

NORTH MIAMI POLICE DEPARTMENT

SUBJECT: INTERNAL INVESTIGATIONS
COMPLAINTS, COUNSELING,
AND DISCIPLINE

NUMBER: 300.06

APPROVED:

Chief of Police

EFFECTIVE DATE: 01-16-13

AMENDS/SUPERSEDES: 06-30-06

CFA STANDARDS: 11.02, 11.03, 11.05,
11.06, 27.01, 27.02, 27.03, 27.04

- I. BACKGROUND: Proper complaint, counseling, and disciplinary guidelines are essential to efficient and orderly achievement of the North Miami Police Department mission. Departmental employees must remain cognizant of the complaint process, the purpose of 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: It shall be the policy of this Department 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 the seriousness of the employee's failure to follow a prescribed rule, order, directive, or procedure warrants it.
- III. SCOPE: This procedure applies to all departmental employees and all employees are required to comply.
- IV. COUNSELING AND DISCIPLINE MANAGEMENT: **CFA 11.02, 11.03**
 - A. Authority: City of North Miami Civil Service Rules, the current Collective Bargaining Agreement and the current Law Enforcement Officers Bill of Rights.
 - B. Complaints: An impartial investigation of complaints will allow the concerned supervisor(s) to make an

objective review and appropriate disposition. After disposition is determined, the supervisor(s) shall initiate a process of counseling or recommend disciplinary action when appropriate.

- C. **Counseling:** Supervisors are responsible for counseling employees when necessary to improve performance. Neither informal nor formal counseling are considered disciplinary action and shall not be included in the employee's two (2) year profile.
- D. **Discipline:** An action initiated by supervisors and administered by the Chief of Police when, either positive corrective measures designed to train or affect behavior change are unsuccessful in attaining satisfactory employee performance, or when an employee commits a violation regarding a rule, order, directive, procedure or violation of law.
- E. **Supervisory Discretion:** The appropriate level of counseling or the degree of discipline administered must be fair and objective. Although informal counseling may ordinarily precede formal, the final level of counseling or degree of discipline recommended remains with the supervisor(s).
- F. **Documentation:** Documentation by supervisors of incidents, acts, or behavior is essential.
1. Unsatisfactory work habits must be recorded by supervisors.
 2. Employee performance evaluations must note unsatisfactory performance and be indicative of the behavior exhibited.
 3. Formal counseling directed to employees by supervisors must be recorded on a Notice of Counseling form (Appendix E). The concerned employee shall be provided a copy of this document after affixing his/her signature.
 4. Pattern of behavior or course of conduct can only be established through supportive and documented record keeping procedures. Record keeping must

identify dates, times, and circumstances. The documentation should include all observed incidents, informal/formal actions, and performance evaluations.

- G. Citing Violation(s): Supervisors must identify each instance of substandard performance and cite the relevant North Miami Civil Service Rule, Administrative Regulation, Departmental Rule and Regulation, order, directive, or procedure that establishes the performance standard. All violations will be written in their entirety on the reprimand form.
- H. Course of Conduct: Prior documented incidents should be examined to determine if a particular course of conduct is forming or has formed. Constructive or corrective steps will be initiated to assist the employee in becoming aware of the conduct and preventing its recurrence.
- I. Bargaining Agreements: Supervisors will be knowledgeable of the contents and applicability of collective bargaining agreements between the City of North Miami and employees.
- J. Law Enforcement Officers Bill of Rights: Supervisors shall be aware of the content and applicability of Law Enforcement Officers Bill of Rights (Appendix F) and adhere to its conditions.
- K. Discussions: Nothing in these procedures shall be construed to prohibit a subject officers from discussing any aspect of a complaint with their attorney, or in the case of a departmental employee, with a representative of their choice.
- L. Time Requirements: Unless otherwise noted, all stated time requirements are calendar days.
- M. 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 disciplinary action. The

supervisor will be authorized to request or provide instruction within practical available means. **CFA 11.02**

Training may be required under the following circumstances:

1. An employee's performance has been evaluated as "needs improvement" or "unsatisfactory."
2. A specific incident or performance indicates a need for training.

All recommended methods for improving performance will be documented by the employee's assigned supervisor.

Employees failing to follow recommendations to improve their performance may be subject to progressive discipline.

