Florida Fish and Wildlife Conservation Commission
Division of Law Enforcement

INTERNAL INVESTIGATIONS AND DISCIPLINE PROCESS

GENERAL ORDER	EFFECTIVE DATE	RESCINDS/AMENDS	APPLICABILITY
27	June 6, 2018	May 16, 2017	All Members

References
Ch. 112, 119, and 257 F.S., S. 440.102, F.S., 943. 13, F.S., Ch. 1B-24,1B-26 and 11B-27, F.A.C., S. 60L-36.005 and 60L-34.0071, F.A.C., FWC IMPPs 1.8, 6.1 and 6.26
CFA Chapters 7.02M, 7.03, 7.04, 7.05, 15.15M, 20.01M, 20.03, 20.04M

1 POLICY

A It is the policy of the Division that internal investigations shall be conducted in accordance with Florida Fish and Wildlife Conservation Commission policy, Florida Statutes, Florida Administrative Code, this General Order, and the articles of the recognized Bargaining Unit Agreement.

B It is the policy of the Division that violations of Division policy, law, or other Commission policies may be grounds for initiating disciplinary procedures.

C In order to ensure objectivity, it is the policy of the Division that all internal investigations are managed by the Fish and Wildlife Conservation Commission's Office of Inspector General (OIG).

(1) Pursuant to Internal Management Policies and Procedures (IMPP) Section 1.8, *Office of Inspector General*, the Commission's Office of Inspector General shall conduct investigations into allegations of misconduct that, if sustained, would likely result in a suspension or termination, as well as any allegation of potential criminal wrongdoing.

D It is the policy of the Division to maintain an effective complaint resolution process with established procedures for the receipt and handling of complaints against members.

E It is the policy of the Division to ensure that complaints are handled and investigated in a manner that is proper and consistent and to provide procedures that ensure a uniform and consistent application of discipline.

F It is the policy of the Division to recognize the Law Enforcement Officer's Bill of Rights, as well as any agreed-upon procedure in the recognized Bargaining Unit Agreement.

2 RESPONSIBILITIES

A Professional Standards Coordinator

(1) The Professional Standards Coordinator shall report directly to the Division Director or designee on complaint related matters and be responsible for:

(a) Forwarding all records of disciplinary action to the Office of Inspector General with a copy being forwarded to the Commission's Personnel Office.

(b) Coordinating the review of all Letters of Counseling and oral and written reprimands to ensure statewide uniformity prior to being issued.

1. The review of Letters of Counseling and reprimands should be completed within three working days, unless exigent circumstances exist which prohibit completing within three working days.

(c) Coordination of the Division's Disciplinary Committee.

(d) Managing the secure storage of all records relative to disciplinary and counseling processes.

(e) Providing support and assistance to supervisory members with issues relative to the discipline process to ensure consistency.

(f) Coordinating with members of the Office of Human Resources and the Office of General Counsel on personnel, legal, and disciplinary matters as directed by the Division Director or designee.

(g) Preparing and submitting Criminal Justice Standards and Training Commission (CJSTC) form 78 to the Florida Department of Law Enforcement when a sworn member's actions result in a sustained moral character violation as defined in Section 943.13 (4) or (7), Florida Statute or Rule 11B-27-001, Florida Administrative Code.

3 PROCEDURES

A Supervisory Authority and Action

(1) Supervisors should attempt to resolve member work performance deficiencies through counseling and training, and should be pro-active in resolving problems. Training or counseling will not be construed as disciplinary action.

(2) Letters of Counseling shall be forwarded to the Professional Standards Coordinator prior to being given to the member. The Coordinator or designee shall review the letter, as well as the affected member's personnel file, and ensure the counseling adheres to Commission policy and is consistent with past practices and the Division's philosophy. Once a Letter of Counseling is approved, the Coordinator shall be responsible for providing a copy to the Personnel Office. Members may submit rebuttal letters to the Personnel Office to be attached to the Letters of Counseling.

B Recommending Discipline

(1) All supervisors may recommend disciplinary action. All recommended disciplinary actions shall be documented by the supervisor and forwarded to the Coordinator via the chain-of-command.

