



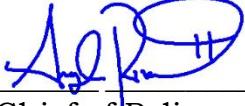
NORTH MIAMI POLICE DEPARTMENT



STANDARD OPERATING PROCEDURES

OFFICE OF PROFESSIONAL COMPLIANCE INTERNAL INVESTIGATIONS, COMPLAINTS, COMMENDATIONS, COUNSELING, AND DISCIPLINE 300.06

EFFECTIVE DATE: 04-21-23

APPROVED: 
Chief of Police

SUPERSEDES: 07-29-21

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I. PURPOSE

To understand the proper complaint processing, training, counseling, and disciplinary guidelines essential for the efficient and orderly achievement of the North Miami Police Department's mission. Departmental employees must remain cognizant of the complaint process and the purpose of training, counseling, discipline and their applications. Knowledge of the steps involved in administering these processes should promote improved uniform application of the concepts, which are intended to maintain proper employee conduct.

II. POLICY

To maintain professional standards of conduct for employees. The Department shall utilize counseling techniques, whenever possible, to train or guide employees. Imposition of discipline becomes necessary when such counseling fails to rectify improper action, or it is warranted, due to the employee's failure to

follow a prescribed rule, order, directive, or procedure.

III. SCOPE

This policy applies to all members of the Department.

IV. RESPONSIBILITIES

All members of the Department shall perform the duties and assume the obligations of their rank or position in the reporting and investigating of complaints or allegations of misconduct against Departmental employees.

- A. Subject to the provisions of §112.531-112.535 Florida Statutes, the Law Enforcement Officers' Bill of Rights (as amended), and the protections of *Garrity vs. New Jersey* and any other applicable law, all employees will cooperate fully with administrative investigations when ordered by an Office of Professional Compliance (OPC) investigator or designated Departmental authority, conducting such investigations, including appearing for an investigative interview and providing all requested documents and evidence.
- B. Employees, when so directed, shall answer or render material and relevant sworn statements to the OPC investigator or to the designated Departmental authority conducting such investigations, honestly, completely, and to the best of their ability.
- C. No employee shall, in any manner, interfere with any Departmental administrative investigation or bring any type of recording device into the OPC, to include video and/or audio recording with mobile phones.
- D. OPC investigators shall be given complete access to all Departmental facilities, equipment, and records for the purpose of conducting investigations.
- E. Time Requirements: Unless otherwise noted, all stated time requirements are calendar days.
- F. Any member who feels the Officers' Bill of Rights has been violated, shall inform the investigator immediately, or the Chief of Police, or his/her designee, while the investigation is open.

V. AUTHORITY

The City of North Miami Civil Service Rules, the current Collective Bargaining Agreements, the City of North Miami Administrative Regulations, policies, procedures, and the current Law Enforcement Officers' Bill of Rights (as amended).

VI. DEFINITIONS/TERMINOLOGY

- A. Complaints: Complaints shall be accepted from any source, whether anonymous or not, made in person, by mail, email, on the Department's website, or over the telephone. The complaint process should not discourage, dishearten, or intimidate complainants from filing a complaint.
- B. Disciplinary Profile: A compilation of the employee's disciplinary actions. Neither Informal nor Formal Counseling, while taken into account, are disciplinary actions and shall not be included in the employee's disciplinary profile.
- C. Discipline: An action initiated by supervisors, based on the totality of the circumstances surrounding the incident. Discipline is administered by the Chief of Police, or his/her designee, when either positive corrective measures, designed to train or improve behavior, are unsuccessful in attaining satisfactory employee performance, or when an employee commits a violation regarding a rule, order, directive, procedure or law.
- D. Final Action Document: Disciplinary Action form depicting a Written Reprimand, Suspension, Fine, Demotion, or Dismissal.
- E. Disposition Panel: A three-member panel convened by the OPC to review the Investigative Analysis document and case file submitted by OPC investigators on all Internal Affairs Investigations, and determine the disposition of the case being reviewed.
- F. Law Enforcement Officers' Bill of Rights: Supervisors shall be aware of the content and applicability of the Florida Law Enforcement Officers' Bill of Rights as defined in §112.531-112.535 Florida Statutes (as amended).
- G. Collective Bargaining Agreements: Supervisors shall be knowledgeable of the contents and applicability of the current collective bargaining agreements between the City of North Miami and its employees.
- H. Principal Officer/Employee: Denotes the employee who is under investigation and subject to interrogation for any reason that could lead to disciplinary action, such as a Written Reprimand, Suspension, Fine, Demotion, or Dismissal.

- I. Witness Employee: Someone who is not the subject of the investigation and has information that is pertinent to the case.
- J. Language Clarification:
 - Should: Indicates a general or expected action, absent a rational basis for failing to conform.
 - Shall or Will: Indicates a mandatory action.

VII. COUNSELING AND DISCIPLINE MANAGEMENT

Supervisors are responsible for counseling employees when necessary to improve performance. Substandard behavior and/or performance shall be addressed in a timely manner. **CFA 7.02**

- A. Documentation: Unsatisfactory work habits must be documented by supervisors.
 1. Patterns of behavior or course of conduct can only be established through supportive and documented record-keeping procedures. Record keeping must identify dates, times, incident, acts, behavior/performance and circumstances.
 2. Employee performance evaluations must note unsatisfactory performance and be indicative of the behavior and/or performance demonstrated.
 3. Informal and Formal Counseling directed to employees will follow the procedures set forth in Section XVI of this policy.
 4. Citing Violation(s): Supervisors must identify each instance of substandard performance and cite the relevant Departmental Standard Operating Procedure, North Miami Civil Service Rule, Administrative Regulation, General Rule and Regulation, order, or directive, that establishes the desired performance standard. All violations will be written in their entirety when documented on a Notice of Disciplinary Action form.
- B. Pattern of Conduct: Prior documented incidents should be examined to determine if a particular pattern of conduct or performance is forming or has formed. Constructive or corrective steps will be initiated to assist the employee in becoming aware of the conduct or performance and prevent its recurrence.