- N. Disciplinary Profile: A two (2) year compilation of all the employee's disciplinary actions.

V. COMPLAINT PROCEDURES: **CFA 11.03, 27.01A**

- A. Acceptance of Complaints: 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:

1. 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.
2. When the complaint classification requires action mandated by departmental policies or procedures, the applicable follow-up procedures should be fully explained to the complainant.

- B. Anonymous Complaints: The fact that complainants refuse to identify themselves or that the complaint is received from an anonymous source will not preclude

recording and forwarding the complaint 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 on-duty supervisor shall be notified and shall handle the initial complaint. If the immediate supervisor of the involved employee is not on duty or is unavailable, the on-duty patrol supervisor will be notified and will receive and record the information from the complainant.
 - b. The information will be recorded on the Initial Report - Allegation of Employee Misconduct Form (Appendix A).
2. 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 to the Office of Professional Compliance within 24 hours of receipt, or the next business day.
3. If the complaint is received by telephone, either the employee receiving the complaint or their immediate supervisor, if possible, will document the complaint, and the complaint will then be routed to the Office of Professional Compliance within 24 hours of receipt, or the next business day.
4. Complaints received by mail, e-mail, or any other electronic form, shall be forwarded immediately to the Office of Professional Compliance.
5. The Office of Professional Compliance will classify each complaint as a Unit Level or Internal Affairs complaint.

- a. All Unit Level complaints will be forwarded to the Unit Section Major for proper follow-up. A copy of all Unit Level complaints will be retained in the Office of Professional Compliance
 - b. All complaints that meet the criteria for an Internal Affairs Investigation will be forwarded to the Chief's Office with a recommendation that an investigation be initiated.
6. Florida law affords law enforcement agencies 180 days to investigate complaints filed against law enforcement officers. The law provides for only a limited number of specific exceptions which can be used by an agency to toll the running of the 180 days. An agency that fails to comply with the 180 day time limitation is prevented from imposing discipline on the involved employee(s).

The 180 day time period begins to run on the date that a complaint is received by a person authorized by the agency to initiate an investigation into the alleged misconduct. The agency must complete its investigation and give notice in writing to the law enforcement officer of its intent to proceed with disciplinary action, along with a proposal of the action sought, within 180 days of receipt of the complaint by such an authorized individual.

The North Miami Police Department has designated the Chief of Police as the entity authorized to initiate an investigation into alleged misconduct. Therefore, the 180 day time period begins to run when a complaint is received and reviewed by the Chief of Police. The 180 day period ends when the employee receives the Notice of Disciplinary Action indicating the level of discipline (i.e., written reprimand, suspension, etc.) sought by the Department.

D. Employee Restrictions: An employee having knowledge of or involvement as a subject, witness, or bargaining unit representative in a complaint shall not:

1. Independently participate in the investigation.
2. Surveil, contact, or cause to be contacted the complainant or complainant's 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.

Note: Nothing in these procedures shall prohibit an employee from discussing any aspect of a complaint with their representative, or either of them from discussing any aspect with their attorney.

VI. COMPLAINT CLASSIFICATIONS:

A. The supervisor first contacted will make an initial determination of facts and will complete the first page on the Initial Allegation of Employee Misconduct Form. All complaints will be forwarded to the Office of Professional Compliance Unit within one (1) business day. **CFA 11.03, 27.01A**

All complaints will be logged and maintained in a locked file in the Office of Professional Compliance. **CFA 27.01B**

All complaints will be classified based upon the following criteria:

1. Unit Level Complaint: Allegations of misconduct, discourtesy, or other lesser violations of departmental policies, rules, or procedures, law, 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
 - g. Minor complaints emanating between employees
2. Internal Affairs: Allegations of violations of law or major violations of departmental policies, rules, or procedures, including, but not limited to:
- a. Commission of a crime
 - b. Dishonesty
 - c. Violation of narcotic drug laws
 - d. Acceptance of a bribe, gratuity, or other illegal compensation
 - e. Unauthorized or excessive use of physical force
 - f. Malfeasance in office
 - g. Official misconduct
 - h. Intoxication
 - i. Employee substance abuse
 - j. Discrimination or Sexual Harassment
 - k. Unauthorized release of confidential information
 - l. Immorality
 - m. Other acts of a serious nature

3. **Administrative Review:** An investigation, authorized by the Chief of Police, involving possible improprieties by police 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 subject employee will be afforded the same due process rights as if he/she was the subject of an Internal Affairs Investigation. All police involved shootings or in-custody deaths will be classified as an Administrative Review.

