investigation due to a lack of valid facts or no apparent General Order violations. This category of investigation will be closed within OIA as an EI-C3.

3153 Administrative Inspections

3153.1 General

Administrative inspections focus on an activity, procedure, or incident in order to determine if procedures, training, or the philosophy of the Department are in need of revision. Inspections are a management tool used for improving Department performance.

3153.2 Disclosure of Administrative Inspections

The contents of an administrative inspection file are not considered confidential. Consequently, these records are available for administrative review.

3153.3 Accomplishment of Inspections

Administrative inspections are conducted by the chain of command or personnel assigned to the OIA.

3153.4 **Disposition and Recommendations** [CALEA 52.2.8]

After considering all the facts and circumstances surrounding the incident under review, a determination will be made by the reviewing authority using the following categories concerning the disposition:

- **Preventable**

  The member is determined to be the cause of the accident, damage, or loss.

- **Non-preventable**

  The member is determined not to be the cause of the accident, damage, or loss.

Once a disposition has been determined, the completed inspection shall be reviewed by the chain of command for their recommendations.

3153.5 **Notification**

After the inspection has received a disposition from the chain of command and the employee has been notified, the completed package shall be forwarded to OIA for filing.

3160 INVESTIGATIVE PROCEDURES

3161 Purpose and Method of Investigations

The objective of an investigation is to determine the truth. All investigations shall be conducted with full regard for the employee's reputation and Constitutional and legal rights.

Criminal investigations shall be conducted in accordance with Department *General Orders* and applicable laws. Non-criminal investigations shall be conducted in accordance with standard investigative techniques. Investigations may include the taking of statements, the gathering and preserving of evidence, and the recording of information.

All investigations shall be thoroughly conducted in a timely and professional manner. An attempt shall be made to resolve any discrepancies noted during the investigation.

3162 Investigative Personnel

Assignment of OIA investigators to criminal investigations of employees shall be made with due regard to the sensitivity of personal and professional relationships. At the discretion of the Chief of Police, a criminal investigation may be conducted by a law enforcement agency other than the Tucson Police Department.

Internal Investigations and Administrative Inspections shall be conducted only by the Chief of Police or his designee (which includes OIA), the City Manager, the City Finance Director, or the City Attorney.

3163 **Employee Notification and Investigative Scope** [CALEA 52.2.5]

When an employee is notified that they are the focus of an OIA complaint, they will be advised of the allegation(s) against them and a written summary of their rights and responsibilities relative to the investigation. This notification may come from OIA personnel or from the involved member's chain of command.

Interrogations of Department employees with respect to allegations of misconduct shall be limited in scope to activities, circumstances, or acts pertaining to the specific allegations being investigated. Department members shall provide complete information regarding the incident under review as required in *General Orders*.

3164 Investigations Involving Video Evidence

In an effort to gather the most accurate information and to ensure the integrity of the investigation, a department member who is the focus of an investigation may be permitted to view any known video evidence that depicts the member's actions pertaining to the incident under investigation prior to questioning, unless:

- After consultation with the Pima County Attorneys' Office (PCAO) on a use of deadly force incident, it is determined that the investigation into the incident would be compromised by such review prior to questioning.

- After consultation, if deemed appropriate, with a prosecutorial agency on any other potential criminal matter necessitating investigation by the Department, it is determined that the investigation would be compromised by such review. This may include, but is not limited to allegations of misconduct, in-custody deaths, pursuits, vehicle collisions, or serious injury events.

- Exceptional circumstances, as determined by the Chief of Police, necessitate restricting the member from review prior to taking a statement.

In those circumstances where an officer is asked to provide a statement or interview without prior review of video evidence in a criminal investigation, if the member declines to provide a statement, the declination will be honored.

3165 **Conduct and Recording of Interviews** [CALEA 52.2.5]

Reasonable effort shall be made to conduct interviews of an employee during his or her scheduled work hours. If an employee is contacted personally or by telephone outside of those scheduled work hours, compensation shall be made in accordance with Department policy. Employees shall be advised prior to the interview whether the interview relates to a Criminal Investigation, an Internal Investigation, or an Administrative Inspection, and whether or not they are the focus of the investigation.

Interviews shall be reasonable in length. The employee shall be given reasonable intermissions at his or her request for personal necessities, meals, telephone calls, and rest periods.