C. Training: The purpose of training is to assist the employee in correcting or improving their performance level through positive and constructive methods. Training may be utilized in lieu of, or in conjunction with, various forms of counseling and disciplinary action. The supervisor will be authorized to request or provide instruction within practical available means.

Training may be required under the following circumstances:

1. An employee's performance has been evaluated as "Marginal/Needs Improvement" or "Unsatisfactory."
2. A specific incident or performance indicates a need for training.

D. Recommendation for Improvement: All recommended methods or actions taken by an employee's assigned supervisor for improving performance, such as coaching, counseling, training, offering Employee Assistance Program (EAP) services, etc. will be documented. **CFA 7.03**

1. Employees failing to follow recommendations or actions taken to improve their performance may be subject to progressive discipline.

VIII. COMPLAINT PROCEDURES

Complaints against any North Miami Police Department employee will be accepted at all times, from any source, regardless of the location of the alleged occurrence.

- A. When the complaint classification requires action mandated by Departmental policies or procedures, the applicable follow-up procedures will be fully explained to the complainant.
- B. Anonymous Complaints: The fact that a complainant may refuse to identify him/herself, or that a complaint is received from an anonymous source, will not preclude documenting and forwarding the complaint to the OPC for review, classification, and assignment.
- C. Processing Complaints: Whenever a complaint against a North Miami Police Department employee is received, the following will apply:
 1. Complaints received in person at the North Miami Police Department:
 - a. The involved member's on-duty shift supervisor shall be notified and shall handle the initial complaint. If the involved employee's immediate supervisor is not on duty, or is

unavailable, the on-duty Uniform Patrol supervisor will be notified and shall receive and record the information from the complainant.

- b. The information will be documented on the Initial Report - Allegation of Employee Misconduct form (Appendix #1).
- c. If the complainant registers the complaint in person, they will be afforded the opportunity to review and sign the Initial Report - Allegation of Employee Misconduct form. The complaint will be routed directly to the OPC within 24 hours of receipt, or the next business day.
- d. If the complainant does not wish to meet with a shift supervisor, they shall be referred to the OPC, or provided an Initial Report - Allegation of Employee Misconduct form to complete and forward to the OPC, whichever they prefer. Complainants can also register complaints through the NMPD Website at <https://northmiamipolice.com>.

2. If the complaint is received by telephone, either the employee receiving the complaint or their immediate supervisor, if possible, will document the complaint, and route it to the OPC within 24 hours of receipt, or the next business day.
3. Complaints received by mail, e-mail, or any other electronic form, shall be forwarded immediately to the OPC.

D. Upon initial contact with a complainant, the supervisor involved may determine that the complaint does not involve employee misconduct. In these instances, the case may be resolved at the supervisory level and at the discretion of the employee's immediate supervisor.

1. When an allegation of misconduct is made against a Department member, and the initial supervisor receiving the complaint can determine with certainty that no misconduct occurred, the supervisor will document his/her findings on a Supervisor Contact Report.
2. Prior to addressing the matter in a Supervisor Contact Report, the supervisor handling the complaint will review any pertinent body-worn camera footage, reports, and/or any other documents known to the supervisor that may further clarify that issue at hand and ensure that it does not meet the criteria for submission to the OPC.

3. When in doubt as to whether a Supervisor Contact Report or an Initial Report – Allegation of Employee Misconduct form is appropriate, the on-duty supervisor shall confer with his or her Commander for guidance.
4. Upon completion, the Supervisor Contact Report will be forwarded via the chain of command to the Section Major within forty-eight (48) hours for review and initials. The Major will forward the form to the OPC for filing.

IX. COMMENDATIONS

North Miami Police Department employees appreciate receiving positive feedback on the performance of their duties whether from other members of the Department or from citizens in general.

Any member who feels that an employee has done a great job and has gone above and beyond their duties is encouraged to forward to the Chief of Police, or his/her designee, a Commendation Form, available in PowerDMS, describing the incident and the outstanding performance of the employee.

Any citizen who wishes to commend a North Miami employee can do so by any means available to them or by completing a Citizen's Employee Commendation provided to them by any member who learns of their wish to make a commendation. The commendation form is available at the station's lobby (and PowerDMS).

X. COMPLAINT CLASSIFICATIONS

The OPC will classify each complaint as a Unit Level Complaint, Internal Affairs Complaint, or Administrative Review, if applicable, based upon the following criteria. **CFA 7.02, 7.03**

A. Unit Level Complaints: **20.01A**

All Allegations of Misconduct that are categorized as Unit Level Complaints will be assigned a case number by the OPC. The complaint will be forwarded to Section Major of the Shift/Unit for proper follow-up and investigation by a Commander or line supervisor. Upon completion of the investigation, the case file will be retained in the OPC, and the complaint with the assigned case number will be logged.

