

MAUI COUNTY POLICE DEPARTMENT

GENERAL ORDERS
CHAPTER 104
ADMINISTRATIVE SUPPORT

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Rescinds: GO 104.6 (03/07/11)
New Materials Underscored

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INTERNAL AFFAIRS OPERATIONS
G.O. 104.6

I. PURPOSE

The primary responsibility of the Internal Affairs Section is to ensure the integrity of the Maui Police Department by performing thorough and impartial investigations of its employees, and to ensure that every investigation withstands the test of fairness and that all employees, regardless of rank, are treated equally.

II. POLICY

It is the policy of the Department that all employees of the Department encourage citizens and fellow employees to bring forth complaints regarding inadequate service or employee misconduct. All complaints shall be investigated at appropriate levels and all complaints shall result in final dispositions.

III. DEFINITIONS

COMPLAINT: An alleged violation of law, rules and regulations, policy, procedure, or misconduct by a member of the Maui Police Department.

ADMINISTRATIVE INVESTIGATION: Investigation of an allegation of misconduct, or a violation of policy or procedure.

IV. TYPES OF COMPLAINTS

A. Complaints by Citizens

1. Any non-supervisor employee who is contacted by a citizen wishing to lodge a complaint against a Department employee shall immediately put the citizen in contact with a supervisor. If a supervisor is not available, the employee will take the citizen's name, address, phone number, and forward this information to a supervisor immediately.
2. Supervisors, upon receiving the forwarded information or a direct complaint from

a citizen, will contact the complainant and provide the citizen lodging the complaint with the Internal Affairs Written Complaint, MPD Form No. 243. Complaint(s) shall be in writing and sworn to by the complainant. The supervisor will assist the complainant with the following.

- a. The completion of the written complaint form.
 - b. Ensure the complaint form is notarized by a department notary.
 - c. If the complainant is unable to complete the form, the supervisor shall instruct the citizen to return to the police station with the completed form and contact a supervisor to have it notarized.
 - d. It is recommended that the complainant utilize a department notary service to keep the complaint confidential. The supervisor shall be present during the process to ensure the department notary authenticates the signature and does not peruse the complaint itself. This does not prohibit the complainant from seeking their own notary; however, the supervisor is encouraged to recommend department notaries to control confidentiality of the complaint, complainant, and the accused department employee.
 - e. Following notarization, the supervisor receiving the complaint shall sign the form and provide a copy to the complainant for their records.
 - f. The supervisor shall then forward the original copy of the written complaint through channels.
3. If the supervisor can resolve the complaint through explanation, the explanation will be submitted to the Division Commander, along with the Internal Affairs Written Complaint form. If it cannot be resolved, the Internal Affairs Written Complaint form will be forwarded to the Chief of Police through the chain of command within three working days.
 4. The Division Commander will assign received complaints to line supervisors dependent on the type and nature of the complaint; however, complaints of a serious nature shall be directed to Internal Affairs Section, via Office of the Chief of Police.
 5. When a citizen complaint is received directly by the Internal Affairs Section, the investigator will attempt to resolve the complaint at that time. If it cannot be resolved, the investigator shall provide the complainant with the Internal Affairs Written Complaint form and initiate standard investigative procedures.
- B. Complaints from a Department Employee.
1. Employees who have a complaint against another employee are authorized to

report it directly to the Internal Affairs Section. It is recommended that complaints should go through a supervisor first.

2. The employee with a complaint shall not discuss the complaint with any other person without expressed permission of the Chief, Deputy Chief, Internal Affairs Captain or their designee with the exception of their attorney, clergy, a member of the peer support team, or their immediate supervisor.
- C. Media-Originated Complaints

When it comes to the attention of any Department employee that the media (newspaper, radio, television) has published or reported information inferring or accusing misconduct on the part of any Department employee, the information will immediately be reported to a supervisor or element commander.

V. COMPLAINT

- A. All complaints will be accepted and verified whether in person, by phone, mail, e-mail, anonymous or through the media and will be documented. Complaints will not be taken from a person in an intoxicated condition, or if the complainant is under the influence of drugs.
- B. The type and nature of a complaint shall determine whether it can be handled and resolved at the line-supervisory level or referred to the Chief of Police for an Internal Affairs investigation.
- C. Supervisors are required to exercise good judgment and common sense when they are made aware of a complaint.
 1. Administrative
 - a. An allegation of misconduct, or a violation of policy or procedure, on the part of any employee may require an administrative investigation that shall be handled by the Internal Affairs Section. Examples of administrative complaints include, but are not limited to:
 - i. Excessive Use of Force
 - ii. Breach of civil rights
 - iii. Corruption
 - iv. Policy violations – classified under Class A and/or B
 - v. Violations of EEOC and bonafide discrimination complaints

- vi. Criminal acts
- b. Complaints about policy, procedure, and tactics used by the Department should be resolved at the line-supervisors level whenever possible, and reviewed by the Division Commander. Certain conduct does not require a full investigation and may be resolved through corrective action taken by the supervisor. All action taken must be properly documented. Examples of such complaints include, but are not limited to:
 - i. Failure to take appropriate police action
 - ii. Poor demeanor displayed by employee
 - iii. Policy violations – classified under Class C and/or D

VI. RECORDING COMPLAINTS

- A. The Internal Affairs Section shall maintain records of all complaints made against the Department and its members. All reports pertaining to Internal Affairs investigations shall be maintained in a locked secure file and separate from general access files.
 - 1. Access to the internal affairs file shall be limited to the Chief, Deputy Chief and Internal Affairs Section. All other members requiring information from these records shall submit a written request to the Chief with the specific reasons for the request and the type of information needed.
- B. Persons who initiate complaints against the Department or its members shall receive a copy of the notarized written complaint.
- C. The status of each investigation initiated pursuant to a citizen's complaint shall be communicated to the complainant periodically during and at the conclusion of the investigation. Notification shall be made by the Internal Affairs Section or assigned line-supervisor at the end of their investigation.

