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Effective Date: July 1998	Revision Date: September 2017
Amends/Supersedes: July 2007	Approved by: Chief Kevin Higdon
Meets Accreditation Standard:	12.2, 12.3, 12.5, 12.6

Section 600.40 Disciplinary Process

Policy

It is the policy of the Shively Police Department to conduct the business of investigating complaints that are made by citizen against an employee of the Shively Police Department.

Statement of Purpose:

It is essential that the public's confidence be maintained in the ability and willingness of the Shively Police Department to accept, investigate and adjudicate complaints of misconduct. The rights and dignity of the community and the employees of the Shively Police Department must be respected and preserved.

The Chief of Police recognizes four distinct areas of the disciplinary process in any organization. These four areas are.

- **Investigation of complaints**
- **Charging employees with misconduct**
- **Hearing of Charges against police employees.**
- **Appeals**

Investigation of Complaints

The Chief of Police will assign person(s) to be responsible for the practice of investigating complaints against employees of the Shively Police Department. The experience of each investigator may be called upon to assist in administrative investigations of other departments within the City of Shively, Kentucky.

Investigators will perform their duties under the Division of Internal Affairs. The primary objective of the Internal Affairs Division is the discovery of the truth.

- Internal affairs investigations will be conducted within the guidelines set forth in Kentucky Revised Statute 15.520 and Garrity vs New Jersey 385 U.S. 493 (1967).

Internal Affairs Personnel Assignment:

The Chief of Police shall appoint person(s) to perform the duties of the Internal Affairs Division in addition to their regular duties and responsibilities. The following are the criteria which have been established as the minimum qualifications for personnel assigned to investigate internal affairs complaints:

- The individual must be a sworn member of the Shively Police Department with at least one- (1) year of service to the Shively Police Department.
- The individual must successfully complete a Kentucky Law Enforcement Council approved training course in Internal Affairs Investigations.

Internal Affairs Authority:

Personnel assigned to the Internal Affairs Division are granted the authority to act on behalf of the Chief of Police in matters concerning internal affairs investigations assigned to them by the Chief of Police.

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Definitions:

- **Complaint**- An allegation of a violation of a criminal law or administrative rules and regulations brought forth by a citizen.
- **Misconduct**- A violation of a criminal law or administrative rules and regulation by an employee of the Shively Police Department.
- **Employee**- A full-time or part-time, sworn or unsworn member of the Shively Police Department.
- **Complainant**- A citizen making a complaint that they were the victim of and/or witness to misconduct by an employee of the Shively Police Department. **Exception:** *Juvenile victim/witness requires parent or guardian to bring forth complaint.*
- **Citizen Observation Form**- Form used to document complaints or complimentary remarks made by a member of the general public implicating a member of the Shively Police Department.
- **Employee Observation Form**- Form used to document complaints or complimentary remarks made by a member of the Shively Police Department implicating a member of the Shively Police Department.
- **Informal Investigation (Corrective Action)**- An investigation of a complaint which alleges misconduct by an employee that is less serious in nature and may result in non-punitive discipline.
- **Formal Investigation**- An investigation of a complaint which alleges misconduct by an employee that is serious in nature and may result in punitive discipline.
- **Non-Punitive Discipline (Corrective Action)**- Verbal counseling, counseling letter, training, retraining, etc.
- **Punitive Discipline**- Written Reprimand, Suspension of take-home fleet privileges, suspension without pay, demotion or termination of employment.
- **External Complaint**- An allegation of misconduct by a member of general public implicating an employee of the Shively Police Department.
- **Internal Complaint**- An allegation of misconduct by an employee of the Shively Police Department implicating an employee of the Shively Police Department.

Handling External Complaints against Employees:

The first step in taking a complaint from a citizen is to direct the complainant to the first line supervisor. When possible, the supervisor should be the subject employee's direct chain of command. In any case, the supervisor must complete a *Citizen's Observation Form (COF)*. The supervisor should attempt to satisfy the complainant.

When the COF is completed, it should immediately be forwarded to the Assistant Chief of Police for his review. A copy of the COF will be placed in a sealed envelope by the supervisor and provided to the employee. The Chief of Police will review and consider any COF that may warrant a formal investigation.

The original COF will remain in the custody of the Chief of Police in accordance with normal retention cycles.

Internal Affairs will begin a Formal Investigation when:

- The Chief of Police serves a written order to begin an administrative investigation.

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Internal affairs investigations into allegations of misconduct by employees of the Shively Police Department will be performed in accordance with Kentucky Revised Statute 15.520. Investigators will use standards and practices recognized through training and experience when conducting administrative investigations.

