



# PINELLAS COUNTY SHERIFF'S OFFICE

LEADING THE WAY FOR A SAFER PINELLAS

ADMINISTRATIVE INQUIRIES AND INVESTIGATIONS		
	<b>EFFECTIVE:</b>	<b>02-19-23</b>
	<b>AMENDS:</b>	<b>01-09-23</b>
	<b>RESCINDS:</b>	
	<b>FIRST POLICY:</b>	A-8, 02-23-81, CITIZEN COMPLAINT PROCEDURE
	<b>LAST REVIEWED:</b>	<b>06-27-23</b>
	<b>AUTHORITY OF:</b> BOB GUALTIERI, Sheriff	
ACCREDITATION STANDARDS:		CALEA 26.2.1, 26.3.2, 26.3.3, 25.3.4, 26.3.5, 26.3.6, 26.3.8

**General  
Order  
10-01**

## PURPOSE:

The purpose of this General Order is to establish procedures for handling administrative inquiries and conducting administrative investigations.

## DISCUSSION:

As a service to the citizens of Pinellas County and members of this agency, it is the responsibility of the Pinellas County Sheriff's Office to respond to inquiries about agency procedures and investigate all complaints of misconduct against the agency and the agency's personnel. This includes anonymous complaints. The Sheriff authorizes and designates the Administrative Investigation Division to, on behalf of the agency, to initiate investigations of misconduct by members, pursuant to the Law Enforcement and Correctional Officers' Bill of Rights. This policy is designed to ensure the nature of complaints is well defined and internal investigations are conducted in a fair and impartial manner.

## DEFINITIONS:

- A. Administrative Complaint – Any grievance to the performance of duty by a member of the agency that appears to be a violation of any written Sheriff's Office policy or criminal law.
- B. Administrative Inquiry – An incident created in BlueTeam to initiate a Command Level or Administrative Investigation into a member's potential misconduct.
- C. Administrative Investigation – Investigation conducted by personnel assigned to the Administrative Investigation Division into apparent violations of agency policy or criminal laws by members of the agency.
- D. Administrative Investigation Division (AID) – A component of the Sheriff's Office Professional Standards Bureau tasked with the responsibility of investigating allegations of serious misconduct against agency personnel.
- E. Administrative Leave with Pay – Leave with pay authorized solely at the discretion of the Sheriff for particular and extenuating circumstances affecting member(s) of the Sheriff's Office.
- F. Administrative Leave without Pay – Leave without pay authorized solely at the discretion of the Sheriff for particular and extenuating circumstances affecting member(s) of the Sheriff's Office.
- G. Administrative Referral – An incident generated by the Administrative Investigation Division to refer an administrative complaint to an accused member's Department / Bureau Commander for resolution.
- H. Administrative Review Board (ARB) – Panel convened to review Administrative Investigations conducted by the Administrative Investigation Division and make findings of fact based on the investigation and the established disciplinary scale in [GO 10-02, Disciplinary Procedures](#).

- I. Emergency Suspension – Temporary removal of a member from duty status for a period not to exceed 24 hours.
- J. Formal Interrogation – Any investigative interview conducted by the Administrative Investigation Division pursuant to a complaint made against a member of the agency that is subject to audio tape-recording or written transcription.
- K. Law Enforcement and Correctional Officers' Bill of Rights – Legislation created to establish rights and privileges of law enforcement and correctional officers while under investigation by the agency for any reason.
- L. Political Subdivision – Defined in F.S. § 112.533(1)(b)2 as “a separate agency or unit of local government created or established by law or ordinance and the officers thereof and includes, but is not limited to, an authority, board, branch, bureau, city, commission, consolidated government, county, department, district, institution, metropolitan government, municipality, office, officer, public corporation, town or village.”
- M. The Prison Rape Elimination Act (PREA) – The Pinellas County Sheriff's Office has a zero-tolerance policy for all forms of sexual abuse and sexual harassment of any inmate and is committed to upholding the Eighth Amendment Rights of all inmates as required by the Prison Rape Elimination Act of 2003 (PREA) and F.S. § 944.35. Sexual acts of any kind between staff (including contractors and volunteers) and inmates or detainees amounts to sexual abuse, is against the law and is strictly prohibited. All allegations of sexual abuse, sexual threats and retaliation concerning an incident of sexual abuse will be thoroughly investigated and shall be subject to administrative and / or criminal prosecution. See [GO 12-13, Sexual Abuse and Sexual Harassment – Prevention, Detection and Response Plan](#) concerning further information and procedures.

