

DAYTON POLICE DEPARTMENT
GENERAL ORDER
ADMINISTRATIVE INVESTIGATIONS



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POLICY STATEMENT

The Dayton Police Department demands that all investigations completed by its personnel be conducted in the most professional manner possible. Administrative investigations conducted by supervisors must meet these criteria. A complete administrative investigation includes the answers to the same questions as in any criminal investigation: *who, what, when, where, why, and how?*

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I. General Considerations:

- A. Administrative investigations of incidents requiring a prompt response are conducted by the next rank higher than the person whom the complaint is lodged against in whose district/bureau/unit the incident occurred (Except in cases involving the Professional Standards Bureau). Examples are:
 - 1. Citizen complaint.
 - 2. Police vehicle accident.
 - 3. Accidental discharge of a firearm, etc.
- B. Every effort should be made not to unduly inconvenience innocent citizens involved in the incident.
- C. The investigating supervisor is required to complete and forward administrative investigations to their Lieutenant within seventeen (17) days of the event, or of becoming aware of the event. Each additional person in the Division chain of command then has fourteen (14) days to review and either return for correction or forward on to the next level.
 - Supervisors may request additional time for good cause by notifying their immediate supervisor, in writing, of the reasons for the delay. Other time restrictions may apply; refer to the applicable labor contract for more specific information.
 - These time limits do not apply to investigations initiated by the Professional Standards Bureau.
- D. Reasonable suspicion and post-accident (including accidental discharges of a firearm) drug and/or alcohol testing sample collection will be performed by calling [REDACTED] at [REDACTED]. Officers are then to be taken to Concentra, 228 Troy Street, 7:00 a.m. to 5:00 p.m., Monday through Friday. If the incident occurs after hours, or on weekends supervisors will call the following personnel:

[REDACTED] (If unavailable contact one of the below listed persons)

[REDACTED]

[REDACTED]

If the officer is being treated at a local hospital and will be unable to go to Concentra, the supervisor will contact Dawn Manuel to receive further testing instructions (Dawn Manuel will make the appropriate calls to ensure that personnel from the testing facility coordinate with the hospital to ensure testing compliance and procedures).

II. BlueTeam – Electronic Administrative Investigation Tools

BlueTeam is software that allows supervisors to enter and manage incidents from “the field”. A simple, step-by-step internet-style interface is used. Incidents – including use-of-force, field-level discipline, complaints, vehicle accidents and pursuits, etc. are entered and can then be routed through the chain-of-command with review and approval at each step.

A. Supervisors will complete the following incidents in the Blue Team software program. The following incidents will be entered into BlueTeam:

- **Administrative Investigation**
 - Administrative Complaint – Miscellaneous
 - City Property Damage
 - Supervisor’s Investigation
- **Use of Force**
 - Response to Aggression/Resistance – Physical
 - Response to Aggression/Resistance – Taser
 - Response to Aggression/Resistance – Pepper Spray
 - Response to Aggression/Resistance – Other
 - Response to Aggression/Resistance – Canine Bite
- **Alleged Use of Force**
- **Citizen Complaint**
- **Complaint Receipt**
 - Documented Report (i.e. Missed Taser usage, etc.)
- **Firearm Discharge**
 - Discharge Firearm – Fatal
 - Discharge Firearm - Injury
 - Discharge Firearm – No Injury
 - Discharge Firearm - Unintentional
 - Discharge Firearm - Animal
- **Forced Entry**
- **Injured Subjects (No Accompanying Administrative Investigation)**
 - Injuries Prior to Arrest (no officer allegations)
 - Accidental Injuries (no officer allegations)
 - Self-Inflicted Injuries (no officer allegations)
- **Vehicle Accident**
- **Vehicle Pursuit**

B. Personnel will access the BlueTeam reporting matrix via the internet on a dedicated terminal in each Division or through the appropriate access program.

1. Once a report is entered, personnel may attach files to the reports from various sources. (PDF documents, photo files, etc.)
2. Complete reports are forwarded on through the chain of command to either be approved as is or returned for additional information or correction. Submitting personnel will note any contractual time limits in the BlueTeam Summary.
3. The investigating supervisor will initiate all Blue Team entries.
 - Officers will submit signed Special Reports that the supervisor will then sign and scan into PDF format with the Xerox machine or scanner, and attach to the Blue Team incident.

- Supervisors follow up investigative reports must also be signed and scanned into PDF format to attach to the BlueTeam incident.
 - If a secondary investigation comes up later, the supervisor will e-mail PSB with the details to link to the previous report.
4. Only the originating supervisor has the ability to edit the narrative and delete any attachments to the report they created.
 5. Ultimately the completed incidents are stored in their entirety electronically.
- C. MVR files must be referenced in the report and saved as noted in General Order 3.02-7 - MVR. Before submitting the report, supervisors must log into the MVR system and change the referenced video category of the MVR file to Administrative Investigation on the Central Server.

