

CUMBERLAND COUNTY DISTRICT ATTORNEY'S OFFICE POLICE FOR LAW ENFORCEMENT ON CITIZEN COMPLAINTS/EMPLOYEE MISCONDUCT/CRIMINAL CONDUCT BY LEO

I. Purpose

The purpose of this policy is to establish uniform procedures for addressing complaints of misconduct by agency personnel. These procedures will govern the investigation and resolution of complaints that are brought to the attention of the agency. The procedures are designed to ensure that the integrity of the agency is maintained through an internal system whereby objectivity, fairness, and justice are ensured by an impartial investigation and review. An additional purpose of this policy is to ensure that complaint information is compiled, tracked, analyzed, and made available to the District Attorney (DA) or County, for use in managing the agency.

II. Policy

Establishment of procedures for investigating complaints and allegations of employee misconduct and criminal conduct is crucial to demonstrate and protect this agency's integrity. This agency shall accept and investigate fairly and impartially all complaints of employee misconduct and criminal conduct to determine the validity of allegations and to impose any disciplinary actions that may be justified in a timely and consistent manner. The procedures addressed in this policy will be administered in a manner consistent with applicable collective bargaining agreements and/or the jurisdiction's personnel policy and Local, State and Federal Law.

Given that this is a statutorily mandated policy, officers must abide by this agency's policy as it applies to all standards of the Maine Criminal Justice Academy Board of Trustees. All state and federal laws apply, and County policies and procedures will be followed. If there is any conflict between this Policy and the Cumberland County Non-Union Personnel Policy, the Personnel Policy will control.

<https://cms4files1.revize.com/cumberlandcounty/Departments/Human%20Resources/Benefits%20and%20Policies/FINAL%20Non-Union%20Personnel%20Policy%20Dec%2015%202025.pdf?t=202602041426560&t=202602041426560>

III. Confidentiality of Investigations

Internal Affairs investigations are conducted for the internal use of this agency. These investigations are to be kept confidential in accordance with State Law. The agency reserves the right, however, to provide information regarding investigations to the agency's legal counsel, the Maine Criminal Justice Academy, or the appropriate prosecutorial authority, if warranted. All other releases of Internal Affairs information will be done only as mandated by a court, in keeping with collective bargaining agreements, or with the employee's and the agency's consent.

IV. Definitions

Complaint - Means any clear, specific and articulate allegation of employee misconduct which, if true, would constitute a violation of law or the standard operating procedures of this agency.

Employee - Means any full-time or part-time person, whether paid or volunteer that represents or works for this agency and approved by the DA.

Investigator - Means any supervisory staff who is assigned by the Agency Head or designee, to formally investigate, or assist in the formal investigation of, any complaint of employee misconduct.

V. Procedures

A. Receiving Complaints

1. This agency will accept and document all complaints of employee misconduct. No complainant will be turned away. Anonymous complaints will be accepted; however, because of the difficulties in investigating these types of complaints, citizens will be encouraged to identify themselves. In any case, the complaint will be accepted.

2. It is the responsibility of the on-duty Supervisor or other designated supervisor to meet with citizen complainants regarding allegations of employee misconduct. If no Supervisor is on duty, the complainant will be given instructions on how to contact a supervisor.
3. The Supervisor shall:
 - a. Interview the complainant and complete a Complaint Form. Intoxicated complainants shall be interviewed in spite of their intoxication. The degree of their intoxication shall be noted and a subsequent interview shall be arranged at the earliest possible time.
 - b. Ask the complainant to provide an oral narrative briefly describing the complaint and then briefly summarize the complaint in writing on the Complaint Form.
 - c. Ask the complainant to sign the statement of affirmation on page two of the Complaint Form. If the complainant refuses, make note of the refusal on the form and advise the complainant that the refusal to sign shall be considered by the Internal Affairs investigator in evaluating the scope of the investigation and by the command staff for evaluating the truthfulness of the complaint.
 - d. Complete a Supplemental Memo report detailing objective observations of the complainant's behavior (e.g. intoxicated, yelling, aggressive). The Supervisor shall also note any physical injuries and request photographs of visible injuries.
 - e. The Supervisor shall submit the completed Complaint Form directly to the the DA either in person or by sealed envelope. In an incident involving criminal activity, excessive force, improper arrest, entry or search, or conduct which violates a person's civil rights the District Attorney will be notified immediately. The District Attorney will be notified verbally of all other incidents the next business day by the Supervisor receiving the complaint.