1. Once assigned an investigation, the investigating supervisor shall complete the investigation within fourteen (14) working days. If

circumstances exist where it is not feasible for the investigating supervisor to complete the investigation within the required timeframe, he or she shall send written communication to the OPC requesting an extension. The OPC Commander will notify the concerned Section Major of this request.

2. Investigating supervisors must contact the OPC Commander for guidance when needed to avoid any unnecessary delays in the investigation.
3. Investigating supervisors **shall** conduct their investigation in accordance within certain legal guidelines, such as the Officers' Bill of Rights, Weingarten rights and the current collective bargaining agreements.
4. The concerned Section Major will track said investigation to ensure that no unnecessary delays occur. If the OPC Commander becomes aware of any unnecessary delays with an investigation, he or she shall notify the concerned Section Major who will address the concern.
5. Unit Level Complaints consist of allegations of misconduct or other lesser violations of Departmental policies, rules, or procedures, including, but not limited to:
 - a. Discourtesy;
 - b. Harassment;
 - c. Derogatory or inflammatory remarks;
 - d. Improper action or procedure;
 - e. Lack of police service;
 - f. Disputed issuance of traffic citations; and
 - g. Minor complaints emanating between employees.

B. Internal Affairs Complaints: **20.01C**

Complaints that meet the criteria for an Internal Affairs Investigation will be forwarded to the Chief of Police, or his/her designee, with a recommendation that an investigation be initiated. If approved, the OPC will conduct the investigation.

Internal Affairs complaints consist of allegations of violations of law or major violations of Departmental policies, rules, or procedures, including, but not limited to:

1. Commission of a crime;
2. Dishonesty;
3. Violation of narcotic drug laws;
4. Acceptance of a bribe, gratuity, or other illegal compensation;
5. Unauthorized or excessive use of physical force;
6. Malfeasance in office;
7. Official misconduct;
8. Intoxication;
9. Employee substance abuse;
10. Discrimination or Sexual Harassment;
11. Unauthorized release of confidential information;
12. Immorality; and
13. Other acts of a serious nature.

C. Administrative Reviews:

1. An investigation conducted by the OPC, authorized by the Chief of Police, or his/her designee, involving possible improprieties by Department employees, or other city employees (as authorized by the City Manager). If the investigation reveals that the violation may lead to disciplinary action, the principal employee will be afforded the same due process rights as if he/she was the principal employee of an Internal Affairs Investigation.
2. Type of cases reviewed by the OPC include, but are not limited to:
CFA 20.01B
 - a. All police involved shootings (contact and non-contact);
 - b. In-custody deaths; and
 - c. Accidental discharges.

XI. RELIEF FROM DUTY

Any Commander (or above) may temporarily relieve a Departmental employee from duty in situations involving misconduct, insubordination, liability, or matters that would discredit the Department. If a commanding officer (Commander or above) is not immediately available, the supervisor shall require the officer to report to the station and the supervisor shall contact a member of

the Command Staff. Relief from duty for bargaining members is to be with pay.

CFA 2.07

A. Procedures: Commanders (or above) who relieve an employee from duty will adhere to the following process:

1. In the event an employee is relieved of duty, the relieving Commander will notify immediately his/her Section Major, or his/her designee, to advise of the action taken.
2. Should the relieving Commander be from outside the employee's chain of command, both Section Majors will be notified immediately.
3. Any police officer relieved from duty, regardless of reason or duration and unless otherwise directed, will report to their Section Major immediately during business hours, but no later than the next business day at 9:00 a.m. to relinquish his/her firearm, badge, radio, identification card, key card, gas card, vehicle key, office key (if applicable), laptop, body-worn camera, and all city-issued weapons. A Departmental property receipt will be prepared and signed by both parties. The Property Unit will retain the items until the officer's return to active duty.
4. The relieved officer shall be notified in writing, by way of an Administrative Leave Notice, which he/she shall sign, that he/she is prohibited from carrying or displaying any duplicate badge, or other identification that may identify the employee as a police officer. Also, that he/she shall continue to perform job-related obligations, to include the following:
 - a. Court attendance;
 - b. Appearance in connection with Departmental investigations;
 - c. Monitor City email daily;
 - d. Monitor PowerDMS for the acknowledgement of written directives and complete online training courses; and
 - e. Respond to any in-person training as required by the Training Unit.
5. A detailed memorandum will be prepared by the relieving commanding officer and forwarded to the Chief of Police, or his/her designee, through the officer's chain-of-command, within 24 hours following such event, with a copy forwarded to the OPC.

B. An employee relieved from duty for extended periods pending completion of an investigation, or formal disciplinary action, may be administratively reassigned to hours and days off that benefit the Department.

C. Restrictions: Employees who have been placed on Administrative Leave with pay, pending completion of an investigation or formal disciplinary action, will remain at their residence during their normal work hours. The OPC may contact the employee twice a day during normal business hours.

XII. INVESTIGATIONS AND CASE DISPOSITIONS

Unit Level Complaints, Internal Affairs Complaints, and applicable Administrative Reviews will be investigated in accordance with §112.531-112.535 Florida Statutes, the Law Enforcement Officers' Bill of Rights (as amended), Departmental policy, and the current Collective Bargaining Agreement. All Internal Affairs investigations will be limited to fact finding. Case dispositions will be made by the Internal Affairs Disposition Panels comprised of supervisory personnel. Unit Complaint investigations and their dispositions will be made by the investigating supervisor, and then forwarded to the OPC via the chain of command. A copy of the Unit Complaint will be logged and kept on file in the OPC.