## **PROCEDURE:**

### **10-01.1 Receiving and Handling Administrative Complaints Against Agency Members**

- A. In many instances, what initially appears to be a complaint pertaining to the conduct or performance of agency personnel can actually be a misunderstanding of law or proper procedure. To ensure instances involving misunderstandings are not filed as complaints against members of the agency before they have an opportunity to be reviewed, the following procedures shall be followed with respect to handling initial administrative complaints:
  - 1. All supervisors of the Sheriff's Office are responsible for receiving and providing an appropriate response to complaints received regarding the conduct and performance of other members.
  - 2. When a complaint is received by any supervisor of the agency which calls into question the conduct or performance of another member, the supervisor initially receiving the complaint shall attempt to obtain a clear understanding of the nature of the complaint.
  - 3. Based on a thorough understanding of agency rules and regulations, any supervisor receiving a complaint should, within the scope of their authority, make every effort to resolve questions concerning the conduct and performance of other members.
  - 4. In the event a member is unable to satisfy the person making the complaint, is unsure of the appropriateness of the action taken which prompted the complaint, or believes the action being inquired about may involve a violation of agency rules and regulations, the complaint should be referred to a supervisor in the chain of command of the member involved in the complaint.
  - 5. When a complaint is received by, or referred to any supervisor, the supervisor should re-contact the person making the complaint to reaffirm the nature of the complaint and attempt to resolve misunderstandings of agency policy when possible.
  - 6. When a supervisor believes the subject of a complaint has violated agency rules and regulations, an Administrative Inquiry must be completed in BlueTeam.

- a. The Administrative Inquiry shall be forwarded to the subject member's chain of command if initiated by a supervisor outside of that chain. All supervisors in the member's chain of command shall review the Administrative Inquiry and the Department / Bureau Commander will forward it to the Administrative Investigation Division for review.

- (1) The Administrative Inquiry shall include the subject member's name, the rule and regulation allegedly violated, and the complainant's name, along with a synopsis of the incident.

Members of the agency may bring complaints against other members by contacting a supervisor who will investigate the complaint. Alleged policy violations will be forwarded to the Administrative Investigation Division via an Administrative Inquiry.

Individuals knowingly filing a false complaint may be subject to civil suit brought by the subject of the false complaint.

- B. The Administrative Investigation Division shall be responsible for recording and evaluating all Administrative Inquiries received.
- C. In the event that the Administrative Investigation Division determines an Administrative Inquiry does not involve a violation of agency rules and regulations, an investigator assigned to the Administrative Investigation Division will contact the originating supervisor to ascertain if any information pertaining to the complaint was omitted that may change the determination. If it is determined the Administrative Inquiry does not involve a violation of agency rules and regulations after this contact, the Administrative Inquiry will be purged, and the member's chain of command will be notified.
  1. The subject member's Department / Bureau Commander, or designee, will be responsible for notifying the member of the disposition of the Administrative Inquiry.

#### **10-01.2 Receiving and Handling Administrative Inquiries Against Members of Another Political Subdivision**

- A. In accordance with F.S. § 112.533(1)(b)1, "Any political subdivision that initiates or receives a complaint against a law enforcement officer or correctional officer must, within five business days, forward the complaint to the employing agency of the officer who is the subject of the complaint for review or investigation." In accordance with The Federal Prison Rape Elimination Act (PREA), the only exception to this rule concerns complaints from Pinellas County Jail inmates who claim they were sexually abused while in another correctional facility. The Department of Detention and Corrections (DDC) Commander, or designee in their absence, must contact the head of the facility or appropriate office of the agency where the inmate claims they were abused as soon as possible, but no later than 72 hours from the time the complaint was received. This notification will be documented in a DDC incident report.
- B. If the complaint is of a serious violation of universally accepted policy or procedure or criminal activity, the member will notify the Commander of the Professional Standards Bureau or the Administrative Investigation Division. Serious violations will include, but not be limited to:
  1. Use of Force
  2. Moral turpitude
  3. Criminal acts
  4. Sexual harassment
- C. In the event a member is unable to resolve a less serious complaint to the satisfaction of the citizen, the member shall provide the citizen with the address and telephone number of the agency responsible for the receipt and handling of such complaints. If the citizen is incapable or unable to communicate with the appropriate agency, the member receiving the complaint will ensure notification is made as soon as possible, but not later than five days from receipt of the complaint.

