

**NEW ORLEANS POLICE DEPARTMENT
OPERATIONS MANUAL**

SECTION: 930

TITLE: INTERNAL INVESTIGATIONS

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DEFINITIONS

1. A DM-1 is a written notice that an investigation has been initiated or referred.
2. A DM-2 is a written record of an emergency suspension.
3. A DM-3 is any written record of an observed violation of Departmental rules, orders, and/or procedures.

GENERAL

4. This directive establishes the procedures for receiving complaints of violations of Department rules, orders, and procedures, and for investigating these complaints.
5. Because discipline is a function of command, all supervisors are responsible for the proper administration and enforcement of Department rules, orders, and procedures.
6. Non-supervisory employees of the department share in the responsibility for the disciplinary process by adhering to Department rules, orders, and procedures and by reporting violations to their supervisors.
7. A report of an employee discharging a firearm is not normally disciplinary matters.

RESPONSIBILITIES: Supervisor, Observed Violations

8. When a supervisor observes an employee in violation of a Departmental rule, order, or procedure, the supervisor shall take immediate steps to correct the violation, including, if necessary, actions which confirm the accused's involvement in the conduct complained of, and shall
 - a. issue a DM-1 to begin a formal investigation, or
 - b. issue a DM-3 to record the violation, or
 - c. counsel the employee

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9. If the violation involves circumstances which question the accused employee's continued ability to perform his duty, the supervisor may take the necessary steps to have the employee placed on Suspension or Administrative Reassignment Status. (See Administrative Reassignment Section 335 and Emergency Suspension section 936.)
10. A supervisor shall begin a formal investigation in cases of:
 - a. serious administrative violations, (Minor violations which involve simple counseling or minimal supervisory intervention to correct need not be documented on a DM-1. If uncertain if the violation is serious, contact the Internal Affairs Division or on-duty IAD Agent).
 - b. criminal violations, and/or
 - c. an employee's third violation of the same rule, regulation, or procedure within a twelve (12) month period, as documented by the issuing of DM-3's for the same cause.
11. To begin a formal investigation, the supervisor shall:
 - a. call the Internal Affairs Division, or the Command Desk when Internal Affairs is closed, and obtain an Internal Affairs Control number,
 - b. record the control number on a DM-1, and
 - c. complete and forward the DM - 1 IMMEDIATELY (within 24 hours) to the Internal Affairs Division. Additionally, one (1) copy shall be forwarded IMMEDIATELY to the following:

Accused employee's Bureau Chief
Accused employee's Division Commander\Supervisor
12. A supervisor may use a form DM-3 to document administrative violations which can be corrected by simple counselling or minimal supervisory intervention.
13. The supervisor shall distribute completed DM-3's to the accused employee's Bureau Chief and Commander/Director, and to the Internal Affairs Division.

RESPONSIBILITIES: Supervisor, Complaints Received

14. A supervisor who receives complaints against employees of another Section shall take immediate steps to correct the violation, including, if necessary, actions to confirm the accused's involvement in the conduct complained of, AND;
 - a. issue a DM-1 to begin a formal investigation, and
 - b. forward the DM-1, prior to the end of the supervisor's tour of duty or within twenty-four (24) hours, if the supervisor is not on duty, to the Internal Affairs Division and as otherwise indicated on the form for handling.
15. If the violation involves circumstances which question the accused employee's continued ability to perform his duty, the supervisor may take the necessary steps to place the employee on Suspension or Administrative Reassignment Status. (see Administrative Reassignment Section 335 and Emergency Suspension section 936.)

RESPONSIBILITIES: The Accused Employee

16. An accused employee shall:
 - a. cooperate in all authorized investigations,
 - b. give a written statement in an administrative investigation in compliance with Louisiana RS 33:2426,
 - c. sign any written statement made by him,
 - d. appear at disciplinary hearings when instructed by an authoritative source, and/or
 - e. submit to an alcohol breath test as ordered by a supervisor.
 - f. when ordered by the Superintendent, submit to:
 - (1) a polygraph examination,
 - (2) urinalysis, blood test, or other physical test, and/or
 - (3) psychological evaluation / Psychiatric evaluation / physical lineup.