B. Assignment of Complaint Investigations

1. The District Attorney and appropriate County leadership shall review the Complaint Form and designate each complaint for investigation by either a line supervisor or an IA investigator. They shall use the following criteria for determining the investigative authority: **MLEAP 2.06 BOT 9-3, 9-6.**
 - a. The following types of complaints shall be investigated by internal affairs:
 - i. criminal activity;
 - ii. excessive force;
 - iii. improper arrest;
 - iv. improper entry;
 - v. improper search;
 - vi. conduct which violates a person's civil rights;
 - vii. any rule infractions that would bring the Agency into disrepute or risk the safety of fellow officers or the public;
 - viii. repeated minor violations;
 - ix. notice of claim related incidents;
 - x. any other matter as directed by the DA.
 - b. Minor rule infractions (e.g. tardiness, demeanor issues) shall be investigated by the line supervisor of the subject officer.
2. If the District Attorney and County staff are satisfied that a complaint has been satisfactorily resolved at the supervisor level, they will close the complaint and send a conclusion notification to the complainant.
3. The District Attorney and appropriate County staff shall assign the complaint to an Internal Affairs investigator or return the Complaint Form to the appropriate line supervisor for investigation and resolution.

C. Investigation of Complaints

1. Internal Affairs investigators shall have the following responsibilities:
 - a. Conduct thorough, timely, investigation of all complaints assigned by the District Attorney.

- b. Once a complaint has been designated for investigation by Internal Affairs, the IA Investigator shall advise the employee, in some confidential, written manner, that a complaint has been made and that an investigation will be conducted. The notice will include the name of the complainant, the nature of the allegations, and copies of the employee's rights and duties. In addition, the employee will normally be afforded the opportunity to read the initial complaint form. If the disclosure of the existence of the complaint or the identity of the complainant would impede the investigation, the District Attorney and County staff shall decide all questions concerning employee notification and employee access to complaint information.
 - c. Compile all relevant reports, statements, and transcriptions for inclusion in the Internal Affairs case file.
 - d. Verify receipt of the complaint for processing with the complainant.
 - e. Periodically notify the complainant of the status of the investigation and any significant developments.
 - f. Submit for command review, at the conclusion of an investigation, a completed investigation file.
2. The DA and County shall have the following responsibilities:
 - a. Ensures that all assigned cases are handled in a uniform, timely, thorough and objective manner.
 - b. Assigns cases to investigators as per the designation of investigative authority.
 - c. Monitors and reviews the work of Internal Affairs investigators and tracks case progress.
 - d. Reviews transcripts of interviews and identifies issues that need follow-up or clarification.
 - e. Supervise and coordinate cases involving multiple internal affairs investigators.
 - f. Investigate complaints as necessary.
 - g. Reviews completed investigations and makes a finding and recommendation in cases assigned to Internal Affairs Investigators.
 - h. Ensures all relevant information is entered into appropriate databases.
 - i. Advise the complainant of the results of the investigation.
 3. Line Supervisors shall have the following responsibilities:
 - a. Investigate rule infractions and other minor complaints as designated by the DA.
 - b. Make a finding as the result of the assigned investigation.
- D. Criminal Conduct Allegations
1. Any allegation of criminal conduct against an employee of this agency will be forwarded to the DA as soon as possible.
 2. Complaints alleging criminal conduct on the part of any agency employee may be handled as internal affairs matter only after consulting with the appropriate prosecutorial authority and may be investigated by an outside agency upon request of the District Attorney.
 3. Criminal Conduct allegations investigated by the Internal Affairs function of this agency shall be conducted in accordance to this policy.
- E. Findings and Discipline
1. The District Attorney and County shall review the Internal Affairs Investigation and shall give final approval to the written disposition of the case as follows:
 - a. Sustained - Sufficient evidence exists to indicate that the employee did, in fact, commit one or more of the alleged acts. The Agency shall have the burden of proving that a violation is sustained by a preponderance of the evidence.

