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Approval: Chief of Police	Manual: Policy and Procedure			

I. PURPOSE

The purpose of this policy is to establish the Internal Affairs function of the Department. The Internal Affairs function within the Department is important for the maintenance of professional conduct and the overall integrity of the department. The Department will respond expediently and responsibly to allegations of misfeasance and nonfeasance by employees and to complaints about the department's response to community and individual needs.

II. DEFINITIONS

- A. Internal Affairs: A division of a law enforcement agency that investigates incidents and possible suspicions of law-breaking and professional misconduct attributed to officers on the force. Internal affairs can also refer to cases of misconduct and criminal behavior involving police officers.

III. POLICY

- A. The goal of the Office of Professional Standards is to insure that the integrity of the Department is maintained through a system of internal discipline where objectivity, fairness and justice are assured by intensive and impartial investigations and review.

Investigations into all allegations or complaints of misconduct by members of the Department shall be the responsibility of the Office of Professional Standards or as otherwise provided by this policy. Misconduct is defined as:

1. Commission of a criminal offense
 2. Violation of departmental policies and procedures
 3. Conduct which adversely reflects upon the employee and the Department.
- B. In addition to investigations concerning allegations of misconduct, the Office of Professional Standards shall be responsible for the coordination of investigations involving the discharge of firearms.
- C. Internal Affairs Activities
1. All allegations or complaints of employee misconduct shall be investigated appropriately and adjudicated promptly. The activities of the Professional Standards Officer include:
 - a. Recording, registering and controlling the investigation of complaints against Department employees. The Internal Affairs case assignment control log is utilized for this purpose.

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- b. Supervising and controlling the investigation of alleged or suspected misconduct of employees of the Department.
 - c. Maintaining the confidentiality of the Internal Affairs investigations and records. Confidentiality is maintained through adherence to North Carolina General Statute's 160A-168.
2. The progress of Internal Affairs investigations and all supporting materials are considered confidential information. This confidentiality serves the need to protect both the personnel accused and the complainant.
 3. The Chief or their designee are the only authorized personnel empowered to release, for public knowledge, the details of an internal investigation. This confidentiality rule in no way precludes reporting to the public, statistical information on the processing of all complaints and internal investigations that were received and processed by the Office of Professional Standards.

D. Complaint Categories

Categories of complaints that may be referred by the Office of Internal Affairs to the appropriate Division Major or Supervisor for investigation are:

1. Complaints of harassment excluding sexual harassment.
2. Failure to take appropriate police action.
3. Violation of "Rules of Conduct" except those involving criminal activity.
4. Internal complaints shall be forwarded to the Office of Professional Standards for an assignment of a case number.
5. Other miscellaneous cases as approved by the Professional Standards Office.

E. The following categories of complaints or incidents shall require investigation by the Office of Professional Standards:

1. Complaints involving criminal activity or corruption.
2. Complaints against all ranking personnel (Sergeant/Captain or above) unless approved otherwise by the Chief. In such cases, a superior ranking officer may be assigned the investigation.
3. Complaints of sexual harassment.
4. Shootings
5. Complaints of internal theft.

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6. Review and investigation of all excessive force complaints.
7. Complaints of civil rights violations.
8. Incidents involving Use of Force and Vehicle Pursuits.
9. Any other investigations as directed by the Chief of Police.

F. Investigation of All Complaints

All complaints made against the Kinston Police Department or its employees shall be investigated. Anonymous complaints shall be reviewed based on the nature and merit of the complaint. Complaints may be made in several ways:

1. By department employees either orally or in writing, by telephone or by correspondence and may be signed or anonymous.
2. By supervisory personnel.
3. By citizens who may report complaints to any member of the department, either orally or in writing, by telephone, by correspondence and by e-mail.
4. Complaints received during the hours of 8:00AM to 5:00PM, Monday through Friday, will be referred to the Office of Professional Standards.
5. The Professional Standards Officer will take the necessary information and forward it to the appropriate Division Major unless the nature of the complaint dictates that it be investigated by the Office of Professional Standards.
6. If a complaint is received after hours, the complainant will be referred to the on-duty shift supervisor. If the shift supervisor is not available, arrangements will be made to have the next immediate supervisor contact the complainant.
7. By or through the City Manager or other city official.