III. Report guidelines:

- A. Administrative investigations should be written in chronological order.
- B. Administrative investigations will be divided into two specific areas:
 - Investigation
 - Conclusions
- C. Questions that are brought up in the investigation must always be answered or, when no answer is possible or available, an explanation given as to why this answer is not included.
- D. A supervisor who fails to maintain confidentiality is violating the trust of their employees and the department itself. Information that is of a personal nature to the involved employee, or should be kept confidential for the good of the department, should only be reviewed by those having a definite need to know.
- E. Questions regarding the release of information gathered in an administrative investigation should be directed to the Public Records Administrator.
- F. When writing a report of an investigation you are often recreating an event for the reader. Many things, which were very clear at the scene, will not be so clear to the reader.
 1. For example, you would know if it was raining at the scene, but if you do not mention it, the reader will not know. This may not be of importance in the investigation of a rudeness complaint, but it could be extremely important in a use of firearm investigation. The best investigative report writers always rely on extensive note taking to avoid omitting vital information or inadvertently reporting inaccuracies.
 2. Documentation is available on nearly every aspect of police work. DIBRS reports, citations, arrest reports, MDT, MIS, MVR data and witness statements are just a few of the many sources of information available.
 3. Those items contributing materially to the investigation must be included with the administrative investigation.
 4. Refer to those items not contributing to the investigation, noting that the items were reviewed.
- G. All attached reports that require a signature (special reports, investigations, conclusions, etc.) will be signed by the person authoring the report prior to being scanned as a PDF for attachment into a BlueTeam investigation. Supervisors entering an officer's special report must also sign the report prior to scanning into PDF format. Word documents are not to be attached.

IV. Interviews

Interviews should be conducted in person rather than over the telephone, especially in serious matters such as use of force investigations or citizen complaints.

- A. Telephone interviews are acceptable when the subject matter of the investigation is not serious in nature or when an in-person interview is impractical.
- B. Each specific allegation or other pertinent facts of the investigation must be addressed with every individual interviewed.
- C. When interviewing employees (non-contemporaneous), especially those who may be guilty of misconduct and it is reasonably believed that the incident may result in Departmental, traffic, or criminal charges, pertinent labor agreements contain requirements, which you must follow. A review of the applicable parts of the contract to determine the appropriateness of union and/or legal representation and certain time constraints prior to the interview is appropriate.

Note: Per *Garrity vs. New Jersey* - 385 US 493 (1967), supervisors should be aware of and advise those officers interviewed that statements given by reason of an order from a superior officer, after being advised that refusal to give it could result in disciplinary action being taken against that officer up to and including job forfeiture, have no alternative but to abide by the order. They should be further advised that the Police Department requires the statement for administrative purposes and that the information provided cannot be used against that officer in a criminal proceeding.

- D. For a complete, thorough investigation, it is imperative that the names and addresses of all persons interviewed be recorded, even those who claim to have seen nothing or heard nothing.
- E. Participants in the incident being investigated should also be approached in a professional manner. Suspects subject to a custodial interview or interrogation should be advised of their Miranda rights prior to the interview.

Note: In cases involving possible felony charges, or in any other cases wherein a detective will be conducting an investigative interview or interrogation, it is preferred that the investigating detective interview the suspect prior to any interview conducted for administrative purposes.

- F. Often times, participants in an incident involving violence, or a situation, which put them at personal risk, will be very emotional. Be sensitive to that and respond accordingly.
- G. Questions should be asked which guide the witness or participant to the facts important to the investigation.
- H. [REDACTED]
- I. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- J. Whenever possible, witnesses/complainants should be encouraged to provide a written account of the incident under investigation. If a witness/complainant is unwilling or unable to do so, the investigating supervisor should offer to write their account for them and request that they sign the witness statement.

V. Conclusions

The investigation will include the supervisor's conclusions and disposition based on the facts as submitted in their investigative summary. Conclusions are to be placed on a separate report in the special report format with the subject being *Supervisor's Conclusions*.

