

Hurricane Fire & Rescue

Hurricane, WV

Administrative Guidelines

Subject
Guideline Number
Adopted
Effective Date
Page

Internal Affairs
800.132
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16

Purpose: To provide guidelines for internal affairs investigations.

Scope: All personnel.

Responsibility: All personnel are responsible for adhering to these guidelines and procedures.

PHILOSOPHY

It is the policy of the Hurricane Fire & Rescue to investigate all allegations of member misconduct received from any source, either outside or inside the department.

Discipline and accountability are an integral part of, and essential to the department. When properly administered, disciplinary measures create a positive rather than a negative image of the member, and inspire public confidence in department as a whole.

A complaint is not regarded as a dispute between two people (the member and the complaining party) but rather as a criticism that the delivery of the fire/rescue services did not meet the complainant's expectations.

It must be clearly understood that essential fairness is the key to the administrative disciplinary system and that established standards insure fairness and consistency in the system. Shifting standards defeat an effective disciplinary system and thwart the development of self-discipline. Appropriate discipline is not punitive, but is corrective in nature and assists employees in meeting the expectations of an organization. In order to effectively administer the disciplinary system in a manner consistent with maintaining parity between employee's rights and those of the community, close attention must be paid to the following:

- 1) Department guidelines are not intended to limit members in the exercise of judgment and initiative to take the actions a reasonable person would do in a similar situation.

- 2) Clearly defined policies and rules are formulated and provided to the members in writing so that the employees understand the expectations of the department.
- 3) The pursuit of discipline must confine itself to the erring individual and not become so broad in scope that the majority suffers because of the offenses of a few.
- 4) No barrier or hindrance shall be placed in the way of any person desiring, for good cause, to make herself/himself heard regarding a complaint against any member of the department
- 5) No one shall in any manner, either by personal bearing, manner of speech, and method of approach or in any other way create fear of reprisal in a complainant.

PRIMARY OBJECTIVES

Protection of the Public

The public has the right to expect efficient and honest service. Therefore, any misconduct by department personnel must be reported, thoroughly investigated and properly adjudicated to assure the maintenance of the public's trust.

Protection of Hurricane Fire & Rescue

The department is often evaluated and judged by the conduct of individual members. It is imperative that the entire organization not be subjected to public ridicule because of individual infractions. When an informed public knows that the department honestly and fairly investigates and adjudicates all allegations of misconduct against the department members, the public will be less likely to raise a cry of indignation over alleged incidents of misconduct.

Protection of the Department

Members must be protected against false allegations of misconduct. This can be accomplished through consistency of the investigative process.

Removal of Unfit Personnel

A reported allegation that involve serious acts of misconduct, or demonstrates that a member is unfit for public trust, will result in

removal from active duty pending the results of an investigation. This is for the protection of the public, the department, and the member.

Correction of Procedural Problems

The department constantly seeks to improve the efficiency of the organization and personnel. Occasionally, investigations disclose faulty procedures that might otherwise go undetected. These procedures can then be improved upon or corrected, to avoid repetition of inefficient processes.

INVESTIGATION OF COMPLAINTS

- Policy:** It shall be the policy of Hurricane Fire & Rescue to investigate all complaints of member misconduct reported by citizens or other members. The internal procedure is to provide for the prompt investigation and equitable resolution of alleged improper conduct of department personnel.
- Purpose:** The intent of this policy is to ensure that complaints concerning members of the department are promptly investigated and resolved in a professional and competent manner, and to establish guidelines for conducting internal investigations.
- Applicability:** This policy shall apply to all personnel.
- Responsibility:** The Chief shall maintain overall responsibility for the receipt, recording, registration, control, and supervision of internal investigations and prompt adjudication of allegations or suspected acts of the member's misconduct.

The assigned personnel, shall answer and report only to the Fire Chief, and shall retain the responsibility for and authority over those persons who are assigned to conduct internal investigations.

Security and Confidentiality of Files

Persons involved in the receipt, processing, or investigation of complaints are reminded that ongoing internal investigations are confidential and are not to be discussed without proper authority. Unauthorized disclosure is a violation of law and guidelines and

may result in disciplinary action.