- A. Employees rights will be applied when investigating an incident that may result in disciplinary action; however, may not be required during an initial inquiry/discussion.
- B. The full resolution of an administrative investigation will not extend beyond 180 days, absent exigent circumstances in accordance with §112.531-112.535, Florida Statutes, the Law Enforcement Officers' Bill of Rights (as amended).
- C. The North Miami Police Department has designated the Chief of Police as the entity authorized to initiate an OPC investigation into alleged misconduct. Therefore, the 180-day period begins to run when a complaint is received by the Chief of Police, or his/her designee.
- D. Employee Restrictions: An employee having knowledge of or involvement as a principal employee, witness employee, or bargaining unit representative in a complaint shall not:
 - 1. Independently participate in the investigation or conduct a collateral investigation.
 - 2. Surveil, contact by any means, or cause to be contacted the complainant or any witnesses concerning the allegations.
 - 3. Disclose or discuss the existence of or facts of a complaint with anyone, except designated Departmental authorities conducting the

investigation.

4. Nothing in these procedures shall prohibit an employee from discussing any aspect of a complaint with their representative of choice, or from discussing any aspect with their attorney.
- E. In cases where preliminary investigative data indicates the possibility of a criminal act on the part of the employee, the case shall be referred to the State Attorney's Office. This shall be accomplished prior to any questioning of the principal employee.
- F. Standard methods of investigation will be used, which may also include, but not be limited to: **CFA 20.03 A-E**
 1. For cases involving possible criminality, the unit or outside agency investigating may utilize medical or laboratory examinations as deemed necessary, which may include: fluid, fiber and/or fingerprint examinations.
 2. The use of employee photographs for identification purposes.
 3. Photo lineups may be used when necessary to identify the officer involved in an allegation.
 4. Financial disclosure statements may be used with permission by the Chief of Police, or his/her designee.
 5. Instruments for the detection of deception, i.e., Polygraph or C.V.S.A. may be used in substantiating victim/witness testimony. Polygraph or C.V.S.A. examinations of principal employees will only be performed upon agreement by the employee, his/her legal counsel, and the Chief of Police. In cases where possible criminal prosecution is involved, the State Attorney must also be in agreement.
- G. In all other cases, after the gathering of preliminary investigation data, and prior to taking a statement, the principal officer shall be given written notification of the nature of the complaint, which shall include sufficient information to apprise him/her of the allegation and his/her rights and responsibilities relating to the investigation. **CFA 20.02**
 1. Prior to any questioning of any principal officer(s), he/she must be advised of the following components of the Law Enforcement Officers' Bill of Rights:
 - a. The nature of the investigation before any interrogation begins;

- b. The name of the complainant(s) and the complaint;
 - c. The identity and rank of the officer in charge of the investigation;
 - d. All identifiable witnesses, which shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the principal officer;
 - e. All witness statements, including all other existing principal officer statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation.
2. An officer, after being informed of the right to review witness statements prior to questioning, may voluntarily waive the provisions of the applicable paragraph contained in the Officers' Bill of Rights and provide a voluntary statement at any time.
 - a. The waving of any part of the Officers' Bill of Rights by an officer shall be done in writing.

H. Determining Dispositions:

1. Internal Affairs and applicable Administrative Reviews case dispositions will be made by a Disposition Panel.
2. Unit Level Complaint dispositions will be made by the assigned investigating supervisor within fourteen (14) business days from the date of issuance. If additional time is needed to complete the investigation, the concerned investigator-supervisor will request an extension to the OPC via City email.
3. When determining the disposition of allegations contained in Unit Level Complaints, Internal Affairs Investigations, or applicable Administrative Reviews, the following classifications will be utilized:
 - a. Unfounded: The investigation revealed, by the preponderance of the evidence, that the allegation is false or not supported by facts.
 - b. Exonerated: The investigation revealed, by a preponderance of the evidence, that the alleged actions occurred, but were justified, lawful, and proper.

- c. Not-Sustained: The investigation cannot, by a preponderance of the evidence, prove or disprove the allegation.
- d. Sustained: The investigation revealed, by a preponderance of the evidence, that the employee committed the alleged acts, in violation of administrative regulations, policies and/or procedures.
- e. Information Only: The complaint has been filed. An investigation cannot proceed due to insufficient information and/or the complainant cannot be contacted. The case may be reopened at a future date when new or additional information is received.
- f. Other Findings: During the course of the investigation, other violation(s) of administrative regulations, policies, and/or procedures are found that were not mentioned in the original allegation of misconduct. These additional violation(s) will be investigated, and a disposition rendered in the same manner as the initial allegation. Additionally, the disposition panel may find that:
 - 1.) The investigation has revealed a flaw in Departmental policy, necessitating a review and revision of the policy as written.
 - a.) This finding must clearly detail how the policy failed or whether there is a policy absence that must be addressed, as well as a recommendation for revising the policy.

4. For **each** allegation/violation, there will be a disposition based on the preponderance of the evidence pursuant to the findings of the investigation.

5. If multiple principal employees are included in an allegation or investigation, the disposition shall specify how it applies to each employee.