VII. RELIEF FROM DUTY:**CFA 11.03, 27.03**

- A. **Authority:** 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 is to be with pay.
- B. **Procedures:** Commanders (and above) who relieve an employee from duty will adhere to the following process:
 1. In the event an employee is relieved of duty while under investigation pending disciplinary or any other administrative action, the relieving Commander will notify the Section Major to advise of the action taken.
 2. Should the relieving Commander be from outside the employee's chain of command, the appropriate Section Major will be notified immediately.
 3. Any police officer relieved from duty, regardless of reason or duration and unless otherwise directed, will report to the Office of Professional Compliance the next business day at 9:00 AM to relinquish their firearm, badge, and identification card. A departmental property

receipt will be prepared, signed by both parties and the Property Unit will retain the items until the officer's return to active duty. The relieved officer shall be instructed that she/he is prohibited from carrying or displaying any duplicate badge or other identification that may identify the employee as a police officer.

4. A detailed memorandum will be prepared by the relieving commanding officer and forwarded to the Chief of Police through the officer's chain-of-command within 24 hours following such event, with a copy to the Office of Professional Compliance.
5. An employee relieved from duty for extended periods pending completion of an investigation or formal disciplinary action shall be administratively reassigned to hours and days off that benefit the Department. Such employees shall be expected to perform job-related obligations; e.g., court attendance, appearance in connection with departmental investigations and other official matters.

- 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 Office of Professional Compliance may contact the employee twice a day, during normal business hours. An employee relieved from duty will not carry a firearm off-duty under the scope of a law enforcement officer, carry or display a duplicate badge or other identification indicating the employee is a police officer, represent him/herself as a police officer in any situation, or perform in any official law enforcement capacity. If an officer receives a subpoena or a court order, he/she will coordinate with the Office of Professional Compliance.

VIII. INVESTIGATIONS AND CASE DISPOSITIONS:

- A. General: Both Unit Complaints and Internal Affairs Complaints will be investigated in accordance with

Departmental Policy, and Collective Bargaining Agreement. All Internal Affairs investigations will be initiated by the Chief of Police. The investigation will be limited to fact finding. Case disposition will be made by The Internal Affairs Disposition Panels (Appendix C) comprised of supervisory personnel.

1. 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.
2. 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 questioning the accused officer.
 - a. Standard methods of investigation will be used which may also include, but not be limited to:
 - 1.) Medical or laboratory examinations as deemed necessary, which may include: fluid, fiber and/or fingerprint examinations. **CFA 27.04 A**
 - 2.) The use of employee photographs for identification purposes. Employee photographs are kept on file in the Chief's Office and can only be released by the Chief of Police. **CFA 27.04 B**
 - 3.) Photo lineups may be used when necessary to identify the officer involved in an allegation. **CFA 27.04C**
 - 4.) Financial disclosure statements may be used with permission by the Chief of Police or his/her designee. **CFA 27.04 D**

5.) Instruments for the detection of deception, i.e., Polygraphs or C.V.S.A. may be used in substantiating victim/witness testimony. Polygraph or C.V.S.A. examinations of subject officers 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.

CFA 27.04 E

3. In all other cases, after the gathering of preliminary investigation data, and prior to taking a statement, the accused employee shall also be given written notification of the nature of the complaint and sufficient information to apprise him/her of the allegation including the employee's rights and responsibilities relating to the investigation. **CFA 27.02**

a. Prior to any questioning of the accused officer, he/she must be advised in writing of the following:

- 1) The nature of the investigation before any interrogation begins;
- 2) The names of all complainants;
- 3) Identity of the officer in charge of the investigation
- 4) All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer;
- 5) The complaint, all witness statements, including all other existing subject 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, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer;

- b. An officer, after being informed of the right to review witness statements, may voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.