Allegations of misconduct received shall be recorded on an investigative complaint form. The investigative complaint form shall be forwarded directly to the Fire Chief, who will review the complaint and forward it to the Board of Directors for appropriate action. Members of the department shall make no copies, except when specifically authorized by the Fire Chief or the Board of Directors. When other documents are prepared, no copies shall be made. The Fire Chief shall forward the originals directly to the Board of Directors.

Members requested to furnish written statements shall submit same, directly to the Chief. Members may make copies of their own written statements for their own personal files, but information contained therein must remain confidential until the internal investigation is completed.

Internal Investigation files shall ordinarily be hand delivered to Board of Director members for review. Board members shall ensure that the file is properly secured to assure confidentiality of the information contained therein.

After an internal investigation case is adjudicated and closed it becomes public record, and will be made available for review upon request and by appointment.

Once adjudicated, closed and returned after final action is taken, files shall be maintained in the Fire Chief's office.

COMPLAINT RECEIPT PROCEDURE

The complaining party should appear in person at the Fire Department office or calling by telephone shall be referred to the Chief. The Chief shall complete the investigative complaint form, obtain statements as required, and forward the matter directly to the Board.

When the Chief is not immediately available, the Assistant Chief shall fill out the investigative complaint form as completely as possible, obtain statements as required, and forward the matter directly to the Fire Chief. In absence of the Chief or the Assistant Chief, the highest ranking officer present shall fill out the investigative complaint form and forward it to the Fire Chief.

An attempt will be made to obtain written statements when complaints, inquiries, and allegations are received. Allegations will be received in the

form of a written statement unless impracticable. If a written statement cannot be obtained, the receiving Officer will use the investigative complaint statement form to prepare a narrative summary of the complaint.

If the complaint is first brought to the attention of a member, the member shall inform the complaining party that an Officer will contact them. The member shall obtain the name and contact number of the complaining party and immediately notify the highest ranking Officer of the complaint.

Upon notification, an Officer shall contact the complaining party as soon as possible in order to complete the investigative complaint form and obtain a statement.

The person completing the investigative complaint form shall inform the complaining party that an investigator will contact him, and that the circumstances surrounding the complaint will be thoroughly investigated.

If the alleged misconduct is of a serious nature, the Fire Chief or his/her designee shall be notified immediately by the receiving Officer.

COMPLAINT PROCESSING

It is the policy of Hurricane Fire & Rescue to investigate all complaints received from any source outside or inside the department.

Exceptions

On occasion, obviously malicious and deliberately false complaints are made against members. Such accusations will be investigated to protect the integrity of the department and its members.

An internal investigation is NOT indicated, or deemed necessary in disciplinary matters, which come to the attention of Officers during the course of normal duties (i.e., the officer observes or has direct knowledge of an infraction being, or having been, committed by a member).

If the complaint is found to be without merit, a statement of findings of fact will be completed and the case closed with no further action required.

If after the investigation, the findings of fact indicate that disciplinary action is necessary, those findings and recommendations will be forwarded to the Fire Chief for review and course of action, and a record of such action will be placed in the member's personnel file

along with the investigation summary.

Copies filed.

1. Internal investigation file numbered by date with name of person(s) investigated.
2. Department file

COMPLAINT INVESTIGATION PROCEDURE

Upon receipt of a complaint the Officer shall forward the complaint forms directly to the Fire Chief or his/her designee for review and processing. The Fire Chief will determine the priority and category of the investigation.

Priority of investigation.

1. Immediate Priority - Extremely serious allegations require immediate investigation and extensive use of department resources. In those instances when the investigation is an allegation of criminal misconduct, the Fire Chief will contact Law Enforcement to handle that portion of the investigation.
2. Routine - Normal processing via standard investigation procedures.

Category of Investigation.

Category "A"/Investigation - All Category "A"/Investigations will be handled by the Fire Chief. The following matters will warrant Category "A" Investigations and/or other agency involvement.