- b. Exonerated - The incident occurred, but the employee's actions were justified, lawful and proper. No violation of Agency or County rule, regulation or procedure or Local, State or Federal law has been proven.
 - c. Unfounded - Reasonably credible evidence exists to indicate the complainant's allegations are false.
 - d. Cleared Exceptionally - The Agency is unable to investigate the matter due to:
 - i. the failure of the complainant to cooperate with the investigation;
 - ii. the unavailability of the complainant (death, relocation, etc);
 - iii. the departure of the subject officer;
 - iv. or other circumstances that prevent the Agency from investigating a complaint.
 - v. Policy Failure – A flaw in policy was responsible for the incident.
 - 2. The DA may afford the employee an opportunity for an informal hearing with the DA, prior to the outcome of the imposition of discipline or corrective action, to discuss the outcome of the investigation. The employee shall be entitled to representation at that hearing.
 - 3. The DA, along with the County, shall make the final decision as to the imposition of disciplinary or corrective action. Discipline shall be administered in accordance to this agency's discipline policy.
 - 4. In the event that a law enforcement officer is convicted of a crime or violation or engages in conduct that could result in suspension or revocation of the law enforcement officer's certificate and the DA of this agency has knowledge of the conviction or conduct, then the DA shall expeditiously notify the Director of the Maine Criminal Justice Academy with the name of the law enforcement officer and a brief description of the conviction or conduct.
- F. Relief from Duty
- 1. If the complaint against an employee is serious enough to warrant immediate action, the matter shall be referred immediately to the ranking officer on duty. The ranking officer shall determine if the employee involved shall be relieved from duty. An order relieving an employee from duty shall not be construed as a suspension or other disciplinary action. If an employee is relieved from duty in this manner, the employee should be instructed when to report back to duty. In the event of any such action, the DA will be notified as soon as practical. A Complaint Form must be completed for all such incidents.
 - 2. Any supervisor may relieve an employee from duty anytime the Supervisor feels that the employee is unable to effectively carry out his duties. In the event of any such action, the DA will be notified as soon as possible.
 - 3. Employees shall receive their normal pay for the period that they are relieved from duty, unless said period is later made part of an appropriate suspension without pay or is reviewed by the DA and acted on pursuant to the DA's authority, under the jurisdiction's personnel policy.
- G. Member's Duties and Rights During an Internal Affairs Investigation
- 1. The member's duties and rights contained in this section shall be applicable to any investigation by Internal Affairs. The failure of the supervisor to afford an employee these rights does not entitle the employee to disobey the orders of a supervisor. The supervisor's failure to allow an employee to exercise these rights will be considered by the DA prior to imposition of any discipline against the employee.
 - 2. Any collective bargaining agreement provisions regarding employee rights shall be adhered to in an internal affairs investigation.
- H. Employee statements to Internal Affairs
- 1. The employee will be instructed to provide information to Internal Affairs which is specifically, directly and narrowly related to the employee's duties or fitness for duty. An employee may be instructed to provide information about off-duty conduct if there is a sufficient relationship between the employee's off-duty conduct and the employee's official duties. Statements made by the employee during an internal affairs investigation, and subject to Fifth Amendment protection, will not be used against an employee in a criminal proceeding. However, a matter may be

referred for further investigation by a criminal investigator or the Maine Criminal Justice Academy Complaint Review Committee if the DA deems it appropriate.