B. Determining Disposition: When determining disposition of allegations contained in either Unit Complaints or The Internal Affairs Investigations, the following classifications will be utilized:

1. Unfounded: The complainant admits the allegation is false; the investigation reveals that the charge is false or not factual; or the accused employee was not involved in the incident.
2. Not Sustained: There is insufficient evidence to prove or disprove the complaint.
3. Exonerated: The incident occurred, however, employee actions were justified, lawful, and proper.
4. Sustained: The allegation is supported by sufficient evidence to indicate that the employee committed one or more of the alleged acts, or the investigation disclosed other acts of misconduct.
5. Information Only: Complaint has been filed, but cannot proceed. The case can be reopened at a future date, when new or additional information is received.
6. Other Findings: The allegation may be true, but the employee was acting in a manner consistent with departmental policy, necessitating a review and revision of the policy as written. This finding must clearly detail how the policy is

incorrect and a recommendation for revising the policy.

- C. The Internal Affairs Complaint Disposition Panels: The Office of Professional Compliance 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. The highest-ranking Officer shall be the designated Chairperson. Each successive case will be assigned to the next designated panel.
- D. Disposition Panel Procedures: Upon completion of an Internal Affairs investigation, the Office of Professional Compliance will assign the case to the Disposition Panel as designated on a rotation list. Except when a panel member is in the accused employee's chain-of-command, or is a designated substantive witness, the normal rotation of panels will not be altered.
1. Authority of Disposition Panel: The panel shall review the investigative file to determine the sufficiency of evidence supporting the allegation against an employee. If the panel feels further investigation is required, the file will be returned to the Internal Affairs Unit with documented reasons.
 2. Investigative Review: The review of The Internal Affairs 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 and information of record.
 - c. Review investigator's summary sheet and findings of fact.

3. Disposition Panel Meetings: Disposition Panel members shall meet as necessary to discuss cases. The Internal Affairs personnel shall attend these meetings upon the request of the Panel. The panel will submit their findings to the Chief of Police within ten days.
4. Determination of Disposition: The Disposition Panel will make a disposition determination based on a majority vote of the Panel for each individual allegation.
5. Disposition Panel Findings: The Disposition Panel Chairperson will ensure that the written findings of the Panel are documented. The findings will be reported on a Disposition of Internal Affairs Form (Appendix C).

Each allegation enumerated in the Internal Affairs 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.

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

In the case of a contact shooting or death in custody investigation where there are no allegations of wrongdoing, the Disposition Panel assigned will review the investigation of the assigned investigator and will document the disposition on a Contact shooting/Death in Custody Internal Investigation Form (Appendix B). The Panel will also present recommendations concerning the need to change departmental policies, rules, or procedures when appropriate.

6. Investigation and Case Disposition Report: The Disposition Panel Chairperson will ensure that Sustained Investigation and Case Disposition Reports (Appendix C) are prepared and forwarded to the affected employee's immediate supervisor, via Chain of Command.

7. Routing of Investigative File: When the Disposition Panel Chairperson has finished with the investigative file and the investigation and Case Disposition Reports have been prepared, the completed Disposition of Internal Affairs Form or the contact Shooting/Death in Custody Internal Investigation Form will be attached and forwarded to the Chief of Police and the Office of Professional Compliance. The completed file, including any further action required in the form of disciplinary action, will be forwarded to the affected employee's immediate supervisor, via Chain of Command. After a review of the employee's disciplinary profile for the previous two (2) years, the supervisor will make written disciplinary recommendations and forward them through the Chain of Command. The Chief will make the final decision on the level of discipline to be imposed. **CFA 27.01C**

8. At the conclusion of the investigation and upon receipt of the signed Report of Findings (Appendix D), the Investigator will notify the affected member in writing of the Chief's final determination. After the affected officer has been notified, the initial complainant and any other affected Department members will also be notified of the results in writing. **CFA 11.04**

9. If the Internal Affairs investigation determines that the officer has violated his/her minimum standards for certification, a copy of the investigative findings and all supporting documentation will be submitted to the Florida Criminal Justice Standards Commission.

IX. CONFIDENTIALITY OF INVESTIGATIONS:

Complaints, the existence of complaints, and information obtained pursuant to the investigation of complaints shall be confidential until the case ceases to be active. The Chief of Police, may discuss an active Internal Affairs investigation with the necessary personnel including the City Manager.