Allegations of criminal misconduct, which will be referred to Law Enforcement for processing.

Allegations of misconduct in which the department may be exposed to civil liability.

Allegations of violations that, if sustained, could result in discipline more serious than a written reprimand.

Allegations of discrimination referred to the Board of

Directors.

Category "B"/ Investigation - Category "B"/ Investigations will be assigned to an Officer, through the chain of command, for investigation and disposition. Only those complaints which, if sustained, could result in disciplinary action of a written reprimand or less will be handled as Category "B"/ Investigations. Examples of Category "B" cases are demeanor/courtesy complaints, driving complaints, service delivery complaints, etc. If a minor infraction may result in more serious discipline under the principles of progressive discipline, it will be handled as a Category "A" Investigation. In addition, if a member who is the subject of a Category "B" Investigation requests a formal investigation prior to interview, it will be handled as a Category "A" Investigation.

Complaints that do not meet the requirements of the minor complaint procedure but do not require a Category "A" investigation may be assigned as a Category "B" Investigation.

Category "I"/ Inquiries - Many incidents occur which require administrative investigation and reporting, but do not involve clear allegations of member misconduct. Category "I"/ Inquiries will be investigated by the Chief, but will be accomplished through the chain of command. The following matters will be handled as inquiries:

Incidents in which a complaint has been made, but insufficient information exists for a determination of how the complaint should be handled, and the allegation must be tested for such a determination to be made. If a clear allegation is found during the allegation testing stage, the case will be reclassified as a Category "A" Investigation or Category "B" Investigation and handled accordingly.

Inquiries questioning existing department guidelines.

Incidents for which a member requests a "name clearing" investigation as a result of circumstances or apparently false or malicious complaints or statements that were made outside the normal complaint process.

MEMBER NOTIFICATION/RIGHTS WHEN SUBJECT TO INVESTIGATION

After a member becomes the subject of an internal investigation, the Chief will provide the member with a copy of the written allegations. Notification and copies will not be provided immediately if doing so would compromise the investigation; however, notification and copies will always be provided prior to interview of the member.

Inquiries which do not evolve into Category "An" investigations or Category "B" investigations do not require notification, however, immediate subject notification will take place and copies of closed inquiries and associated reports will be forwarded after the fact to the concerned member.

Internal investigations are expected to be completed within a sixty (60) day period, commencing from the date received. It is recognized that completion within that time frame is not always possible. The Fire Chief for unusual cases and/or circumstances may grant time limit extensions.

REPORT OF INVESTIGATION - CATEGORY "B" INVESTIGATIONS

The final report of a Category "B" investigation shall be in the form of a memo to the Board of Directors, with relevant attachments. The completed report shall be forwarded to the Board no later than forty-five (45) days from the date of assignment.

REPORT OF INVESTIGATION - CATEGORY "A" INVESTIGATIONS

If, after all appropriate interviews are completed and documents assembled, it appears to the Officer that criminal charges could be filed against the member, the Fire Chief shall be immediately notified, and the case will be turned over to Law Enforcement for further investigation.

If it appears likely that a civil suit could be filed against the member and/or department, the Officer will notify the Fire Chief immediately, who will then notify the insurance carrier for legal advice.

The Board shall prepare and submit their final report. The final report shall be completed in the following format:

Section I - Allegation and complaint (I/C form), to include the complaining party's written statement.

Section II - Report of investigation (a chronological narrative report of the investigation), to include summaries of records of the subject member and the complaining party; each investigative step shall be reported in a separate numbered paragraph.

Section III - Applicable policies, rules and guidelines.

Section IV - Attachments, to include copies of written statements, associated incident and supplemental reports.

Section V

Final determination of investigation, to include findings of fact.

Recommended action taken (to be completed through the chain of command of the subject member).

Section VI

Investigation envelope (a repository containing interviews, photos, notes, etc.)

Section VII

Correspondence, memos, etc.

Section VIII

Interview forms.