Interviews may be recorded at the request of either party after giving notice of intent to do so. Equipment for such recording shall be the responsibility of the requesting party.

3166 **Employee Rights to Counsel** [CALEA 52.2.5]

Employees have the right to have counsel of their choice present during any interview involving allegations of criminal activity against them. Employees, who are not the subject of a Criminal Investigation but are interviewed as witness or other parties, do not have the right to the presence of counsel during any interview.

Employees do not have the right to have counsel present during interviews involving any non-criminal Internal Investigation or Administrative Inspection. Interviewers shall, however, exercise care to see that employee safeguards are maintained. Employees may ***have*** a representative present at the interview. The employee representative may not answer questions on behalf of the employee.

3167 **Employee Requirements**

No employee who is the subject of a Criminal Investigation shall be required by the Department to answer questions or submit to examinations or tests in violation of their Constitutional rights.

Employees are required to answer questions, submit to tests, or render materials and relevant statements to a competent authority in any non-criminal internal investigation or administrative inspection pertaining to an employee's function, work responsibility, or position-related activity as required by *General Orders*. Failure to comply constitutes refusal to obey a lawful order.

3168 **Available Test Options**

The Department, depending upon circumstances, may require or offer any of the following tests or investigative steps during the course of an investigation by OIA.

3168.1 **Polygraph Examination** [CALEA 52.2.6 e]

Upon written order by the Chief of Police, an employee is required to submit to a polygraph examination when involved in a sensitive or serious non-criminal investigation or Administrative Inspection. The examination shall be limited to the specific issue(s) under investigation and the employee shall be informed of the pertinent questions before the administration of the examination. A certified operator designated by the Chief of Police shall administer the examination.

3168.2 **Medical or Laboratory Examinations** [CALEA 52.2.6 a]

Upon order of the Chief of Police, an employee is required to submit to a medical or laboratory examination when involved in a sensitive or serious non-criminal Internal Investigation or Administrative Inspection as outlined in *General Orders* or City *Administrative Directives*. The examination shall be limited to the specific issue(s) under investigation and the employee shall be informed of the issue items before the

administration of the examination. The examinations shall be administered only by competent medical or laboratory personnel designated by the Chief of Police.

3168.3 **Photographs** [CALEA 52.2.6 b]

Photographic lineups of members may be used as long as precautions are taken to avoid suggestibility. Current accepted investigative practices on lineups shall be adhered to.

3168.4 **Physical Line-Ups** [CALEA 52.2.6 c]

Upon order of the Chief of Police or his designee, an employee shall be required to stand in a physical line-up for identification purposes in a sensitive or serious non-criminal Internal Investigation or Administrative Inspection.

3168.5 **Chemical Breath/Blood Tests** [CALEA 52.2.6 a]

Upon order of a supervisor, a member is required to submit to a chemical breath test, blood test or urine test when reasonable grounds exist for believing said member to be under the influence of alcohol or drugs while on duty, specially assigned, or engaged in off-duty employment in a police capacity, providing said testing would not compromise a criminal investigation. This is in addition to any other requirements for such testing as may be called for elsewhere in *General Orders*. Only competent medical or laboratory personnel shall administer a blood test or a urine test. Only a certified operator shall administer a chemical breath test.

3168.6 **Financial Disclosure Statements** [CALEA 52.2.6 d]

Upon written order by the Chief of Police, an employee is required to submit a full financial disclosure statement when involved in a sensitive or serious non-criminal Internal Investigation or Administrative Inspection. The order for disclosure shall be limited to the specific issue(s) under investigation and the employee shall be informed of the items at issue before the request for disclosure.

3168.7 **Other**

Depending upon the nature of the allegations, other investigative steps may be warranted. These are to be carried out in accordance with *General Orders*, City *Administrative Directives*, union contract, Civil Service Rules, Arizona Revised Statutes, and the Constitution of the United States.

3169 **Integrity of Reports**

Employees shall not remove any original report (including *Personnel Reports*) from an investigative package once the report has been submitted and/or reviewed at any administrative level. Any modifications to reports in investigative packages shall be done by an addendum in the appropriate report format. All reports become a permanent part of the package.

3170 DISPOSITIONS

3171 Recommendations and Disposition Options [CALEA 52.2.8]

The following dispositions are available for chains of command to use at the conclusion of their evaluation of Administrative Investigations.