G. The complaints and disciplinary actions which are to be handled in accordance with the provisions of this policy are those that are alleged or suspected violations of the NC General Statutes, City Ordinances, or departmental rules or policies by sworn or civilian members, including temporary and part time employees of the department.

H. The City Attorney and Human Resources Director shall be notified of all investigations which might result in civil action against the employee or the city. Such investigations may be, but are not limited to, violation of civil rights such as use of excessive force or false arrest and complaints by a subordinate against a superior.

I. Upon notification of a complaint of this nature, the City Attorney and/or designated police attorney will be given a verbal review of the case by the appropriate departmental personnel.

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- J. The City Attorney or designated attorney will provide direction on which course to proceed and will assist throughout the investigation.
- K. The Chief of Police, City Attorney or designated police attorney shall maintain liaison with the District Attorney's office for investigations that involve alleged criminal conduct on the part of any employee. Actual investigations will be coordinated by the Investigations Division Major or a designee and will afford the department an opportunity to obtain legal advice and assistance with case preparation.
- L. The Professional Standards Officer is responsible for Internal Affairs matters and reports directly to the Chief.
- M. The Office of Professional Standards shall be responsible for any other investigations as directed by the Chief.
- N. Office of Professional Standards Supervisor or officers temporarily assigned to that unit shall have the authority to interview any member of the Department and to review and record or report to the department relative to their assignment. Officers assigned to the Office of Professional Standards come under the direct supervision of the Chief or his designee, the Major of Support Services.
- O. The Chief will be notified immediately by the Office of Professional Standards when a complaint of a serious nature has been received against the department or one of its employees. Complaints of a serious nature include, but are not limited to: excessive force resulting in serious injury, or the arrest of a departmental employee. The Office of the Professional Standards will notify the Chief of any less serious complaints as necessary.
- P. Internal Affairs investigations shall be completed within 30 days from the beginning of the investigation. Exceptions shall be granted by the Chief of Police when extenuating circumstances are present. When extensions are granted the Professional Standards Office will notify the employee in writing.
- Q. The Office of Professional Standards, upon completing the internal affairs investigation, shall conclude the report using the cover sheet by attaching the necessary documentation and classifying the disposition into one of the following five categories:
 - 1. Not Involved - The employee was not present at the time the alleged misconduct occurred.
 - 2. Unfounded - The investigation indicates that the alleged act(s) or omission(s) complained of did not occur or did not involve department personnel.
 - 3. Not Sustained - The investigation indicates there was insufficient evidence either to prove or disprove the allegation(s).

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4. Exonerated - The investigation indicates that the act(s) or omission(s) did occur, but were justified. Unfounded, not sustained and exonerated complaints will be retained in an active file or three (3) years after the close of the investigation, provided that no further incidents of a like nature have occurred within that period. In the event that a like incident has not arisen, the record will be removed from the active file three (3) years from the date of the last incident. Sustained complaints will be retained in an active file five (5) years after the employee's termination.
 5. Sustained - The investigation indicates there was sufficient evidence to prove the allegation(s).
- R. Persons who initiate complaints shall receive written acknowledgment of their complaint from the Director or a designee.
1. The status of each investigation initiated pursuant to the dictates of this policy shall be communicated to the complainant periodically during and at the conclusion of the investigation. Notifications shall be made at the direction of the Office of Professional Standards who shall be responsible for determining the specific information to be disclosed.
 2. When an employee becomes the subject of an internal affairs investigation relative to a formal complaint, the employee will be issued a written statement of the allegations and an explanation of the employee's rights and responsibilities relative to the investigation. Written notification will come from the Chief of Police or a designee.
- S. The Chief of Police may require an employee to submit to a polygraph examination or any other test instrument used to detect deception when the examination is specifically directed and narrowly related to an Internal Affairs investigation regarding the employee.
1. The Chief may require an employee to submit to any test(s) or disclosures when the test or disclosure is specifically directed and narrowly related to an Internal Affairs investigation regarding the employee. Failure to follow a direct order of this nature may result in a separate disciplinary action against the employee up to and including dismissal from the Department.
 2. An employee may be compelled to answer questions that are related to his/her duties or fitness. Failure to answer such questions may be the basis for disciplinary action and may result in dismissal from the Department.
 3. The answers given during the investigation of an administrative matter will not be used against the employee in any criminal proceeding.
 4. The answers given do not constitute a waiver of the privilege against self-incrimination as a criminal matter.
 5. During an administrative investigation, no attorney will be permitted to be present.