- A. 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. Due to the complexity of some investigations, this period may be extended if the investigation is proceeding in good faith. In all cases, confidentiality will be preserved until the investigation is concluded and a finding reached.
- B. Closed Investigations: An investigation is considered to be closed when it has been reviewed and signed by the Chief of Police.
- C. Release of information: Pursuant to the Public Records Law, completed and closed cases may be reviewed by the public and media upon application to the Office of Professional Compliance Unit. Copies may be obtained upon application and the paying of reasonable fees. **CFA 27.01C**

X. COUNSELING:

- A. Counseling: Counseling is informal or formal supervisory guidance offered to the designated employee 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 decision rests with the employee's supervisor.

1. Informal Counseling: Discussion between the concerned supervisor and employee regarding a matter. 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: Recorded guidance to correct a deficiency and/ or inappropriate conduct, or to enhance employee performance. Formal counseling shall involve the type of conduct or performance required, deviations that necessitated the counseling session, the supervisors 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 policies, rules, orders, and standard operating procedures shall be discussed and noted at this session. A Notice of Counseling Form shall be filled out at this time and filed with the Section Major for a period of twelve (12) months and will not be placed in the personnel file the employee. The formal counseling may be introduced only in cases to substantiate disciplinary action.

B. TYPES OF DISCIPLINARY ACTION: **CFA 11.02, 11.03**

1. Written Reprimand: Written reprimands are given when, after being formally counseled, or when applicable based on the circumstances, an employee fails to improve his/her conduct or performance. It is subject to approval by the Chief of Police and provides notice that unless behavior is modified or conduct improves, further, more severe disciplinary action will be taken.
2. 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. 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 reprimand.
3. The supervisor will sign the written reprimand. The employee will sign the acknowledgment of the receipt of the reprimand.
4. The written reprimand along with any response by the employee shall remain in the employee's personnel file. 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 a same or similar infraction. Written reprimands shall have a cumulative effect and may be grounds for more serious disciplinary action in the future.

- C. Fine: A regular employee in the classified service may be fined by the Chief of Police or 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.
- D. Suspension: A regular employee in the classified service may be suspended by the Chief of Police as provided for in Rule XIII, Section A and B, of the Civil Service Rules of the City of North Miami.
1. 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 commits the same or similar offense; or for the first offense of a serious nature.
 2. 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.
- E. Demotion: Demotions are appropriate when an employee is unable to perform assigned work satisfactorily but may be a satisfactory employee on a job requiring less skill, knowledge and abilities.
- F. 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. Dismissal need not follow the

progression of other discipline. An employee in the classified service may be dismissed by the City Manager upon recommendation or the Chief of Police, as provided for in Rule XIII, Section A and B, of the Civil Service Rules of the City of North Miami.

1. 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.
2. An employee, following review of an accident by the Police Department's Accident Review Board pursuant to Administrative Regulation 1-8 or 110-4 shall not be subject to appeal to the Personnel Board, but shall be subject to review in accordance with the respective Administrative Regulation.
3. 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 employee's department director without the filing of charges, and such employee shall not be entitled to an appeal hearing.
4. Employees dismissed will be notified in writing on a City of North Miami Disciplinary Action Form. The form will indicate the effective date and time of dismissal. **CFA 11.04**
5. Employees who are terminated will be provided a status of fringe and retirement benefits by the Personnel Department. **CFA 11.04C**

XI. NOTICE OF DISCIPLINARY ACTION: A written notice of suspension, 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 and personnel involved.

XII. 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 depends upon the totality of factors associated with each incident or sustained complaint.

Additionally, each supervisor will utilize the employee's disciplinary profile, based on the previous two (2) years from the date of current incident, as a factor in making their recommendation. 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:

1. Seriousness of the violation.
2. Identification of factors indicating the existence of a particular course of conduct by considering:
 - a. Number of similar incidents or complaints
 - b. Time span between incidents or complaints
 - c. Disposition of the complaints
 - d. Previous disciplinary action
 - e. Mitigating circumstances, if any
 - f. Length of service and previous record
 - g. Reasonable consistency in penalties to similar offenses
 - h. The potential for disciplinary action having a rehabilitative affect
 - i. Attitude and conduct of the employee throughout investigation
 - j. Other relevant factors

XIII. DISCIPLINARY ACTION PROCEDURES: **CFA 11.03**

- A. General: The procedures are designed to assist the supervisor in the determination, documentation, and presentation of the steps involved in the administration of discipline.
- B. Reprimands, Fines, Suspensions, Demotions, and Dismissals, are explained in XII, Types of Disciplinary Action.
- C. Rebuttals: Upon receipt of a written reprimand or suspension an employee wishing to voluntarily submit a written rebuttal may do so. A memorandum should be submitted to the Chief of Police 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, 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.

