

GENERAL ORDER

April 2016

Immediately

II-09

Distribution: All Employees

Subject: **COMMAND AND COMPLAINT REVIEW BOARDS**

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| Index as: | Appeals Command Review Board Complaint Review Board | Disciplinary Process Hearings, Departmental |
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Accreditation Standards: 22.4.1, 26.1.4, 26.1.6, 26.1.7, 33.1.5

Cross Reference: [G.O. II-10, Processing Complaints Against Personnel](#)
 Rules and Regulations of the Personnel Management System, Section 7
 §112.531, et. seq., F.S.S.
 §112.532, F.S.S., Law Enforcement Officers and Correctional Officers Bill of Rights
 11B-27.0011, F.A.C.
 11B-27.003, F.A.C.

Replaces: G.O. II-09, Command and Complaint Review Boards (March 12, 2019)

This Directive establishes the Department’s Complaint Review Boards and describes procedures under which the Boards will operate. This Directive consists of the following sections:

- I. [Policy](#)
- II. [Definitions](#)
- III. [Command Review Board](#)
- IV. [Complaint Review Board](#)
- V. [Appeals](#)
- VI. [Reporting Requirements](#)
- VII. [Dismissal Requirements](#)

I. POLICY

A. A proper relationship between the police and the public they serve, fostered by confidence and trust, are essential to effective law enforcement. Police Officers must be free to exercise their best judgment and to initiate action in a reasonable, lawful, and impartial manner without fear of reprisal. However, they must carefully observe the rights of all people.

B. The understanding of this philosophy, as well as Florida Statutes and Administrative Codes, imposes upon the Department the responsibility of providing a system of complaint and disciplinary procedures, which will not only subject the employee to corrective action when they conduct themselves improperly, but will protect them from unwarranted criticism when they discharge their duties properly.

II. DEFINITIONS

A. Discipline – An action taken against an employee which includes a written reprimand, suspension, demotion or dismissal.

1. Discipline is documented on an Employee Notice.
2. Verbal Counseling, Memorandums of Counseling and retraining are not considered discipline.

B. Failure to Maintain Good Moral Character – (In summary, see 11B-27.0011, F.A.C.)

1. Any act or acts which would constitute a felony offense, whether criminally prosecuted or not,
2. Any act or acts which would constitute a serious misdemeanor, whether criminally prosecuted or not.
3. Any act or conduct which:
 - a. Significantly interferes with the rights of others;
 - b. Significantly and adversely affects the functioning of the criminal justice system;
 - c. Shows disrespect for the laws of the state or nation;
 - d. Causes substantial doubts concerning the Officer's moral fitness for continued service.
4. The unlawful use of controlled substances.

C. Findings –

1. Exonerated – The investigation revealed the acts which provided the basis for the complaint or allegation were justified, lawful, and proper.

2. Not Involved – Upon investigation, the employee was found to be not directly involved in the acts alleged.

3. Not Sustained – The investigation failed to disclose sufficient evidence to prove or disprove the allegations made in the complaint.

4. Sustained – The investigation disclosed sufficient evidence to clearly prove the allegations made in the complaint.

5. Unfounded – The investigation conclusively proved that the allegations made in the complaint did not occur.

B. Subject Matter Expert (SME) – An individual who has recognized expertise in the field directly related to the incident under review. Expertise may be recognized by current instructor certification in the subject by the Criminal Justice Standards and Training Commission (CJSTC), certification as an expert in the field by a court of law, or academic credentials reflecting current knowledge in the field under review and teaching the subject at the college level.

III. COMMAND REVIEW BOARD

A. This Board consists of the Chief of Police and the three (3) Bureau Assistant Chiefs.

1. The Board is chaired by the Chief of Police.

2. The Chief of Police may request a Subject Matter Expert (SME) to consider the facts of the investigation and provide relevant information to the Command Review Board.

B. The Board will review the facts of the investigation.

C. The affected employee will be afforded the opportunity to speak to the Board. If the affected employee chooses not to make a statement, the Board may ask the affected employee questions. The affected employee may bring legal counsel, at the employee's own expense, or a personal representative into the Board; however, neither counsel nor a personal representative may take an active part in the proceedings.

1. If it is determined by the Board that the complaint is unfounded or not sustained, or the employee is exonerated or not involved, a written report of the findings will be filed with a copy sent to the employee.
2. If it is determined by the Board that the complaint is sustained, appropriate action will be decided upon.
 - a. Prior to imposition of any discipline, the employee, or their representative, may make a statement of mitigation to the Chief of Police.
 - b. If it is determined that retraining or counseling is warranted, the requirement may be made directly to the employee by the Board, or it may be referred to a Supervisor to ensure completion.
 - c. Any corrective action up to and including termination may be imposed.
3. A notification will be issued on CARS explaining the findings of the Command Review Board.

D. Employees covered by the *Law Enforcement Officers and Correctional Officers Bill of Rights* [§ 112.532, Florida Statutes] may appeal the decision of the Command Review Board by requesting a Complaint Review Board be convened. The request must be filed within ten (10) workdays of the receipt of the decision of the Command Review Board.