17. There shall be no penalty nor threat of penalty for a law enforcement officer to exercise his rights under Chapter 24 of Title 40 of the Louisiana Revised Statutes of 1950, "Rights of Law Enforcement Officers While Under Investigation".
18. The accused officer has the right to:
 - a. know the nature of the investigation,
 - b. know the identity and authority of the person conducting such investigation,
 - c. know the identity of all persons present during interviews,
 - d. make notes or tape record his own testimony in any interviews,
 - e. have present legal counsel or other representative, or both, at any interrogation in connection with the investigation,
 - f. have counsel call witnesses to testify on his behalf,
 - g. receive, upon written request to the Internal Affairs Division, a copy of the recorded interview or transcript of same in any administrative investigation,
 - h. read any Internal Affairs Division files or records of administrative investigations which pertain to him upon completion of the investigation.
 - i. see and initial the IAD log book to indicate he is aware of the disposition of investigations which pertain to him, and
 - j. file a written response to any information concerning himself in IAD files and/or the IAD log book.
 - (1) The commissioned officer shall deliver the response to IAD within thirty (30) days of viewing the information. IAD shall note the officer's response in the IAD computer and attach the response to the IAD log book, to remain as part of the permanent case record.

RESPONSIBILITIES: The Investigator

19. A supervisor who has been assigned to conduct an administrative or a criminal investigation of an accused employee shall be designated to be the investigator.
20. The investigator shall be of at least equal rank to the accused employee.
21. Normally, citizen complaints which concern the quality of service or the lack of service shall be investigated within the accused employee's chain of command.
22. The Division level Commander/Director shall select a supervisor from the accused employee's chain of command to investigate all administrative complaints which are to be investigated within the employee's chain of command.
 - a. The Commander/Director may conduct the investigation personally.
 - b. If there is no Division-level Commander/Director in the accused employee's chain of command, the Commander of Internal Affairs shall designate an investigator of the appropriate grade.
23. Normally, citizen complaints which allege physical or verbal abuse or mistreatment shall be investigated by the Internal Affairs Division.
24. The Internal Affairs Division shall refer to the employee's Commander/Director, for informational purposes only, those investigations conducted by IAD where:
 - a. the complainant refuses to cooperate or to make a written statement,
 - b. a complaints of discourtesy where there are no unbiased witnesses or tangible evidence,
 - c. an anonymous complaints of a minor nature, and/or
 - d. complaints involving the legality of an arrest or traffic ticket.
25. Two separate investigations, one administrative and one criminal, shall be conducted when an employee is accused of a departmental violation which is also a violation of the law. The criminal accusation shall be investigated first and no administrative investigation will begin until the case has been reviewed by the Director of Internal Affairs. The Director of Internal Affairs shall have the responsibility for the coordination of all investigations of a criminal nature.

26. In alleged criminal offenses, the Director of Internal Affairs shall notify the Superintendent of Police and keep him advised of the progress of the investigation. Depending on the nature of the investigation, the Superintendent may designate an employee or employees of the Criminal Investigations Bureau or other specialized investigative unit, to work in conjunction with the Internal Affairs Division in the investigation.
27. During the Administrative Investigation the investigator shall obtain a written or tape recorded statement from the accused employee in every case.
 - a. At the beginning of the administrative statement the investigator shall inform the accused employee of his rights under the Police Officer's Bill of Rights if applicable. (see Appendix I).
 - b. If a criminal investigation is also being conducted, the administrative investigator shall also advise the employee of his criminal rights prior to taking any statements.
 - c. If the employee waives his criminal rights the resulting statement may be used both criminally and administratively.
 - d. If the employee refuses to waive his criminal rights, the resulting statement can only be used administratively; it cannot be introduced in a criminal procedure against the employee.
28. By Louisiana law, RS 33:2426, employees are obligated to make an administrative statement. If an accused employee refuses to make an administrative statement when so ordered, the investigator shall contact the Bureau Chief through the chain of command, and the on-duty IAD supervisor, and request the employee's suspension.
29. In criminal investigations, the interview will take place at the time dictated by the needs of the investigation; in administrative investigations, the interview shall take place during the employee's tour of duty.
30. In all interviews lasting more than 2 hours, the investigator shall provide breaks for rest, personal necessities, and meals. No interview shall last more than 8 hours in any one day.