#### **10-01.3 Processing Administrative Complaints**

- A. If the Administrative Investigation Division determines an Administrative Inquiry may constitute a violation of agency rules and regulations, the inquiry will be reclassified as an Administrative Referral or an Administrative Investigation.
1. The investigation of complaints such as those dealing with attitude or minor procedural infractions shall be referred to the member's Department / Bureau Commander for investigation as an Administrative Referral. The Department / Bureau Commander may reassign the Administrative Referral to another supervisor for investigation who shall do the following:
    - a. With a witness, place the member on notice and provide them with a copy of the Subject Notification Form
    - b. Interview the complainant(s), if necessary, and any member / citizen / inmate witnesses
    - c. Attach any supporting documents reviewed to the Administrative Referral in BlueTeam
    - d. Interview the subject member after allowing them to review the entire case file
    - e. Make a complaint determination
      - (1) Exonerated
      - (2) Substantiated
      - (3) Unsubstantiated
      - (4) Unfounded
    - f. If the complaint is substantiated, determine whether the member will be issued a Written Counseling or a Written Reprimand
    - g. Document the investigation in the Incident Summary screen in BlueTeam
    - h. Forward the completed investigation through the chain of command for review
  2. The Department / Bureau Commander or designee shall notify the complainant of the disposition of the complaint upon conclusion of the investigation.
  3. The following types of complaints shall be investigated by the Administrative Investigation Division:
    - a. Serious complaints alleging official corruption, misuse of force, criminal misconduct, or breach of civil rights. These complaints will be brought to the attention of the Sheriff immediately.
    - b. Complaints which require maintained confidentiality
    - c. Complaints requiring an extensive investment of time and resources not available to other components
    - d. Any case as directed by the Sheriff
- NOTE: Investigations of criminal misconduct shall be conducted in conjunction with the appropriate agency component or other law enforcement agency.
- B. All citizen / inmate complainants in an Administrative Investigation will receive notice that their complaint is being investigated and will be notified of the final complaint determination via letter, or another form of written verification, unless the complainant is anonymous.
1. The complainant should be updated of the case status periodically if the investigation is not completed by the anticipated date.

- C. All members of the agency who become the subject of an Administrative Investigation shall receive written notice of:
1. The nature of the investigation
  2. Names of all complainants
  3. List of General Orders to review regarding Administrative Inquiries and Investigations, rules and regulations, and disciplinary procedures
  4. Final complaint determination
- D. The impact of Administrative Investigations on the integrity of the agency and on the morale of members necessitates a swift resolution to such cases.
1. Every attempt will be made to complete an Administrative Investigation within 45 calendar days of the date the subject(s) of the investigation is placed on notice.
  2. The continuation of any Administrative Investigation beyond 45 calendar days must be approved by the Sheriff.
  3. Administrative Referrals directed to other components must be completed and returned to the Administrative Investigation Division within 30 calendar days of the date on which they were initially referred.
    - a. Supervisors will notify their Department / Bureau Commander if an Administrative Referral cannot be completed within the 30 calendar days.
    - b. The Department / Bureau Commander will notify the Administrative Investigation Division of any delay that exceeds the 30 calendar days.
- E. A complete written report of all investigations shall be made a part of each case file.
1. Each report shall contain findings specific to the allegations made or other violations of agency policy which may have been noted.
  2. All cases conducted by the Administrative Investigation Division will be reviewed by the Commanders of the Professional Standards Bureau and Administrative Investigation Division at the conclusion of the investigation.
  3. An Administrative Review Board shall be convened to review materials compiled by the Administrative Investigation Division to determine whether or not the facts, as set forth in the Administrative Investigation, indicate violation of agency rules, regulation, policy and / or procedure. Concerning PREA investigations, the investigation shall include an effort to determine whether staff actions or failures to act contributed to the sexual abuse or harassment of inmates as defined in the PREA standards.
- F. A record of all complaints and disciplinary action, if any, against agency personnel will be maintained by the Administrative Investigation Division in accordance with Florida Statutes, the General Records Schedule for Law Enforcement Agencies and agency policy. For investigations falling the under the Prison Rape Elimination Act (PREA), where sexual abuse is alleged to have occurred by a staff member, the agency shall retain all written reports for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.
- G. Administrative Investigations are public records in accordance with the provisions established in F.S. § Chapter 119 and may be reviewed by any person, after the Sheriff makes a final determination.