- **Sustained**
  The member was determined to have committed the alleged violation.
- **Unfounded**
  The member did not commit the alleged violation.
- **Exonerated**
  The member was justified in taking the course of action alleged as inappropriate.
- **Other**
  The member was determined to have committed a violation other than what was originally alleged.
- **Not Sustained**
  It cannot be determined if the member committed the alleged violation.

3172 Chain of Command Review

Decisions on disciplinary action against an employee are generally made following a review of the circumstances and recommendations by the member's chain of command. Two levels of the chain of command must agree on proposed discipline in order for it to be implemented, with the exception of the Chief of Police who is the final level for any recommendation for termination. For disciplinary review purposes, the chain of command will generally start with the affected employee's immediate supervisor. Exceptions may occur with the review starting at a higher level, as may be deemed appropriate by the Chief of Police or Bureau Commander (i.e. non-sworn reviewing police action by a sworn employee, immediate supervisor unavailable, etc.).

3173 Employee Notification [CALEA 52.2.5]

After the completion of a formal Internal Investigation, Personnel Investigation, or Administrative Inspection, the employee shall be notified of the disposition via the chain of command or by OIA. If the employee has any questions regarding the disposition that cannot be satisfactorily addressed by their chain of command, they may contact the OIA for clarification. The complete package shall be available for review by the subject employee.

3174 Citizen Notification [CALEA 52.2.4 c]

Once the appropriate chain of command has concluded its review and recommendations, the complainant shall receive written notification of the complaint outcome via a letter from the Chief of Police.

3180 OIA RECORDS

3181 Records Maintained in the Office of Internal Affairs [CALEA 52.1.2; 82.3.5]

OIA shall maintain copies of all Internal Investigations and Administrative Inspections in a secure area. The OIA Commander is the custodian of these records.

3182 Purging of Files

3182.1 General

OIA files will be purged according to the guidelines established below after review has assured no pending litigation exists involving any file scheduled for destruction. This purging shall be accomplished each quarter. If litigation is pending, the files will not be purged until the litigation has been resolved.

3182.2 Purging Criteria

All OIA files that resulted in corrective action or no discipline will be purged after five years. Per ARS 39-128, the Department shall retain records that are reasonably necessary or appropriate to maintain an accurate knowledge of disciplinary actions including the employee responses. For all Internal Affairs investigations that result in a written reprimand, suspension, demotion, or termination, the complete investigative file must be retained for 5 years after the employee is separated or terminated.

3183 Confidentiality of Files [CALEA 52.1.2]

All reports relating to internal investigations are considered confidential. No copies shall be made without written permission of the Chief of Police, and review of files shall be limited to Division Commanders and above who have a specific need to become familiar with a particular completed investigation. The exception to these restrictions will be requests made in accordance with Arizona Public Records Law.

3184 File Review by Members [CALEA 52.2.5]

Complaint packages and internal investigations that have been sent to the chain of command for review may be examined by the affected employee or TPOA representative if applicable. The employee may review a case investigated by an employee's chain of command after its completion and delivery to OIA.

Members who have received a seven-day notice of discipline may review their package during normal business hours for OIA. The member may also elect to have their union representative review their investigative file if applicable.

Any member appealing any proposed, pending, or served discipline may review their package as part of any grievance process. The member may also elect to have their union representative review their investigative file if applicable.

All requests for review will be in writing, based on the contract and policy, the review will take place in the OIA office, the reviewer's name will be logged, and the member will make no copies.

Other members having a need to review any OIA files shall have written authorization from the Chief of Police or designee. Copies of OIA files shall not be released unless there is written authorization from the Chief of Police or in accordance with Arizona Public Records Law.

3185 **Release of OIA Files** [CALEA 52.1.2]

Files maintained by OIA will only be released in accordance with the Arizona Public Records Law or in response to a lawful subpoena from a court of competent jurisdiction. All such requests shall be made in writing and directed to the OIA Commander.

The Administrative Support Officer in OIA will handle all Arizona Public Records law requests and will coordinate with the Legal Advisor's Office and OIA Commander on redaction and release of information. Employees affected by such requests will, if possible, be notified in advance of the release.

3186 **Statistical Summaries** [CALEA 52.1.5]

OIA compiles an annual summary of its investigations. These are distributed throughout the Department and are available for release to citizens.