- A. **The standard of proof to be used will be a preponderance of evidence.** Preponderance of the evidence is the greater weight of the evidence, that is, evidence that you believe because it outweighs or overbalances in your mind the evidence opposed to it. Simply put, more likely than not. This should be addressed at the end of the conclusions.
- B. Each specific point or allegation must be addressed. You should clearly and concisely state your reason for your recommendation.
- C. Complete articulation of circumstances that lead the investigator to discount statements as false or inaccurate is of paramount importance. If commenting on a Special Report/Witness Statement you should not repeat what has already been said. Rather, you should add new information and, especially if you disagree with previous assertions, articulate your reasoning.
- D. The supervisor will include their conclusions as to whether this incident indicates the need for general or specialized training for any of the officers involved.
- E. Conclusions as to whether disciplinary action is warranted against any of the officers involved in the incident. In the event disciplinary action is recommended, the officer's Performance History should be obtained from the Department Advocate along with the recommendation for appropriate discipline. A copy of your e-mailed request, along with the Department Advocates e-mailed response must be included in the investigative packet.
- F. DISPOSITION OF INVESTIGATIONS - All conclusions will contain one of the following dispositions in the last paragraph on the report:
1. **SUSTAINED** – The investigation established sufficient evidence to clearly show that the wrongful act alleged in the complaint did occur.
 2. **NOT SUSTAINED** – The investigation was unable to find sufficient evidence to prove or disprove the allegations of the wrongful act made in the complaint.
 3. **EXONERATED** – The act described in the complaint did occur, however the investigation revealed the act was lawful and in accordance with established department policy and procedures.
 4. **UNFOUNDED** – The investigation proved conclusively that the alleged act did not occur and/or the accused officer did not commit the act or there is no credible evidence to support the complaint.
- G. The supervisor's identity is verified through the BlueTeam log-on and in forwarded the completed incident, constitutes a digital signature.

The completed investigation, including all reports (**EXCEPT Officer Injury Reports**), statements, photographs, other digital media and scanned documents (S-93's, written statements, performance histories, etc.) are submitted via BlueTeam entry through the appropriate Division Commander (and if there is discipline recommended up to a Written Reprimand, the hard copies of discipline get forwarded on to the Department Advocate in an F-286 Internal Investigative Envelope until the discipline is processed and returned to be served. **NOTE:** The hard copies will include the contractual disciplinary time limits written in the space provided in the upper right hand corner of the F-286 Internal Investigative Envelope as calculated by the investigating supervisor.). After review and approval, the reports are forwarded to the Professional Standards Bureau, which is the official repository for all such reports. (For Time Limits, See Appendix A)

VI. Division Commanders Review of BlueTeam Entries

- A. Individual Division Commanders (Actual Majors – not acting commanders) have the final approval on all discipline up to and including Written Reprimands and will be responsible for signing and mailing all citizen letters associated with the investigation.

They will coordinate with the Department Advocate to ensure consistency of discipline and once the investigative packets are complete, they will be forwarded to the Department Advocate for disposition. Lieutenants plus-rated to acting Division Commanders will not have this authority.

- B. **Investigations with Discipline above a Written Reprimand** – the Citizen Letter should be typed for the signature of the Chief with NO DATE on it. Once the discipline recommendation is acted upon, the Chief of Staff will have the letter signed, time stamped, and mailed with a dated copy attached via BlueTeam entry to the original file. If the Chief determines that no discipline is required, then the letter will be returned to the originating supervisor to make the necessary changes.
- C. Investigations requiring Charges and Specifications will be printed upon completion and forwarded through the chain of command as noted in General Order 1.02-5 Section V.

VII. Administrative Case Disposition Form

Supervisors completing an Administrative Investigation where no discipline is recommended will be required to complete an Administrative Case Disposition Form ("P" Drive under Police Forms) and attach a scanned copy to the completed investigation. Prior to attachment, the supervisor will indicate one of three dispositions on the form (Exonerated, Unfounded or Not Sustained) and forward it on to the Division Commander who will print and sign the form and send a copy back to the officer. The remainder of the investigative file will be routed as normal. This form can be located on the "P" drive under the Police Forms folder.

Appendix A

Contractual Time Limits – City of Dayton/Captain John C. Post Lodge #44 contract – Article 11, Section 7:

Once a (sworn) employee is officially notified by the Police Department of an investigation against him/her (as noted in General Order 1.02-5), the Police Department will have four hundred eighty (480) work hours to serve Formal Charges or initiate disciplinary action.

Once Formal Charges have been served, Management shall have two hundred eighty (280) work hours to hold a Departmental Hearing and issue Findings to the employee. Work hours means hours the employee is actually at work, excluding overtime work.

If the time limit expires and Formal Charges are not filed, or non disciplinary action is imposed, or, the employee has not had a Departmental Hearing, no disciplinary action will be taken.

Time limits can be extended by mutual agreement of the Lodge and Management. If criminal charges have been filed against an employee, the time limit will not be in effect until all criminal proceedings are complete.

Contractual Time Limits – City of Dayton/DPSU #101 contract – Article 25:

Disciplinary action shall be only for just cause, however, when the City takes any disciplinary action resulting from Charges against an employee, said action will be initiated no later than thirty-five (35) work days following knowledge by the supervisor of the events upon which the disciplinary action is based. This time limit may be waived by mutual agreement of Management and Union.