#### **10-01.4 Leave Pursuant to Administrative Investigations**

- A. At the Sheriff's discretion, a member can be placed on administrative leave without pay for particular and extenuating circumstances during an Administrative Investigation.

- B. The member shall be provided a written notice and an explanation as to why he / she is being placed on administrative leave without pay. The member shall be afforded the opportunity to provide a written response within 24 hours. The Sheriff or his designee shall be provided a copy of the member's written response and will make a final decision as to whether the member remains on administrative leave without pay.
- C. The Sheriff shall determine whether members who are subject to any Administrative Investigation will be placed on administrative leave with pay, in accordance with Sheriff's Office [GO 06-10, Leave](#), pending the outcome of the investigation.
- D. All members placed on administrative leave pending the result of an Administrative Investigation are responsible for reporting to the Administrative Investigation Division as instructed by the assigned investigators.
- E. Whenever certified members are placed on administrative leave or emergency suspension pending investigation, they shall transfer custody of their commission, star and agency issued firearms, if any, to the assigned investigators. These items shall be retained in the possession of the Sheriff's Office and can only be released with the express approval of the Commander of the Administrative Investigation Division. This policy will not apply to deputies who are routinely placed on administrative leave as a result of their involvement in an incident pertaining to the use of deadly force.
- F. Certified law enforcement members placed on administrative leave pending investigation are not permitted to exercise law enforcement powers while on administrative leave.

#### **10-01.5 Conducting Administrative Investigations**

- A. Administrative Investigation Division investigators shall take sworn, audio-recorded statements from the complainant(s) and witnesses.
- B. The subject of the Administrative Investigations, along with their legal counsel or other representative, may review the case file to include all written statements made by the complainant and witnesses immediately prior to the investigative interrogation with the exceptions noted in F.S. § 112.533.
- C. Any member who is the subject of a formal interrogation conducted by the Administrative Investigation Division shall have the right to legal counsel or any other representative present at all times during the interrogation.
  - 1. Legal counsel or representatives can be present, on behalf of the member, to observe that the interrogation is conducted in a fair and objective manner, in accordance with the "Law Enforcement and Correctional Officers' Bill of Rights."
  - 2. Legal counsel or representatives may only interrupt the interrogation by raising objections to procedures that violate the rights of the member under investigation.
  - 3. Members may have the opportunity to confer with their legal counsel or representative regarding procedural questions only to the extent necessary to make a particular objection. Requests for private consultations shall be honored as long as they do not unnecessarily impede the progress of the interrogation.
  - 4. Legal counsel or representatives who wish to make a brief statement on the record at the conclusion of the interrogation pertaining to any complaint connected with the manner in which the investigation was conducted will be permitted to do so. Legal counsel or representatives will not be allowed to elicit any response from the member at the conclusion of the investigators' interrogation.
  - 5. Any legal counsel or representative of a member under interrogation who interferes with or impedes the progress of the interrogation will be asked to leave, at which time the interview will be terminated and rescheduled to a later date.
- D. Members under investigation shall be informed at the commencement of the interrogation as to whether the investigation is criminal or administrative in nature. In the event that a sworn member is under arrest, or likely to be arrested at the time he or she is interviewed by the Administrative Investigation Division or

before an Administrative Review Board interview, the sworn member must be advised of his or her rights under the "Law Enforcement and Correctional Officers' Bill of Rights." The investigator in-charge of the interrogation shall read to the sworn member under these circumstances F.S. § 112.532(1)(a) – (j) verbatim from the statute.