I. Issuance of the Final Action Documents on sustained cases: **CFA 7.03**

1. Procedures:

a. Unit Level Complaints:

When a Unit Level Complaint Investigation is completed, the following procedures will be followed:

- 1). If the investigation revealed NO discipline is required, the supervisor will:
 - a). Review all factors, including the affected officer's two (2) year disciplinary profile.
 - b). If applicable, determine the corrective action for the violation(s) based on the totality of the circumstances and any mitigating or aggravating factors.
 - c). Document the proposed action taken (Informal Counseling, Formal Counseling) in his/her Shift Supervisor's Investigative Report. (Appendix #2)
- 2). If discipline IS recommended, the supervisor will submit his/her findings, along with the recommendation for discipline documented on the Notice of Disciplinary Action form, based on the findings and all factors, including the affected officer's two (2) year disciplinary profile, to the Chief of Police for review, via the chain of command.
 - a). Prior to implementing any disciplinary action, the Chief of Police, or his/her designee, will afford the member, via notice, the opportunity to be heard prior to implementing said discipline.
 - b). The Final Action Document (Written Reprimand, Suspension, etc.) will be forwarded to the affected employee, via the chain of command, where the affected employee shall affix their signature to the document acknowledging the action.

b. Internal Affairs Complaints:

When an Internal Affairs or Administrative Review is completed, the following procedures will be followed:

- 1.) The OPC supervisor will:
 - a). Forward the investigative case file to the Disposition Panel for review.
 - b). The Disposition Panel (described in Section XIII), within ten (10) business days, will determine the disposition of the case by documenting their findings on the Disposition Panel Report.
 - c). The Disposition Panel will then submit the case file and their report to the OPC Commander, or his/her designee.
 - d). If the allegation(s) is sustained, the OPC will submit the case file to the affected officer's Chain of Command for a disciplinary recommendation to the Chief of Police.
- 2.) The supervisors will review all factors, including the affected officer's two (2) year disciplinary profile, and recommend the corrective action for the violation(s) based on the totality of the circumstances and any mitigating or aggravating factors.
- 3.) When the Chief of Police's final action is disciplinary in nature (Written Reprimand or above), the Chief of Police, or his/her designee, will afford the member, via notice, the opportunity to be heard prior to implementing said discipline.
- 4.) The Chief of Police, or his/her designee, will make the final decision on the level of discipline to be imposed.
CFA 7.03
- 5.) The Final Action Document (Written Reprimand, Suspension, etc.) will be forwarded to the affected employee, via the chain of command, where the affected employee shall affix their signature to the document acknowledging the action.

2. Disciplinary actions shall be imposed once the employee has waived the right to an appeal, or has exhausted the Department's appeal process, delineated in Section XVI of this policy.

XIII. DISPOSITION PANEL

- A. The OPC will maintain a list of all Departmental supervisory level officers. The makeup of each panel will consist of a Major and/or Commander, as well as two (2) other sworn supervisors. If unusual circumstances exist, any combination of Majors, Commanders or Sergeants may be used at the direction of the Chief of Police, or his/her designee. The highest-ranking Officer shall be the designated Chairperson. Each successive case will be assigned to the next designated panel.
- B. Disposition Panel Procedures: Upon completion of any Internal Affairs investigation, the OPC will assign the case to the Disposition Panel as designated on the rotation list. Except when a panel member is in the principal employee's chain of command, is a designated substantive witness, is unavailable, or unusual circumstances exist, the normal rotation of panels will not be altered.
 - 1. Authority: The Panel shall review the investigative file for sufficiency of evidence, based on the preponderance of the evidence, disproving or supporting the allegation against the employee. If the panel feels further investigation is required, the file will be returned to the OPC with documented reasons.
 - 2. Investigative Review: The review of investigative files by the Disposition Panel shall include, but not be limited to, the following:
 - a. Examine reports, documents, photographs, and evidence.
 - b. Review formal statements.
 - c. Review the investigator's report and findings of fact.
 - 3. Disposition Panel Meetings: Disposition Panel members shall meet as necessary to discuss cases. The investigating supervisor from the OPC shall attend these meetings, upon the request of the Panel. The panel will submit their disposition to the Chief of Police within ten (10) days.
 - 4. Dispositions: The Disposition Panel will determine the disposition of the case based on a majority vote of the panel for each individual allegation.
 - 5. Findings: The Disposition Panel's Chairperson will ensure that the Panel's findings/disposition are documented on the Disposition Panel Report.
 - 6. Each allegation enumerated in the Investigative Summary will be

listed, and the corresponding incident/violation cited on a Bill of Particulars. For each allegation/violation, there will be a disposition based on the findings of the investigation.

7. If multiple employees are included in an allegation or investigation, the disposition shall specify how it applies to each employee.

C. In the case of a contact shooting, or in-custody death investigation where the case has been cleared by the State Attorney's Office and there are no allegations of wrongdoing, the OPC will conduct an Administrative Review and forward its findings to a Contact Shooting/In-Custody Death Review Panel, which shall be convened and be similar in composition to a Disposition Panel.

1. The Panel will review the particulars of the case and the investigator's findings, and it may present additional recommendations concerning the need to change Departmental policies, rules, or procedures when appropriate. The findings will be reported on a Contact Shooting/In-Custody Death Review Panel Report. (Appendix #5)

XIV. CASE DISPOSITION NOTIFICATIONS

- A. At the conclusion of any Unit Complaint, Internal Affairs, or Administrative Review Investigation,) the OPC Commander, or his/her designee, will make notification of the case disposition to the affected subject employee(s) via memorandum, as well as to any internal complainant(s).
- B. After the subject employee(s) has been notified, any external complainant(s) will be notified in writing, via certified mail, of the administrative investigation's disposition (e.g., Exonerated, Sustained, etc.)