(2) The Coordinator or designee will review the recommended disciplinary action, as well as the affected member's personnel file, and ensure the discipline adheres to Commission policy and is consistent with past practices and the Division's philosophy.

(3) When determining where an incident regarding improper or careless use of state property falls within the standards of discipline, only incidents occurring within the preceding five (5) years shall be considered prior violations.

C Administering Discipline

(1) Disciplinary action should be administered by the immediate supervisor whenever possible.

(2) Disciplinary action shall be administered in private.

(3) The supervisor should always explain what constitutes appropriate behavior and how the member's behavior differed from appropriate behavior.

(4) IMPP 6.1.1.A(7) delegates authority to the Division Director to authorize the suspension of any member and the dismissal of probationary and OPS members. All other dismissals require the authorization of the Assistant Executive Director. The following information shall be provided to the affected member in writing when disciplinary action results in dismissal:

(a) The reason for dismissal;

(b) The effective date of the dismissal; and

(c) The status of fringe and retirement benefits after dismissal.

(d) The member's right to submit information to their personnel file to refute or explain the reasons for the dismissal.

(5) The Director/Colonel of the Division of Law Enforcement hereby delegates to all Deputy Directors/Lieutenant Colonels as well as the Deputy Chief, the authority to sign, as necessary, all disciplinary letters which the Colonel has the authority to sign.

D Complaint/Concerns

(1) The supervisor should attempt to resolve complaints/concerns regarding normal operational issues. This may include conducting a supervisory inquiry. A supervisory inquiry is defined as an assessment of an allegation or complaint to determine whether there is credible, factual information to reasonably suspect that an administrative violation or violation of law has occurred. An inquiry may involve limited questioning of witnesses, review of relevant documentation and assessment of credibility. Supervisory inquiries shall be conducted in conjunction with, and the approval of, the Office of Inspector General.

(2) Supervisors shall document any complaint requiring further investigation on the Division's Complaint Form (FWC/DLE-500).

(3) The Regional Commander or their designee shall forward the completed Complaint Form (FWC/DLE-500) to the Office of Inspector General.

(4) The Coordinator may review complaints, and determine if the complaint is based on member performance or alleges misconduct. Complaints determined to be misconduct shall be referred to the Office of Inspector General. Misconduct is defined as any act of non-compliance with Commission policy and procedures, state law, or the laws, rules or ordinances of any jurisdiction whether city, county, state or federal that may result in suspension, demotion or dismissal from employment. Employee misconduct may include violations of the Commission's disciplinary standards that are found in IMPP 6.1, *Standards of Disciplinary Actions*. Misconduct does not include discipline that is issued by a supervisor based solely on the performance of the employee's duties.

(5) Investigations which may result in suspension or dismissal should be handled as a formal investigation by the Commission's Office of Inspector General. A formal investigation is defined as an official review and evaluation of information relative to any suspected violation of agency policy or procedure where sufficient information exists to reasonably believe that the employee may have committed the violation. A formal investigation is conducted in accordance with the policies and procedures adopted by the Office of Inspector General.

(6) A case number will be assigned by the Commission's Office of Inspector General.

(7) If the investigation is to be conducted at the supervisory level, the completed copy of the investigative report and a recommended disposition shall be forwarded directly to the Office of Inspector General.

(8) The Coordinator will review the investigative report, the member's personnel file and the recommended disposition to ensure the appropriate action is taken.

(9) The Coordinator shall ensure notices of disciplinary action are forwarded to the Office of Inspector General, the Personnel Office, the appropriate Deputy Director, supervisory chain of command and the Division Director.

(10) All cases referred to the Office of Inspector General will result in one of the following findings or classifications:

(a) **Exonerated –** The alleged conduct occurred, but was lawful and proper.

(b) **Unfounded –** There was no evidence identified in the investigation to support the allegation made in the complaint.

(c) **Not sustained –** There was insufficient evidence to prove or disprove the allegation.

(d) **Sustained –** The allegation was supported by proper and sufficient evidence.

(e) **Policy failure –** The alleged action(s) occurred, but were not addressed by agency policy.

(f) **Complete –** Used for instances where no specific wrongdoing was alleged.