VII. STATUTE OF LIMITATIONS

- A. No employee shall be subjected to an administrative investigation that has been filed more than one year from the date of the alleged incident. However, administrative investigations involving criminal misconduct may be initiated at any time within the criminal statute of limitations as provided by law.

VIII. ADMINISTRATIVE INVESTIGATION PROCEDURES

- A. If the complaint is received by phone, mail, e-mail, the Internal Affairs Section will make every attempt to have the complainant respond to the Department, complete the Internal Affairs Written Complaint Form and provide a tape recorded oral interview. If this is not possible, the Internal Affairs Section will attempt to arrange an alternate location to

- obtain this statement.
- B. When there is indication of a false, verbal, or written complaint made against the Department or its members the Investigator will ensure that the complainant understands the State Statute concerning False Reporting to Police.
1. If it is determined that a citizen has knowingly made a false report against an employee, the Investigator will pursue filing of a case against the citizen for filing a false report.
 2. The guilt or innocence of the complainant must be decided by the Court and the Internal Affairs Section will not consider the dismissal of criminal charges in exchange for terminating administrative investigations. If, it is discovered that the criminal charges filed against the complainant are not valid during the course of the administrative investigation, the commander will notify the Prosecuting Attorney's Office, who will determine the disposition of the criminal charge.
- C. A record and criminal history check may be obtained on the complainant to determine past contact with law enforcement. Attention will be given to past contacts between the complainant and the accused employee.
- D. The Internal Affairs Section will immediately notify the Chief or the Deputy Chief of Police, of complaints that are classified as Administrative investigations. The notifications of complaints under all other classifications will be made at a convenient time. All notifications will be made verbally.
- E. The employee under investigation shall be informed of the nature of the investigation or interrogation and be given a copy of the written complaint. This written statement shall be in the form of the Internal Complaint, MPD Form No. 215, and the accused employee shall be informed of the name of the complainant(s).
- F. Prior to the employee's signature, the employee shall review the Recognition of Rights, MPD Form No. 217 and Advice of Rights Addendum, MPD Form No. 239 and if necessary, be provided with an explanation as to its contents and purpose.
- G. In an interview with an employee, the questions shall be specifically, directly, and narrowly related to the matter under administrative investigation. During the investigation, the employee may seek legal advice and may have a union representative present during his or her interview; however, the employee's representative shall limit his or her involvement to the consultation with the employee and shall not become involved in asking or answering questions with the investigator, nor interfere with or interrupt the proceedings.
1. If criminal violations are apparent as a result of interviews conducted with the accused employee and any witness, the Internal Affairs Section will advise the Chief of Police, the Deputy, or a designee.

2. The Chief of Police or the Deputy may assign a criminal investigator. The criminal investigation shall follow normal criminal investigative procedures, to include presenting the case to the Prosecuting Attorney's Office for filing of criminal charges.
- H. An employee shall be ordered to truthfully answer questions and cooperate with the administrative investigation, to include photographic lineups, photographs, video or other methods of digital recordings taken, voice analysis, handwriting exam, urine test, ultra violet light scan or other non-testimonial evidence test, which is specifically directed and narrowly related to an administrative investigation. Refusal to comply may result in disciplinary action, to include dismissal.
- I. An employee may be required to furnish a financial disclosure statement.
- J. The Department has the right to inspect or search all Department-owned desks, lockers, storage spaces, rooms, offices, work areas, vehicles and equipment at any time deemed necessary.
- K. Departmental communication facilities may be monitored at any time, under conditions permitted by law. Other communications or conversations may be monitored at any time, under conditions permitted by law.
- L. If the Internal Affairs Section determines that there are additional acts of misconduct on the part of the employee that are not included in the original complaint, these acts will be included as a part of the investigation.
- M. If the Internal Affairs Section determines that there are acts of criminality on the part of the employee, this information will be forwarded to the Prosecuting Attorney's office, through a criminal investigator.
- N. Upon completion of the investigation, the original report will be hand-carried to the Office of the Chief by the Internal Affairs Section. Following review, the report will be forwarded to the Deputy Chief of Police, who is in charge of the Administrative Review Board. The final disposition of each allegation in a complaint will be classified in one of the following ways:
 1. Sustained: The allegation is substantiated; the misconduct or violations did occur
 2. Not-Sustained: The allegation is not substantial. There is not sufficient evidence to prove or disprove the allegation.
 3. Unfounded: The allegation is false, or not factual; no misconduct; the incident did not occur or involve the employee named.
 4. Exonerated: The incident occurred, but the employee acted lawfully and properly

G.O. 104.6

INTERNAL AFFAIRS OPERATIONS

- O. After completion of the Administrative Review Board hearing, the complainant will be notified in writing, by the Office of the Chief of the outcome of the investigation. Complainants will not be advised of specific disciplinary action unless advised by the Chief of Police or a designee.

- P. Administrative investigations shall be completed within 90 days from the receipt of the assignment. The Chief, or the Deputy Chief of Police shall receive a status report from the Internal Affairs Section Captain or designee once a week. The status report may be in writing or delivered verbally as required by the Chief or the Deputy Chief of Police. The Office of the Chief may grant an exception to the 90-day rule, based on a written request submitted by the investigator assigned. However, additional time will be granted under extenuating circumstances.

- Q. The Internal Affairs Commander shall file administrative investigations within the Internal Affairs office.


TIVOLI S. FAAUMU
Chief of Police