Written Reprimands- 3 calendar days from receipt of the written reprimand

Suspension- 7 calendar days from receipt of the notice of the suspension

XIV. Secure Storage of Files and records:

- A. At the conclusion of all investigations, the files will be returned to the Office of Professional Compliance Office where they will be stored in a locked cabinet. The Department's copy of the Personnel Action Form, "Disciplinary Action" will be stored in the employee's personnel file in a locked cabinet in the Office of the Chief of Police.

NORTH MIAMI POLICE DEPARTMENT
INITIAL REPORT- ALLEGATION OF EMPLOYEE MISCONDUCT

Date & Time Reported _____ Received by (Emp.Name) _____
() In Person () Phone () Other _____

Date & Time Occurred _____ Location of Occurrence _____

Reporting Party's Name _____ Race/Sex _____ DOB _____

Address _____

Specific Allegation: (In Brief) _____

Employee(s) Named

(1) _____ (3) _____

(2) _____ (4) _____

Witness

Name _____ Address _____

Race/Sex _____ DOB _____ Telephone # Res: _____ Alternate _____

Witness

Name _____ Address _____

Race/Sex _____ DOB _____ Telephone #Res _____ Alternate _____

Witness

Name _____ Address _____

Race/Sex _____ DOB _____ Telephone#Res _____ Alternate _____

Details of Allegation:

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

Signature _____ Date: _____

Report Taken By: _____

Copy to Section Major _____

Copy to Division Assistant Chief _____

Copy to Chief of Police _____

Copy to Employee _____

UNIT LEVEL COMPLAINT _____ INTERNAL AFFAIRS _____ DATE FORWARDED TO CHIEF _____

APPENDIX A

NORTH MIAMI POLICE DEPARTMENT MEMORANDUM



To:

Date:

From: Disposition Panel

Subject: Contact Shooting
Death in Custody
Internal Investigation
Case Number

Disposition Panel comprised of the members listed below convened for the purpose of reviewing the facts surrounding the above listed case. The following represents findings of the panel.

I. SUMMARY

1. Incident (Brief description)

2. Disposition

The investigation should be supportive of the disposition. Any violation should be identified and the corresponding reference number should be enumerated, followed by the disposition and the appropriate supportive investigative facts.

II. OTHER FINDINGS (If applicable)

Any actions which were found by the panel to be inappropriate and in violation of existing rules and regulations.

III. POLICY OR PROCEDURAL CHANGES OR IMPLEMENTATION NEEDED

If applicable, recommendations for changes to present policy or procedures.

Panel Member
Name, Title

Panel Member
Name, Title

Panel Chairperson
Name, Title

cc: Chief of Police, The Office of Professional Compliance
APPENDIX B

NORTH MIAMI POLICE DEPARTMENT MEMORANDUM



To: Chief

Date:

From: Disposition Panel

Subject:

Distribution:

Case No.

A Disposition Panel comprised of the members listed below, met for the purpose of reviewing the facts surrounding the above-listed case. The following represents findings of the panel.

I. SUMMARY

A. Incident/Allegation

B. Disposition

II. OTHER FINDINGS

III. POLICY OR PROCEDURAL CHANGES OR IMPLEMENTATION NEEDED

Panel Chairperson (Name, Title) Signature

Panel Chairperson (Name, Title) Signature

Panel Chairperson (Name, Title) Signature

APPENDIX C

NORTH MIAMI POLICE DEPARTMENT
THE INTERNAL AFFAIRS UNIT

REPORT OF FINDINGS

Date: _____

File Number: _____

_____ UNFOUNDED

Investigation establishes acts complained of did not occur.

_____ EXONERATED

Investigation establishes that the employee's actions were justified, lawful and proper.

_____ NOT SUSTAINED

Insufficient evidence to prove clearly the allegations made.

_____ SUSTAINED

Sufficient evidence to prove clearly the allegation made.