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- T. A supervisor, based on his/her observation, may require a department employee to submit to a test for alcohol or drug use while on duty. The results may be used in a disciplinary hearing. Refusal to submit to the examination will be grounds for disciplinary action and may result in the employee's dismissal.
1. If the employee is believed to be under the influence of alcohol, a certified Breathalyzer operator will administer the test. The supervisor will witness the test and will be required to sign the report.
 2. If the employee has a reading of .01 or higher or there is other competent evidence of impaired abilities to perform duties, the employee shall be relieved of duty and a report made to the Chief by the supervisor.
 3. If the employee is believed to be under the influence of self-administered drugs, the employee may be compelled to submit to a blood and/or urine test. The test shall be administered according to the guidelines set forth in the City of Kinston Drug Policy. The sample will be handled using the same safeguards as evidence in a criminal proceeding.
 4. If the test shows positive results or there is other competent evidence of impaired abilities to perform duties, the employee shall be relieved of duties and a report made to the Chief by the supervisor.
 5. If an employee refuses to submit to a test, (alcohol or drugs), then the supervisor will immediately relieve the employee from duty for failure to cooperate in an administrative investigation and a report must be forwarded to the Chief.
- U. The investigation may include the use of any combination of the following investigative aids when the information obtainable from the aid may be material to a particular Internal Affairs investigation.
1. Fingerprints, palm prints, footprints
 2. Hair samples
 3. Handwriting exemplars
 4. Voice exemplars
 5. Photographs
 6. Line-up
 7. Other non-testimonial identification
 8. Financial information

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9. Other diagnostic tests

- V. Under the ordinances of the City of Kinston (Section 2-161 of the City of Kinston Ordinance Manual), the Chief of Police shall have power to suspend any member of the department with or without pay. Upon suspending such member he shall immediately report his action to the City Manager, stating his reasons for suspension.

- W. During an internal investigation, an employee may be relieved from duty due to physical and/or psychological unfitness of duty, action pending disposition of an internal affairs investigation or whenever it would be in the public's interest not to have the employee on active duty.
 1. Any supervisor has the authority to relieve a subordinate employee from duty due to physical and/or psychological unfitness for duty when the employee is obviously not fit for duty.
 2. The member who was suspended and the supervisor imposing the emergency suspension shall report to the Chief of Police as instructed unless the circumstances require a different course of action.
 3. The supervisor initiating this action shall make an immediate notification to the appropriate Division Major and prepare a written memorandum outlining the relevant facts which led to the emergency suspension. The written memorandum shall be completed before the supervisor ends his/her tour of duty for the shift on the day of the incident.

- X. The Office of Professional Standards shall maintain records of all complaints made against the department or its members.
 1. All records pertaining to Internal Affairs investigations shall be maintained by the Office of Professional Standards in a secure file separate from general files.

- Y. The Department will publish annual statistical summaries based on the records of Internal Affairs investigations for dissemination to department employees. The public will be informed of the summary upon their request.
 1. Monthly and annual reports shall be prepared by the Office of Professional Standards summarizing to the Chief the nature and disposition of all complaints received by the unit. The monthly and annual report will also reflect areas of concern that should be noted by the Chief of Police.
 2. Procedures for registering complaints against the department or its employees are available through the Office of the Chief or the Office of Professional Standards.