It is the intent of each investigator to complete any assigned case in a timely manner, however it must be considered that the nature, complexity of internal investigations and other duties and responsibilities of investigators may pose significant obstacles to achieve quick resolve. It shall be the duty of the Chief of Police to monitor the progress of investigations and to determine how to best move them along if needed.

A Formal Investigation is conducted as a means to “find the facts” of the complaint.

Investigators shall use appropriate departmental forms and due process procedures. It shall be the responsibility of the Internal Affairs division to make necessary modifications to improve the way in which investigations are conducted. *(An example of some of the forms that are used can be found in the Administrative Forms at the end of Section 500 of the S.O.P. manual).*

Collecting evidence in an administrative investigation should consist of interviewing witnesses, interviewing employees and interviewing subject employees. There is not a particular order in which every investigation is conducted; however the manner of investigations should be consistent and thorough.

All taped statements from critical witnesses, which have a substantial impression upon the investigation, shall be transcribed. After transcription, the person giving the statement will swear or affirm to the truthfulness of the statement.

When an investigation is concluded the case file should be put together in a logical and neatly arranged manner. All evidence collected must be included in the case file.

The case file shall contain a “Summary Report” as a cover letter to the case file. The summary report shall provide a synopsis of factual information to the reviewer. The end of the summary shall contain the final recommendation for disposition of the case. This recommendation is based on the facts of the case and not solely on the opinion of the investigator. The investigator should use the disposition that he/she feels best meets the criteria. The recommendations are as follows:

- **SUSTAINED** **Supported by a preponderance of the evidence, allegation(s) did occur.**
- **NOT SUSTAINED** **Insufficient evidence to prove or disprove the allegation(s).**
- **EXONERATED** **Incident occurred, but was lawful and proper.**
- **UNFOUNDED** **Allegation(s) is false or not factual.**
- **CLOSED BY EXCEPTION** **Complaint has been withdrawn, complainant will not cooperate, or complainant cannot be located.**

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An Internal Affairs Administrative Investigation is concluded when a completed case file with attached summary report has been submitted to the Chief of Police.

The Chief of Police should review the case file in a timely manner. After review the Chief of Police should determine the appropriate process for adjudication of the case using the discipline matrix found in section 600.10.

- The Chief of Police will maintain all records according to applicable retention cycles as prescribed by law or other agreement.

Handling Internal Complaints against Employees:

Employees and supervisors may bring forth complaints of misconduct or rules violation to the attention of the Chief of Police. This method of handling complaints is primarily designed to assist supervisors and other employees in dealing with job standards and ethical issues that arise in the course of job functions.

When an employee, and especially a supervisor, witnesses misconduct or violation of a standard in job performance, he or she should correct the action. *Informal investigation* and *non-punitive disciplinary action* may result after the facts of the case are presented directly to the office of the Chief of Police. The facts of the case must be submitted to the Chief's office. The Chief of Police will review the facts and determine the next course of action. The course of action may include, but is not limited to: action not taken, administering non-punitive disciplinary action, initiation of formal investigation, referring charges to the Civil Service Board, etc.

If the Chief orders a Formal Investigation, the Internal Affairs Unit will handle the referral in the same manner as in the *Handling External Complaints against Employees*.

Charging Employees With Misconduct

Charging Employees with Misconduct will be conducted in accordance with State Statute, Civil Service Rule and any other binding process.

Hearing of Charges Against Police Employees

Hearing of Charges of Misconduct against Employees will be conducted in accordance with State Statute, Civil Service Rule and any other binding process.

Appeals

Appeals to disciplinary hearings against Employees will be conducted in accordance with State Statute, Civil Service Rule and any other binding process.

Criminal Charges

In the event that an officer is charged with a criminal offense, the administrative investigation may occur during the same time as the criminal investigation, but will be handled independently. All criminal investigations will be conducted in accordance with Constitutional Rights and under the guidelines of *Miranda vs Arizona* 384 U.S. 436 (1966).

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Disciplinary Action

Disciplinary action may be in any of the following forms depending on the severity of the violation of Shively Police Department Standard Operating Procedures:

- Corrective action (e.g. verbal reprimand, training, etc.)
- Written Reprimand
- Suspension
- Termination

Thirty (30) days is the maximum number of days that any employee will be placed on suspension. Any violation of the Shively Police Department Policies and Procedures that merits more than a thirty (30) day suspension will be considered grounds for termination. Any officer who is suspended for thirty (30) days will be terminated if they receive ANY subsequent suspension as part of a disciplinary action.