E. Employees not covered by the *Law Enforcement Officers and Correctional Officers Bill of Rights*, who are dissatisfied with the decision reached by the Command Review Board, may initiate Step 2 of the Grievance Procedure provided by the *City of St. Petersburg Rules and Regulations of the Personnel Management System*, or the Grievance Procedure in any labor agreement which may apply to the affected employee, within the specified time limits.

IV. COMPLAINT REVIEW BOARD

A. The Complaint Review Board will hear appeals of sworn members. The Board will consist of five (5) persons selected in the manner prescribed by the *Law Enforcement Officers and Correctional Officers Bill of Rights*; those members will consist of:

1. Two (2) members selected by the Chief of Police, not to be selected from the Command Review Board members.
2. Two (2) members selected by the aggrieved employee within three (3) working days after notification to the Office of Professional Standards of their intent to appeal, not to be selected from the following:
 - a. Command Review Board members.
 - b. Any person who has represented the sworn member during any previous stage of the case.
 - c. If the case involves a supervisor, no person may serve who is subordinate to the supervisor, either within the Department or in an outside employment capacity.
3. The fifth member will be selected by the above four members and serve as Chairperson of the Board.
4. A representative of the Office of Professional Standards Division will act as a coordinator for the Board.

B. The affected employee may bring legal counsel, at the employee's own expense, or a personal representative into the Board; however, neither counsel nor a personal representative may take an active part in the proceedings.

C. Hearing Procedures of the Complaint Review Board.

1. The Complaint Review Board will review all of the facts pertaining to the accusations. The Board will also review and consider a statement from the Command Review Board outlining the philosophy and considerations upon which the said Board based its deliberations and decision.

2. The Board's proceedings, with the exception of the deliberations, will be **audio** recorded.
3. The aggrieved employee will be present while all allegations are presented to the Board and while all evidence is being presented.
4. The Board will hear the aggrieved employee and allow the employee to present, and have heard, any witnesses on the employee's behalf.
5. The Board may question the aggrieved employee and all witnesses who may be called to give testimony. The Board may call upon the Office of Professional Standards' representative to answer any procedural questions concerning the case.
6. The aggrieved employee may question any witnesses brought before the Board, with the exception of the Office of Professional Standards' representative.
7. After all evidence has been heard, the members will convene in private to deliberate.

B. Findings

1. The Complaint Review Board, based upon the evidence presented in the hearings before it, shall, by majority vote, determine the outcome of the case as provided in this Order.
2. The Complaint Review Board shall recommend appropriate disciplinary action in all sustained cases. The recommended disciplinary action shall not exceed the disciplinary action imposed by the Chief of Police.

C. Final Review

1. The Chief of Police, upon notification of the Complaint Review Board's recommendation, will reconvene the **Command Review Board** to review the recommendations of the Complaint Review Board.
2. The Complaint Review Board will make written recommendations to the Chief of Police and the Command Review Board. The recommendations will be presented to the Board by the Chairperson, Complaint Review Board, who will give a verbal explanation of their philosophy and considerations in reaching their decision. The Chairperson may be questioned by the Command Review Board.
3. The Chief of Police, based upon the findings of the Complaint Review Board and the recommendations of the **Command Review Board**, will make the final decision.
4. The aggrieved employee will be notified by the Chief of Police, or designee, of the final Departmental action to be taken against the employee, in writing, no later than thirty (30) calendar days after the action.

V. APPEALS

A. If the aggrieved employee is dissatisfied with the final disciplinary decision of the Chief of Police, the employee may initiate Step 2 of the Grievance Procedure provided in the *City of St. Petersburg Rules and Regulations of the Personnel Management System*, or the employee may initiate Step 2 of the Grievance Procedure in any labor agreement which may apply to the affected employee.

VI. REPORTING REQUIREMENTS

A. Whenever an allegation of misconduct involving moral character, as defined by 11B-27.0011, F.A.C., is sustained against a Certified Law Enforcement Officer, a report of the investigation and disposition will be sent to the Criminal Justice Standards and Training Commission by the Office of Professional Standards.

1. If the Certified Law Enforcement Officer is separated from employment, the case will be sent immediately.
2. In cases other than separation, the case will be sent within forty-five (45) days.

VII. DISMISSAL PROCEDURES

- A. The employee will be provided an [Employee Notice](#) which contains:
 1. A *Description of Misconduct* to include:
 - a. The Type of Misconduct,
 - b. The Description of Misconduct, and
 - c. A statement citing the reason for the dismissal
 2. Prior Warnings and/or Disciplinary Action Taken
 3. Disciplinary/Corrective action taken which includes the effective date and time of the termination, and
 4. Grievance rights.
- B. The employee and Supervisor will complete the [Exit Clearance Form \(Sworn\)](#) or [Exit Clearance Form \(Civilian\)](#).
- C. The Fiscal Services Division will provide the employee with the status of following upon request:
 1. Their final paycheck, and
 2. Accrued employee benefits
- D. The employee has the right to submit information to their personnel file to refute or explain the reasons for dismissal.
- E. Forms can be found in the Administrative Investigations forms folder on the J:Drive.

Anthony Holloway
Chief of Police