CFA 20.04

XV. CONFIDENTIALITY OF INVESTIGATIONS

- A. Complaints, the existence of complaints, and information obtained pursuant to the investigation of complaints shall be confidential until the investigation ceases to be active, or until the Chief of Police, or his/her designee, provides written notice to the principal employee whether or not disciplinary action will be sought, according to the Officers' Bill of Rights, FS 112.532. **CFA 20.01E**
- B. The Chief of Police, or his/her designee, may discuss an active Internal Affairs investigation with the necessary personnel including the City Manager.

- C. Active Investigations: An investigation is considered to be active as long as it is proceeding with a reasonable expectation that a finding will be made in the foreseeable future.
- D. Release of information: Closed cases may be reviewed by the public upon request pursuant to the Public Records Law, § 119.07, Florida State Statutes (as amended). Copies may be obtained upon application and the paying of reasonable fees through the City of North Miami's Public Requests website at: **CFA 20.01G**

<https://northmiamifl.justfoia.com/publicportal/home/track>.

XVI. CORRECTIVE ACTION AND DISCIPLINE

- A. Counseling: Counseling is an informal or formal supervisory guidance offered to the designated employee as a positive means to improve performance and to avoid the need for disciplinary measures. Neither Informal nor Formal Counseling are disciplinary actions.

Although Informal Counseling may ordinarily precede Formal Counseling, the appropriate type of counseling rests with the employee's supervisor.

1. Informal Counseling: Discussion between the concerned supervisor and employee regarding a matter of concern. The supervisor shall indicate to the employee the required conduct or performance expected. Supervisors are required to retain supervisory notes on such informal actions.
2. Formal Counseling: Documented guidance to correct a deficiency and/or inappropriate conduct, or to enhance employee performance. Formal Counseling shall encompass the deviations that necessitated the counseling session, the type of conduct or performance required, the supervisor's expectations, and a timetable established by the supervisor and conveyed to the employee. This is the proper time to remind or caution the employee that disciplinary action may be necessary if conduct does not improve. Applicable standard operating procedures, general rules and regulations, and any other directive, shall be discussed and noted at this session. A Notice of Counseling Form, available in PowerDMS, shall be completed and signed by the affected employee at this time and filed with the Section Major to be retained for a period of twenty-four (24) months from the date of issuance and will not be placed in the employee's personnel file.

- B. Notice and types of disciplinary action: **CFA 7.02, 7.03**

1. Notice of Disciplinary Action: Written notice of a Written Reprimand, Suspension, Fine, Demotion or Dismissal, shall include a complete description of the incident(s) of unacceptable behavior or performance and refer to specific times (if applicable), dates, locations, personnel involved, as well as the policy(s) violated. Notice of discipline shall be documented on a City of North Miami Disciplinary Action form **and** Departmental Notice of Disciplinary Action form, available in PowerDMS.
2. Degree of Disciplinary Action: It is the responsibility of the employee's immediate supervisor to recommend disciplinary action based on the philosophy of progressive discipline. The degree of disciplinary action to be recommended to the Chief of Police will depend upon the totality of factors associated with each incident or sustained complaint.
3. Supervisor's will utilize all factors, including the employee's two (2) year disciplinary profile, in making disciplinary recommendations. In cases where an employee has demonstrated a continued trend of unsatisfactory performance in a specific category or course of conduct, supervisors may utilize the disciplinary profile of an employee that extends beyond two (2) years, which captures the continued pattern. The degree of discipline may increase with each sustained complaint. An evaluation of the following factors should assist the supervisor(s) in making a determination as to the proper degree of disciplinary action needed:
 - a. Seriousness of the violation; and/or
 - b. Identification of factors indicating the existence of a particular course of conduct by considering:
 - 1). Number of similar incidents / complaints;
 - 2). Time span between incidents / complaints;
 - 3). Disposition of the complaints;
 - 4). Previous disciplinary action;
 - 5). Previous action plans to improve employee conduct and/or performance;
 - 6). Mitigating circumstances, if any;
 - 7). Length of service and previous record;
 - 8). Reasonable consistency in penalties to similar offenses;
 - 9). The potential for disciplinary action having a rehabilitative effect;
 - 10). Attitude and conduct throughout the investigation; and
 - 11). Other relevant factors.

4. Types of discipline:

- a. Written Reprimand: Written Reprimands are given when, after being counseled formally, or when warranted based on the totality of the circumstances, an employee fails to improve his/her conduct or performance and/or violates policy. It is subject to approval by the Chief of Police, or his/her designee, and provides notice that unless the behavior is modified and the conduct improves, progressive disciplinary action will be taken.
 - 1.) A Written Reprimand is the initial and formal act of discipline that shall become a part of the employee's personnel file. The reprimand will include a complete description of the incident, performance, or unacceptable behavior. Specific dates, times, locations, and personnel involved will be thoroughly documented.
 - 2.) Written Reprimands older than two (2) years shall not be considered in determining further disciplinary action, unless the employee has exhibited a pattern or a recurrence of the same or similar infraction. Written Reprimands shall have a cumulative effect and may be grounds for progressive disciplinary action in the future.
- b. Fine: A regular employee in the classified service may be fined by the Chief of Police, or his/her designee, and suffer a loss of earned time in lieu of a formal suspension, as provided for in Rule XIII of the Civil Service Rules of the City of North Miami.
- c. Suspension: A regular employee in the classified service may be suspended by the Chief of Police, or his/her designee, as provided for in Rule XIII, Section A and B, of the Civil Service Rules of the City of North Miami.
 - 1.) If an employee is suspended for more than one day, the suspension will be served on consecutive working days. Suspended employees are not allowed to make up time and/or wages that were lost as a result of the suspension.
 - 2.) In keeping with the philosophy of progressive discipline, suspensions may be given for second offenses when a Written Reprimand has failed to correct the performance or behavior of the employee and the employee violates the same or a similar rule or policy, or commits the same