_____ INFORMATION ONLY

Complaint has been filed, but cannot proceed. The case can be reopened at a future date, when new or additional information is received.

_____ OTHER FINDINGS

The allegation may be true, but the employee was acting in a manner consistent with departmental policy, but a policy revision may be necessary.

Chief of Police

Date

APPENDIX D

NOTICE OF COUNSELING

DATE: _____

OFFICER: _____

INCIDENT FACTS:

OBJECTIVES & EXPECTATIONS:

PROPOSED SOLUTIONS TO IMPROVE PERFORMANCE:

POTENTIAL CONSEQUENCES IF BEHAVIOR IS NOT MODIFIED:

This is to acknowledge that I have been counseled in the above-mentioned matter.

Officer Signature _____

Supervisor Signature _____

APPENDIX E

112.532 Law enforcement officers' and correctional officers' rights.—All law enforcement officers and correctional officers employed by or appointed to a law enforcement agency or a correctional agency shall have the following rights and privileges:

(1) RIGHTS OF LAW ENFORCEMENT OFFICERS AND CORRECTIONAL OFFICERS WHILE UNDER INVESTIGATION.—Whenever a law enforcement officer or correctional officer is under investigation and subject to interrogation by members of his or her agency for any reason that could lead to disciplinary action, suspension, demotion, or dismissal, the interrogation must be conducted under the following conditions:

(a) The interrogation shall be conducted at a reasonable hour, preferably at a time when the law enforcement officer or correctional officer is on duty, unless the seriousness of the investigation is of such a degree that immediate action is required.

(b) The interrogation shall take place either at the office of the command of the investigating officer or at the office of the local precinct, police unit, or correctional unit in which the incident allegedly occurred, as designated by the investigating officer or agency.

(c) The law enforcement officer or correctional officer under investigation shall be informed of the rank, name, and command of the officer in charge of the investigation, the interrogating officer, and all persons present during the interrogation. All questions directed to the officer under interrogation shall be asked by or through one interrogator during any one investigative interrogation, unless specifically waived by the officer under investigation.

(d) The law enforcement officer or correctional officer under investigation must be informed of the nature of the investigation before any interrogation begins, and he or she must be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer. The complaint, all witness statements, including all other existing subject 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, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer. An officer, after being informed of the right to review witness

statements, may voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.

(e) Interrogating sessions shall be for reasonable periods and shall be timed to allow for such personal necessities and rest periods as are reasonably necessary.

(f) The law enforcement officer or correctional officer under interrogation may not be subjected to offensive language or be threatened with transfer, dismissal, or disciplinary action. A promise or reward may not be made as an inducement to answer any questions.

(g) The formal interrogation of a law enforcement officer or correctional officer, including all recess periods, must be recorded on audio tape, or otherwise preserved in such a manner as to allow a transcript to be prepared, and there shall be no unrecorded questions or statements. Upon the request of the interrogated officer, a copy of any recording of the interrogation session must be made available to the interrogated officer no later than 72 hours, excluding holidays and weekends, following said interrogation.

(h) If the law enforcement officer or correctional officer under interrogation is under arrest, or is likely to be placed under arrest as a result of the interrogation, he or she shall be completely informed of all his or her rights before commencing the interrogation.

(i) At the request of any law enforcement officer or correctional officer under investigation, he or she has the right to be represented by counsel or any other representative of his or her choice, who shall be present at all times during the interrogation whenever the interrogation relates to the officer's continued fitness for law enforcement or correctional service.

(j) Notwithstanding the rights and privileges provided by this part, this part does not limit the right of an agency to discipline or to pursue criminal charges against an officer.

(2) COMPLAINT REVIEW BOARDS.—A complaint review board shall be composed of three members: One member selected by the chief administrator of the agency or unit; one member selected by the aggrieved officer; and a third member to be selected by the other two members. Agencies or units having more than 100 law enforcement officers or correctional officers shall utilize a five-member board, with two members being selected by the administrator, two members being selected by the aggrieved officer, and the fifth member being selected by the other four members. The board members shall be law enforcement officers or correctional officers selected from any state, county, or

municipal agency within the county. There shall be a board for law enforcement officers and a board for correctional officers whose members shall be from the same discipline as the aggrieved officer. The provisions of this subsection shall not apply to sheriffs or deputy sheriffs.