(11) If a member of the Division receives a complaint of misconduct and it is determined the subject of the complaint is a member of another law enforcement agency, the complaint shall be forwarded to the Coordinator. As required by statute, the Coordinator shall forward the complaint to the appropriate law enforcement agency within 5 days.

E Investigative Techniques and Guidelines

(1) In the collection of evidence involving investigations of members, the investigators shall adhere to the following guidelines:

(a) Adhere to collective bargaining agreement provisions and those procedures established by the Inspector General.

(b) A member may request representation at an investigative interview and such requests must be granted. Any expenses associated with representation will be the responsibility of the member.

(c) Whenever a sworn member is under investigation and subject to interrogation by the Commission for any reason, which could lead to disciplinary action, demotion, or dismissal, such interrogation shall be in accordance with Section 112.532, Florida Statutes.

(d) If the member is under investigation for a violation for which dismissal may be a penalty in accordance with Rule 60L-36.005 and Rule 60L-34.0071(3)(f), Florida Administrative Code, the Inspector General, in conjunction with the Professional Standards Coordinator and the Commission's Office of Human Resources may authorize that the member be placed on administrative leave. The member placed on administrative leave must be given written notice. Such notice must state the commencement and ending date of the administrative leave, a brief statement of the reason for the leave, a statement that the member will be promptly notified of the results of the investigation, and instruction of when to report and where to report for duty following the end of the period of administrative leave. A copy of such notice must be sent to the Commission's Office of Human Resources which will forward a copy of the notice to the Department of Management Services.

(e) Members shall submit to testing for the detection of illegal drugs when directed in accordance with Section 440.102, Florida Statutes, and FWC IMPP Section 6.26, *Drug and Alcohol Testing*.

(f) A member may be required to be photographed or participate in a photographic lineup when it is material to an administrative investigation.

(g) The member's immediate family shall not be required to give statements in administrative investigations, but may volunteer such statements.

(h) Commission or Division issued property shall be subject to inspection or search without warrant.

(i) No member shall be required to submit to a device that measures responses for truth during questioning. However, there shall be no restriction on the right of a member to submit to such device on a voluntary basis.

(j) The subject of an internal investigation may be temporarily assigned to other duties or a new duty station pending the outcome of the investigation. Reassignment will be at the discretion of the Division Director.

F Relief from Duty

(1) When violations of a serious nature are alleged or occur, supervisory response may require the immediate removal of a member from duty. These violations include, but are not limited to:

(a) Criminal misconduct or arrest.

(b) Domestic violence.

(c) Gross insubordination.

(d) Alcohol or drug use at work.

(e) Workplace violence.

(f) Behavior deemed to be a threat to members of the agency or to the public.

(2) Members, both sworn and civilian, may be relieved of duty for their emotional well-being after being involved in significant emotional events on or off duty. These accidental or deliberate events include, but are not limited to:

(a) Use of deadly force.

(b) Any incident in which a member's actions results in death or seriously bodily injury to themselves or another person, until a preliminary administrative review can be conducted by the Division Director or designee.

1. Appropriate documentation of the incident shall be submitted pursuant to General Order 35 Division Reports and Records and reviewed as required.

(c) Any incident deemed by Division Director (or designee) to be of significant impact to the member's ability to effectively function in their assigned position.

G Administrative Leave

(1) Requiring a member to be placed on Administrative leave for any reason shall only be done within the requirements of state or federal law. Members shall only be placed on Administrative leave, or relieved of duty as described above, by the Division Director (or designee) after consultation with the agency Human Resources Director and Inspector General, if appropriate.

H Records Management

(1) The Commission's Internal Management Policies and Procedures Manual, Chapters 119 and 257, Florida Statutes, and Chapters 1B-24 and 1B-26, Florida Administrative Code, shall be adhered to as they relate to the required procedures of records management, maintenance and storage of disciplinary action records.

(2) In accordance with Chapter 112, Florida Statutes, an investigation involving a sworn member is not a matter of public record until a recommended finding has been presented to management.

4 FORMS

FORM NUMBER	FORM TITLE
FWC/DLE 500	Complaint Form
CJSTC 78	Internal Investigation Report