31. The Investigator shall:

- a. complete and forward a DM-1 if one has not already been made,
- b. conduct a complete investigation,
- c. thoroughly exhaust all leads,
- d. interview the accused employee, all principals, and all witnesses, both for and against the accused employee, and take taped or written statements,
- e. collect evidence and property, when applicable, and maintain chain of custody records,
- f. write the investigative report, using a Form 105, identifying same by Internal Affairs Division control number, and the name of the accused; attaching a copy of the original DM-1 thereto,
- g. conclude the investigative report with a recommended disposition and completely justify the recommended disposition, and
- h. when the complaint is sustained, and an accused employee request a Commander/Director(s) hearing, and the employee is entitled to the hearing, shall attach the "Hearing Agreement Form" to the accused employee's case file,
- i. forward the administrative investigative report package to the accused employee's Bureau Chief through the chain of command, and/or forward the criminal investigative report package directly to the Director of the Internal Affairs Division.

RESPONSIBILITIES: The Commander/Director

32. The Commander/Director of the Investigator has the overall responsibility to assure the proper investigation of alleged violation of department regulations.
33. The Commander/Director shall review the completed investigative report, concur with or not concur with the findings, and forward the report through the chain of command to the respective Bureau Chief.
34. The Commander/Director shall return to the investigator those investigations which have factual or investigative errors or omissions.

35. The Commander/Director shall not return to the investigator complete and satisfactory investigations with which he does not concur.
36. When he does not concur with the investigator's conclusions or recommendations, the Commander/Director shall prepare a cover letter to the Bureau Chief, giving the reasons for his disagreement.

RESPONSIBILITIES: The Bureau Chief

37. The Bureau Chief shall review and forward DM-1's both up and down through the chain of command.
38. The Bureau Chief shall set a Bureau return date for the completed investigation.
39. The Bureau Chief shall review all completed investigations, concur with or not concur with the findings, and forward these investigations to be received in the Internal Affairs Division within 25 working days of the date the complaint is written.
40. The Bureau Chief shall not return to the Commander/Director complete and satisfactory investigations with which he does not concur, but shall attach a cover letter stating his opinion and forward same to Internal Affairs.

RESPONSIBILITIES: Internal Affairs Division

41. IAD shall investigate or coordinate with specialized units on the investigation of all criminal complaints against employees of the Police Department.
42. IAD will be responsible for the investigation of all citizen complaints. These include physical and verbal abuse or mistreatment, improprieties or other police misconduct. Minor administrative violations will be investigated by supervisors at the employee's place of assignment.
43. IAD shall maintain and control disciplinary records in accordance with the State Public Records Law and the Police Officers' Bill of Rights. IAD shall review all reports submitted in disciplinary matters and coordinate notifications to Bureau Chiefs on delinquent reports.
44. IAD shall act as the Departmental liaison with the Office of Municipal Investigations.

45. IAD shall provide assistance to other investigators on a 24 hour basis.
46. IAD shall submit to the Superintendent of Police or his designee, for approval or disapproval, sustained cases, that require a hearing.

POLYGRAPH EXAMINATIONS

47. Only the Superintendent or his designee may order a polygraph examination to be performed in an internal investigation, in accordance with the Employee Polygraph Act of 1988.
48. All polygraph examinations performed in internal investigations shall be specifically directed and narrowly related to the particular internal investigation.
49. An employee refusing an order to submit to a polygraph examination which is in compliance with the Employee Polygraph Act of 1988 will subject himself to further disciplinary action including dismissal from this department.