(3) CIVIL SUITS BROUGHT BY LAW ENFORCEMENT OFFICERS OR CORRECTIONAL OFFICERS.—Every law enforcement officer or correctional officer shall have the right to bring civil suit against any person, group of persons, or organization or corporation, or the head of such organization or corporation, for damages, either pecuniary or otherwise, suffered during the performance of the officer's official duties, for abridgment of the officer's civil rights arising out of the officer's performance of official duties, or for filing a complaint against the officer which the person knew was false when it was filed. This section does not establish a separate civil action against the officer's employing law enforcement agency for the investigation and processing of a complaint filed under this part.

(4) NOTICE OF DISCIPLINARY ACTION.

(a) A dismissal, demotion, transfer, reassignment, or other personnel action that might result in loss of pay or benefits or that might otherwise be considered a punitive measure may not be taken against any law enforcement officer or correctional officer unless the law enforcement officer or correctional officer is notified of the action and the reason or reasons for the action before the effective date of the action.

(b) Notwithstanding s. 112.533(2), whenever a law enforcement officer or correctional officer is subject to disciplinary action consisting of suspension with loss of pay, demotion, or dismissal, the officer or the officer's representative shall, upon request, be provided with a complete copy of the investigative file, including the final investigative report and all evidence, and with the opportunity to address the findings in the report with the employing law enforcement agency before imposing disciplinary action consisting of suspension with loss of pay, demotion, or dismissal. The contents of the complaint and investigation shall remain confidential until such time as the employing law enforcement agency makes a final determination whether or not to issue a notice of disciplinary action consisting of suspension with loss of pay, demotion, or dismissal. This paragraph does not provide law enforcement officers with a property interest or expectancy of continued employment, employment, or appointment as a law enforcement officer.

(5) RETALIATION FOR EXERCISING RIGHTS.—No law enforcement

officer or correctional officer shall be discharged; disciplined; demoted; denied promotion, transfer, or reassignment; or otherwise discriminated against in regard to his or her employment or appointment, or be threatened with any such treatment, by reason of his or her exercise of the rights granted by this part.

(6) LIMITATIONS PERIOD FOR DISCIPLINARY ACTIONS.-

(a) Except as provided in this subsection, disciplinary action, suspension, demotion, or dismissal may not be undertaken by an agency against a law enforcement officer or correctional officer for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within 180 days after the date the agency receives notice of the allegation by a person authorized by the agency to initiate an investigation of the misconduct. If the agency determines that disciplinary action is appropriate, it shall complete its investigation and give notice in writing to the law enforcement officer or correctional officer of its intent to proceed with disciplinary action, along with a proposal of the specific action sought, including length of suspension, if applicable. Notice to the officer must be provided within 180 days after the date the agency received notice of the alleged misconduct, except as follows:

1. The running of the limitations period may be tolled for a period specified in a written waiver of the limitation by the law enforcement officer or correctional officer.

2. The running of the limitations period is tolled during the time that any criminal investigation or prosecution is pending in connection with the act, omission, or other allegation of misconduct.

3. If the investigation involves an officer who is incapacitated or otherwise unavailable, the running of the limitations period is tolled during the period of incapacitation or unavailability.

4. In a multijurisdictional investigation, the limitations period may be extended for a period of time reasonably necessary to facilitate the coordination of the agencies involved.

5. The running of the limitations period may be tolled for emergencies or natural disasters during the time period wherein the Governor has declared a state of emergency within the jurisdictional boundaries of the concerned agency.

6. The running of the limitations period is tolled during the time that the officer's compliance hearing proceeding is continuing beginning with the filing of the notice of violation and a request for a hearing and ending with the

written determination of the compliance review panel or upon the violation being remedied by the agency.

(b) An investigation against a law enforcement officer or correctional officer may be reopened, notwithstanding the limitations period for commencing disciplinary action, demotion, or dismissal, if:

1. Significant new evidence has been discovered that is likely to affect the outcome of the investigation.

2. The evidence could not have reasonably been discovered in the normal course of investigation or the evidence resulted from the pre-disciplinary response of the officer.

Any disciplinary action resulting from an investigation that is reopened pursuant to this paragraph must be completed within 90 days after the date the investigation is reopened.