- E. Members who are not the subject of an Administrative Investigation, but are required to testify as witnesses, are not entitled to legal counsel or representation.
- F. Questions asked during Administrative Investigations shall be specifically directed and narrowly related to the member's conduct as a member of the Pinellas County Sheriff's Office.
- G. During administrative interviews and interrogations, members are required to answer all questions asked by the investigator(s) truthfully and to the best of their knowledge. No statements, nor any information or evidence gained through the use of statements obtained during an Administrative Investigation, can be used against members during subsequent criminal proceedings. However, such statements or evidence may be used to support subsequent administrative charges. Members who perjure themselves during an administrative interview or formal interrogation may face criminal prosecution.
- H. Members will be subject to administrative charges that could result in their dismissal from the Pinellas County Sheriff's Office if they refuse to testify or answer questions relating to the performance of their official duties whenever they are the subjects of, or witnesses in, an investigation that is administrative in nature.
- I. While under investigation, members will be required to submit to one or more of the following conditions if deemed necessary by the Administrative Investigation Division:
  - 1. In cases of suspected drug use or impairment; a chemical breath test, medical, laboratory or other such examination when the examination is specifically related to an ongoing investigation
  - 2. Participation in a line-up or photo array for the purpose of establishing identify
  - 3. Photographs which are deemed relevant to an investigation
  - 4. Disclosure of personal financial statements or any other documents in the member's possession or over which he / she has control, which are deemed to be relevant to the investigation
  - 5. Search of agency or county property, even if utilized exclusively by the member to whom it was assigned. Members do not have any expectation of privacy within agency buildings, offices, desks, vehicles, or any other work environment, and those areas may be searched for items deemed relevant to an Administrative Investigation.
- J. Members shall not be required to submit to polygraph examinations. However, such examinations will be administered if consented to or requested by the member, if approved by the Sheriff or designee.
- K. Members under investigation are entitled to all the rights and privileges guaranteed by the laws of the State of Florida, the Constitution of the State of Florida, and the United States Constitution including the right not to be compelled to incriminate themselves during a criminal investigation.
- L. Members who are the subjects of or witnesses in, any Administrative Investigation are prohibited from discussing the case with other members / witnesses until the investigation is concluded.
- M. In investigations concerning cases falling under The Prison Rape Elimination Act (PREA), the departure of the alleged abuser or victim from the employment or control of the agency shall not provide a basis for terminating an investigation. When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution. For further information concerning PREA related investigations, refer to [GO 12-13, Sexual Abuse and Sexual Harassment – Prevention, Detection and Response Plan](#).

#### **10-01.6 Law Enforcement and Correctional Officers' Bill of Rights**

A. "Law Enforcement and Correctional Officers' Bill of Rights" (F.S. § 112.532)

1. "Whenever a law enforcement 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 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 a 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 directed, 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 review 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 choice, who shall be present at all times during the interrogation whenever the interrogation relates to the officer's continued fitness for law enforcement service 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 the officer."
2. 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 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.”

### 3. 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 F.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.”

### 4. 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.”

### 5. Limitation Periods 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 the 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 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."
  - (3) "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."

**B. Receipt and Processing of Complaints (F.S. § 112.533)**

1. "A complaint filed against a law enforcement officer or correctional officer with a law enforcement agency or correctional agency and all information obtained pursuant to the investigation by the agency of the complaint is confidential and exempt from the provisions of F.S. § 119.07(1) until the investigation ceases to be active, or until the agency head or the agency head's designee provides written notice to the officer who is the subject of the complaint, either personally or by mail, that the agency has either:"
  - a. "Concluded the investigation with a finding not to proceed with disciplinary action or to file charges; or"
  - b. "Concluded the investigation with a finding to proceed with disciplinary action or to file charges."
2. "Notwithstanding the foregoing provisions, the officer who is the subject of the complaint, along with legal counsel or any other representative of his or her choice, may review the complaint and all statements regardless of form made by the complainant and witnesses and all existing evidence, including, but not limited to, incident reports, analyses, GPS locator information, and audio or video recordings relating to the investigation, immediately before beginning the investigative interview. All statements, regardless of form, provided by a law enforcement officer or correctional officer during the course of a complaint investigation of that officer shall be made under oath pursuant to F.S. § 92.525. Knowingly false statements given by a law enforcement officer or correctional officer under investigation may subject the law enforcement officer or correctional officer to prosecution for perjury. If a witness to a complaint is incarcerated in a correctional facility and may be under the supervision of, or have contact with, the officer under investigation, only the names and written statements of the complainant and non-incarcerated witnesses may be reviewed by the officer under investigation immediately prior to the beginning of the investigative interview."