FINAL ACTION OF COMPLAINTS

Complaints made against Hurricane Fire & Rescue members will be fully investigated by the Board. The Board will recommend a final action based on findings of fact.

All Internal Investigations will have one of the following dispositions of final action.

UNFOUNDED - The allegation is false or not factual.

EXONERATED - The incident occurred but was lawful and proper.

NOT SUSTAINED - Insufficient evidence to prove or disprove the allegation.

SUSTAINED - The allegation is supported by sufficient evidence to justify a reasonable conclusion that the allegation is factual.

GUIDELINES DEFICIENCY - Member's actions are in compliance with department guidelines or rules, but the guidelines or rules are deficient.

ADMINISTRATIVE RECORDS SCHEDULE FOR FINAL ACTION

NOT SUSTAINED/UNFOUNDED: Records may be destroyed after two (2) years.

EXONERATED: Recommend retention for two (2) years (no legal requirement).

SUSTAINED: Record can be destroyed after five (5) years if formal discipline is given, three (3) years if informal discipline is given.

Formal discipline - termination, demotions, suspensions or similar

actions.

Informal discipline - written or verbal reprimands, memos or similar actions.

MAINTENANCE OF RECORDS

All records pertaining to internal investigations shall be maintained and secured by the Chief. The release of such records shall only be made with the approval of the Fire Chief or his/her designee to those persons with a demonstrated need to know until such time that the case is adjudicated and final action is taken. After adjudication and final action, all internal investigation records, except those exempt by public records law, become public record.

Attachment A

Internal Affairs Investigation # _____
Hurricane Fire & Rescue
Investigative Complaint Form

Status Types: P = Person w/knowledge R = Reporting Party V =
Victim

#1
Status _____ Name (Last, First, Middle): _____

Home Address _____ City/State _____ Zip _____ Phone _____

Bus Address _____ City/State _____ Zip _____ Phone _____

#2
Status _____ Name (Last, First, Middle): _____

Home Address _____ City/State _____ Zip _____ Phone _____

Bus Address _____ City/State _____ Zip _____
Phone _____

Date complaint received: _____ Time: _____

Date of occurrence _____ Location of incident: _____

Brief description of complaint: _____

(If additional space is required, please attach extra sheets)

Signature of Complainant _____

Witness _____

Witness: (if available)

Name: _____ Address: _____ Phone#: _____

Name: _____ Address: _____ Phone#: _____

Complaint received by: _____

Complaint received: In person Phone Mail Other

#1
Member Name (Last, First, Middle): _____

#2

Member Name (Last, First, Middle): _____

Report Type (circle one)

Allegation

Inquiry

Commendation

Attachment C
**Hurricane Fire & Rescue
Internal Investigation
Investigative Interview Form**

- 1) The purpose of this interview is to determine if misconduct or violation of the Rules and Regulations, or any other department guidelines has occurred.
- 2) You have a right to be informed of your status regarding this investigation whether you are the accused or a witness.
- 3) You must answer all questions relating to your official duties fully and truthfully. Refusal to do so may result in subsequent disciplinary action up to and including dismissal.
- 4) Members of the department giving statements or being questioned concerning internal matters are entitled to have an attorney present during the interview.
- 5) All answers and statements may be used in department administrative or disciplinary proceedings and may result in administrative action up to and including dismissal.
- 6) All answers and statements made during the interview cannot be used in any criminal proceeding against you.
- 7) This investigation and interview is confidential. In order to ensure that the integrity of the investigation is preserved and that all department Rules, Regulations and Guidelines are understood and followed, you shall not discuss the allegation or investigation nor allow anyone else to gain access to that information without the express authorization of the Chief, his/her designee, or the Board of Directors.
- 8) If you are the accused member, you may disclose to others that you are the subject of an investigation, and may discuss the matter with an Officer or your attorney without prior approval.

This interview is #_____ . The case number is IAI#: _____

This interview is being conducted at: _____
(Location)

The date is: _____ and the time is: _____ AM PM (circle one)

Remarks: _____

Member's Signature: _____

Date: _____ Time: _____

Administered by: _____

Date: _____