or similar offense; or for the first offense of a serious nature.

- d. Demotion: A demotion is appropriate when a supervisor is unable to exhibit the skills, knowledge and abilities required of their current rank, and/or fails to exercise diligence, intelligence, and interest in their duties; but may be, or has been in the past, a satisfactory employee at a certain lower rank.
- e. Dismissal: A Dismissal is the final and most severe form of discipline administered. An employee may be dismissed from the City's employment when he/she has been previously disciplined, usually by a suspension, for an un-remedied behavior; repetition of serious offenses; or the first occurrence of a serious offense.
 - 1.) Dismissal need not follow the progression of other discipline based upon the severity of the circumstances. An employee in the classified service may be dismissed by the City Manager upon recommendation, or the Chief of Police, or his/her designee, as provided for in Rule XIII, Section A and B, of the Civil Service Rules of the City of North Miami.
 - 2.) Employees dismissed will be notified in writing on a City of North Miami Disciplinary Action form. Written notification will include the following: **CFA 7.04**
 - a). The reason for dismissal;
 - b). The effective date and time of dismissal;
 - c). The status of fringe and retirement benefits by the Personnel Department; and
 - d). A statement outlining the employee's rights.
 - 3.) An employee with regular status who deems that they have been dismissed without just cause may, within fourteen (14) calendar days of such action, request in writing a hearing before the Personnel Board to determine the reasonableness of the action.
 - 4.) Employees without regular status in any classification, may be dismissed from the classified service for any cause which will promote the efficiency of the City service. This action may be taken by the Chief of Police, or his/her designee, without the filing of charges, and

such employee shall not be entitled to an appeal hearing.

XVII. DISCIPLINARY ACTION REBUTTAL AND APPEAL PROCEDURES

Upon receipt of a written reprimand or suspension, an employee wishing to voluntarily submit a written rebuttal may do so as follows:

- A. Rebuttals: A memorandum shall be submitted to the Chief of Police, or his/her designee, via the employee's chain of command. The memorandum should include the employee's concerns, comments, and supporting documentation regarding the written reprimand, or suspension. The Chief of Police, or his/her designee, at his/her discretion, may or may not recommend an alternative. Electing this option does not preclude the employee from the appeal process currently in place. The following rebuttal times will apply:
 1. Written Reprimands: Three (3) calendar days from receipt of the Written Reprimand.
 2. Suspension: Seven (7) calendar days from receipt of the notice of the suspension.
- B. Appeals: **CFA 7.06**
 1. An employee in the classified service of the City who receives a Written Reprimand may appeal the reprimand to the City Manager.

The appeal request must be submitted in writing to the Personnel Department within five (5) calendar days of receipt of the Written Reprimand.

 - a. The Written Reprimand, along with any rebuttal by the employee, shall remain in the employee's personnel file.
 2. Pursuant to Rule XIII, Section A of the City of North Miami Civil Service Rules, any employee in the classified service may appeal a fine, suspension, demotion, or dismissal within fourteen (14) days by requesting a hearing before the Personnel Board.
 3. Imposed discipline, following review of an accident by the Police Department's Accident Review Board pursuant to Administrative Regulations, shall not be subject to appeal to the Personnel Board, but shall be subject to review in accordance with the respective Administrative Regulation.

XVIII. SECURE STORAGE OF FILES AND RECORDS

- A. The confidentiality of all internal affairs files will be protected, and all complaints will be logged and maintained in a locked cabinet in the OPC, in accordance with Florida Law and CFA Standards. **CFA 7.05, 20.01D, F**
 - 1. All notes, reports, statements, or other material involved in the investigation of all complaints shall be maintained in a locked file cabinet within the OPC Commander's office, with access limited to the OPC Commander, the OPC Supervisor, and the Chief of Police or his/her designee.
 - 2. In the event that a closed case file must be removed from secure storage (public records request, etc.), to ensure completeness of closed files, all reports and documentation pertaining to a particular file must be included when it is returned to the OPC.
 - 3. The OPC Commander and Supervisor are responsible for maintaining the security of the internal investigation files.
- B. The Department's copy of the City of North Miami and the Department's Disciplinary Action forms will be stored in the employee's personnel file in a locked cabinet in the Office of the Chief of Police.

XIX. REPORTING PROCEDURES FOR SUSTAINED MORAL CHARACTER VIOLATIONS

Pursuant to §1943.1395 (5), Florida Statute, the Department **must** conduct an internal investigation when having cause to suspect that an officer it employs, or employed at the time of the alleged violation, or employed on a temporary status, is not in compliance with §943.13 (4) or (7), Florida Statute, or Rule 11B-27.0011, Florida Administrative Code.