**C. Failure to Comply; Official Misconduct (F.S. § 112.534)**

1. "If any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally fails to comply with the requirements of this part, the following procedures apply. For purposes of this section, the term "law enforcement officer" or "correctional officer" includes the officer's representative or legal counsel, except in application of paragraph d."
  - a. "The law enforcement officer or correctional officer shall advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer's notice

of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.”

- b. “If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head, or his designee be informed of the alleged intentional violation. Once this request is made the interview of the officer shall cease and the officer’s refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.”
  - c. “Thereafter, within three working days, a written notice of violation and request for a compliance review shall be filed with the agency head or designee which must contain sufficient information to identify the requirements of this part which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.”
  - d. “Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted with 10 working days after the request for a compliance review hearing is filed, unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The panel shall review the circumstances and the facts surrounding the alleged intentional violation. The compliance review panel shall be made up three members: one member selected by the agency head, one member selected by the officer filing the request and a third member to be selected by the other two members. The review panel members shall be law enforcement officers or correctional officers who are active from the same law enforcement discipline as the officer requesting the hearing. Panel members may be selected from any state, county, or municipal agency within the county in which the officer works. The compliance review hearing shall be conducted in the county in which the officer works.”
  - e. “It is the responsibility of the compliance review panel to determine whether or not the investigator or agency intentionally violated the requirements provided under this part. It may hear evidence, review relevant documents, and hear argument before making such a determination; however, all evidence received shall be strictly limited to the allegation under consideration and may not be related to the disciplinary charges pending against the officer. The investigative materials are considered confidential for purposes of the compliance review hearing and determination.”
  - f. The officer bears the burden of proof to establish that the violation of this part was intentional. The standard of proof for such a determination is by a preponderance of the evidence. The determination of the panel must be made at the conclusion of the hearing, in writing and filed with the agency head and the officer.
  - g. If the alleged violation is substantiated as intentional by the compliance review panel, the agency head shall immediately remove the investigator from any further involvement with the investigation of the officer. Additionally, the agency head shall direct an investigation be initiated against the investigator determined to have intentionally violated the requirements provided under this part for purposes of agency disciplinary action. If that investigation is substantiated, the substantiated allegations against the investigator shall be forwarded to the Criminal Justice Standard and Training Commission for review as an act of official misconduct or misuse of position.
- D. The provisions of F.S. § 112.532 shall not be construed to restrict or otherwise limit the discretion of the Sheriff to take any disciplinary action, without limitation, against a deputy sheriff, including the demotion, reprimand, suspension, or dismissal thereof, nor to limit the right of the Sheriff to appoint deputy sheriffs or to withdraw their appointment as provided in F.S. § Chapter 30. Neither shall the provisions of this act be construed to grant collective bargaining rights to deputy sheriffs or to provide them with a property interest or continued expectancy in their appointment as a deputy sheriff.
- E. By order of the Sheriff, the provisions of these rights shall be extended to all other members of the Pinellas County Sheriff’s Office.

#### **10-01.7 Emergency Suspensions**

- A. As a result of some immediate cause for concern as to their continued fitness for duty, members may be placed on emergency suspension by a supervisor when it would be in the best interest of the Sheriff's Office.
- B. In the event that a supervisor determines it is necessary to place a member on emergency suspension, the supervisor initiating this action shall be responsible for informing the member's immediate supervisor of the action taken without delay. All supervisors in the affected chain of command will continue this pattern of notification until the Department / Bureau Commander has been notified.
- C. The affected Department / Bureau Commander shall be responsible for ensuring the Commander of the Professional Standards Bureau or the Administrative Investigation Division is notified immediately whenever such action is taken, so appropriate follow-up activity can be initiated.
- D. The supervisor initiating the suspension shall document, in memorandum form, the reason for the action taken prior to the conclusion of the tour-of-duty during which the suspension was affected and shall forward this documentation to the Administrative Investigation Division via chain of command.
- E. The duration of any emergency suspension shall be limited to one 24-hour period. After that time, a determination shall be made as to whether the member may return to duty status or be placed on administrative leave pending further investigation.