2. Employees may request to have an attorney or union attorney present and available for consultation during any Internal Affairs interview. That attorney or union attorney present is not entitled to interfere with the interview.
 3. An employee's statement to Internal Affairs may be provided in any one of the following forms, at the discretion of the Internal Affairs Investigator:
 - a. a written statement completed and signed by the employee;
 - b. a transcription of a taped interview with the Internal Affairs Investigator to which the employee has attested to the truthfulness of the transcription.
 - c. or an Investigator's summary of a taped interview with the employee to which the employee has attested to the truthfulness of the summary.
 4. The same methods as in #3 above may be utilized by the Internal Affairs Investigator, at his discretion, to obtain statements from civilian witnesses.
- I. Rights and Duties During an Internal Affairs Investigation
1. All interviews will be conducted at a time determined by the interviewer unless the seriousness of the investigation is such that an immediate interview is required. Every attempt will be made to conduct the interview within thirty days of the filing of the Complaint Form.
 2. The interview will be held at the agency or at location determined by the interviewer.
 3. Written statements shall be submitted to the Internal Affairs Investigator immediately upon his request. The failure to submit a statement upon request, without good cause, will result in discipline.
 4. During interviews conducted by more than one internal affairs investigator, there will be one designated interviewer.
 5. Employees under investigation shall not use or be subjected to offensive language, nor threatened with transfer, dismissal, or disciplinary action during an interview. No promise or reward shall be made by the Internal Affairs investigator as an inducement to answer questions.
 6. All Internal Affairs interviews with employees will be recorded. All other interviews will also be recorded, if practical. The Internal Affairs investigator will have discretion in determining if a transcript of the interview or a summary should be prepared. If the recordings are not transcribed, the recordings will be retained as part of the investigation file until the investigation is resolved. A copy of the recording shall be provided to the employee upon his written request at the conclusion of the investigation.
 7. All investigations shall be conducted without unreasonable delay. An employee who is the subject of a complaint will be advised of the final outcome of the investigation, in writing, within 30 days of employee's interview with the Internal Affairs Investigator. If the investigation cannot be completed within 30 days of the employee's interview, the DA and County leadership may grant an extension, in writing, of the 30-day time period to the Internal Affairs Investigator. The employee who is the subject of the complaint, will be given an explanation of the delay and will be advised within ten days of the completion of the investigation and its submission to the DA for review by the Internal Affairs Investigator. An employee or the employee's representative may contact the DA at any time to ascertain the status of the investigation of a complaint filed against the employee.
 8. Prior to any hearing with the DA concerning possible disciplinary action, an employee will be allowed access to all information and/or documents upon which the contemplated discipline is based, unless in the judgment of the DA circumstances warrant anonymity.
 9. The Administration maintains photographs of all current employees. The agency reserves the right to allow complainants or witnesses to view those photographs to identify officers whose identity is material to a formal internal affairs investigation. Officers may be required to periodically have a new photograph taken to update the file.

10. Employees will only be asked to submit to a polygraph examination if the examination is material to a current formal Internal Affairs investigation and only upon individual written authorization from the DA.

J. Notice of Claim

Whenever the Agency receives a civil Notice of Claim or is the subject of a civil lawsuit alleging an incident that would constitute a complaint, the DA shall initiate an Internal Affairs Investigation. The investigation will be conducted in accordance with the procedures outlined in this policy.

K. IA File Security

1. The DA and County shall maintain a secure locked cabinet that contains a record of all complaints against this agency and its employees. Confidentiality of these files shall be maintained in accordance to collective bargaining agreements and applicable laws. (For State employees – 5 M.R.S. §7070, for County employees – 30-A M.R.S. §503 and for Municipal employees – 30-A M.R.S. §2702).

L. Sexual Harassment Complaints

The investigation of allegations of sexual harassment of an Agency employee by another employee shall be handled in accordance with the provisions of this SOP. If in the judgment of the DA and assigned County staff a fair and impartial investigation is impossible within the Agency, or at the request of the complainant, the DA may request the jurisdiction's top administrator to assign an investigator from outside the Agency. That investigator shall follow the procedures established in this SOP. **MLEAP 2.11 BOT 9-7**

M. Public Comment on Administrative Investigations

For legal, contractual, and policy reasons, public comment on administrative investigations shall be limited to the DA or the DA's designee. Inquiries from the news media or public shall be referred to the DA. The items of information released by the DA or the DA's designee upon request will be in accordance with applicable State and Federal Law.

PER ORDER OF: _____

District Attorney and/or County Manager