- A. If the investigation is sustained, the OPC investigator must do the following: **CFA 20.01H**
 - 1. Complete Criminal Justice Standards and Training Commission (CJSTC) Form 78, and gather all supporting documentation.
 - 2. Submit a copy of the form and case file to the CJSTC as soon as practicable, not to exceed 45 days.
 - 3. Mail the file to:

Florida Department of Law Enforcement
Criminal Justice Professionalism Program
Attention: Professional Compliance
P.O. Box 1489
Tallahassee, Florida 32302-1489



North Miami Police Department

Initial Report – Allegation of Employee Misconduct

Date & Time Reported: _____ **Received By:** _____
() In Person
() Phone
() Other _____

Date & Time Occurred: _____ **Location of Occurrence:** _____

Reporter: _____ **Race/Sex:** _____ **DOB:** _____ **Address:** _____ **Telephone:** _____

Specific Allegation:

(1) *[Brief. Explained in detail below.]*

Employee(s) Named / Described:

(1)

Witnesses: _____ **Race/Sex** _____ **DOB:** _____ **Address:** _____ **Telephone:** _____

Details of Allegation:

[Attach additional pages if necessary.]

I hereby certify, under penalty of perjury, that the information furnished is true. I understand that I may incur civil liability if I file a false complaint.

Complainant's Signature: _____ **Date:** _____

Report Taken By: _____

Sergeant: _____
Print & Sign

Upon completion, this form must be forwarded to the Office of Professional Compliance without delay.



North Miami Police Department

SHIFT SUPERVISOR'S INVESTIGATIVE REPORT



UNIT COMPLAINT No.: _____

INCIDENT:

[Enter a brief synopsis of the incident and list the allegation(s).]

INVESTIGATION:

[SEE the Supervisor's Investigative Guide prior to starting the investigation. Enter here the result of document reviews and witness interviews. If the facts reveal a DISCIPLINE issue, contact the OPC before speaking to the principal officer.]

PRINCIPAL OFFICER(S) STATEMENT:

[Enter the subject officer's explanation.]

SUPERVISOR'S FINDINGS:

[Enter your analysis of the facts.]

DISPOSITION & ACTION TAKEN:

[Enter the disposition (per policy) for EACH allegation and the action taken.]

I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in ss. 112.532 and 112.533, Florida Statutes.

SUPERVISOR'S NAME / Print & Sign

Date**Reviewed by:**

Commander: _____

Major: _____

Assistant Chief: _____

Chief of Police: _____

Rev. 7/2021

NORTH MIAMI POLICE DEPARTMENT MEMORANDUM



TO:

DATE:

FROM:

SUBJECT: Disposition Panel Report
(Case Number)

The Disposition Panel, comprised of the members listed below, convened to review the facts surrounding the above-listed case as submitted by *[enter investigator's name]*.

The following represents the Panel's findings:

I. Incident: *[Enter a brief description]*

II. Findings on each allegation:

1) The allegation of _____ is deemed to be _____.

II. Other Findings: *[If applicable, enter any additional findings that reflect inappropriate actions in violation of existing rules and regulations.]*

III. Policy or procedural changes recommendation: *[If applicable, recommendations for changes to present policy and/or procedures.]*

Panel Chairperson

Signature

Panel Member

Signature

Panel Member

Signature



North Miami Police Department

Administrative Investigation Report of Findings



Case Number: _____

Principal Officer: _____

Allegation: _____

UNFOUNDED

The investigation revealed, by the preponderance of the evidence, that the allegation is false or not supported by facts.

EXONERATED

The investigation revealed, by a preponderance of the evidence, that the acts which provided the basis for the complaint or allegation occurred; however, the employee(s) actions were justified, lawful, and proper.

NOT SUSTAINED

The investigation cannot, by a preponderance of the evidence, prove or disprove the complaint.

SUSTAINED

The investigation revealed, by a preponderance of the evidence, that the employee committed the alleged acts, in violation of administrative regulations, policies and/or procedures.

INFORMATION ONLY

The complaint has been filed. An investigation cannot proceed due to insufficient information and/or the complainant cannot be contacted. The case may be reopened at a future date, when new or additional information is received.

OTHER FINDINGS

The investigation revealed other violation(s) of administrative regulations, policies, and/or procedures that were not mentioned in the original allegation of misconduct. Additionally, the disposition panel may find a flaw in Departmental policy, necessitating a review and revision of the policy as written.

WITHDRAWN

The complainant affirmatively indicated the desire to withdraw the complaint. The complainant will be required to sign a Complaint Withdraw Form

Chief of Police

(Print & Sign)

Date

NORTH MIAMI POLICE DEPARTMENT MEMORANDUM



To:

Date:

From:

Subject: Contact Shooting/In-Custody
Death Review Panel
[Case Number]

The Review Panel, comprised of the members listed below, convened to review the facts surrounding the above-listed case and the findings submitted to this body by *[enter investigator's name]*.

The following represents the Panel's findings:

I. Incident:

[Enter a brief description.]

II. Panel Findings:

II. Other Findings:

[If applicable, enter any additional findings that reflect inappropriate actions in violation of existing rules and regulations.]

III. Policy or procedural changes recommendation:

[If applicable, recommendations for changes to present policy and/or procedures.]

Panel Chairperson

Signature

Panel Member

Signature

Panel Member

Signature