
Criminal Investigations Involving Criminal Justice Members

1032.1 PURPOSE AND SCOPE

To provide guidelines for the investigation of alleged criminal misconduct by department members of the criminal justice system.

1032.2 POLICY

- (a) It is the Chelsea Police Department policy that no one is exempt from the requirements of law. When a criminal act has occurred, it is the department's duty to ensure that a full and fair investigation is conducted, and that the results of that investigation are presented promptly to the prosecutor. This includes cases involving members of the Chelsea Police Department, or members of other criminal justice agencies.
- (b) To promote objectivity and ensure public confidence, it is the department's policy that criminal investigations involving department members should be conducted by an outside agency. If immediate action is necessary, the investigation may be started by a member of the Department, but will be turned over to the outside agency as soon as possible.
- (c) Whenever the outside agency called upon by Chelsea Police is unable, or declines, to investigate an alleged crime committed by a member of the Department, or unreasonably delays investigation, or, where the outside agency impairs the investigation by failing to follow commonly accepted law enforcement standards, the Department shall intercede as necessary to ensure the integrity of the investigation, whether such action is necessary on scene or after the fact. The results of the investigation will be promptly submitted to the prosecutor's office.
- (d) To support and clarify action steps and decision making which complies with this order, the remainder of this document outlines, but does not limit, specific duties and procedures to be followed. Failure to follow the outlined procedures will result in disciplinary action.

1032.3 PROCEDURES

- (a) Investigations involving members
 - 1. Duties
 - (a) Whenever, in the course of their duties, a member of this department witnesses a crime being committed by another member of the Department, it is the member's duty to:
 - 1. Intervene to protect the safety of the public.
 - 2. Collect and preserve evidence in exigent circumstances.
 - 3. Report the incident as soon as possible to a department command officer.

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- (b) When, in the course of their duties, an member has reasonable suspicion or probable cause to believe a crime has been committed by another member of the Department, he/she will take such action as may be necessary to protect members of the public and preserve evidence of the crime, including the identification of witnesses. He/she shall immediately notify a department command officer.
2. On-scene investigations
- (a) Assessment, response and notification
 - 1. Command officers notified of a crime being committed by an member, or of reasonable suspicion or probable cause that a crime was committed, will assess the immediacy of the situation. If necessary, the command officer will proceed directly to the scene of the alleged offense and take such action as may be necessary to protect the public and oversee the collection and preservation of evidence. The command officer will, at the same time:
 - 2. Notify his/her superior officer.
 - 3. Request the assistance of another law enforcement agency. The superior officer will make timely notification to the Chief of Police.
 - (b) Authority
 - 1. If the accused member is a command officer who is of a higher rank than the responding officer, the accused member's superior officer in the chain of command will be notified immediately. A command officer who is involved in an alleged or actual violation of a criminal statute is, from the time of the offense, considered to be on "relieved of duty with pay" status, and shall not direct, influence, or make decisions regarding the investigation of the crime in which they are alleged to be involved. Under these circumstances, a subordinate member is not bound by any directive or order he/she may receive from the accused command officer regarding the investigation of the alleged criminal activity.
 - (c) Timeliness
 - 1. If an outside agency is not available to respond to the scene in a timely manner, the command officer will be responsible for obtaining and preserving evidence of the alleged offense. Such action may include the collection of physical evidence and obtaining witness statements.
 - (d) Distinction of roles
 - 1. Under exigent circumstances, command officers must be cognizant of the need to separate the external criminal investigation from the internal disciplinary investigation. The accused member must be advised when the investigation is criminal in nature, allowing him/her to invoke the rights to which they are entitled as a private citizen, and

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when the investigation is disciplinary, requiring them, as a condition of employment, to make statements, submit to tests or examinations, or follow other directives.

2. Therefore, the command officer will advise the member that he/she is being questioned as a suspect in a criminal case, and that he/she is not required to make a statement or otherwise waive any rights to which they are entitled by law. Similarly, if it becomes necessary that the member submit to other tests or examinations, the command officer will advise the member that the request is being made pursuant to criminal procedures, and that the member is not obligated to waive any rights to which he/she may be entitled by law. The evidence collected, witness statements obtained, and the results of any tests or examinations conducted will be turned over to the outside agency as soon as possible.
 3. If the member has refused to make a statement as a criminal suspect, or has refused to submit to tests or examinations as a criminal suspect, the command officer may, after advising the member the investigation is now disciplinary, order the member to make a statement, submit to tests or examinations, or follow other directives as a condition of employment.
- (e) Preservation of scene
1. If an outside agency can respond in a timely manner, the command officer will be responsible only for preserving the scene and collecting such evidence as may be damaged or destroyed during the delay, or might otherwise be deemed perishable. Witness statements will be obtained only if the witness cannot remain at the scene.
- (f) Relinquishing scene
1. Once the outside agency has arrived on the scene, the senior officer/command officer in charge will relinquish authority to the outside agency, and will advise the senior investigating officer of that agency that full and complete authority is being transferred to him/her until the investigation is completed. The command officer will then disassociate him/herself from the investigation and will take no active role in the proceedings except to observe the actions of the investigating agency to the extent such can be done without hindering or interfering or bringing undue influence to bear.
3. Investigations after the fact
- (a) When a command officer is notified of an alleged offense, or there is reasonable suspicion or probable cause to believe an offense has occurred in the past, the command officer will notify the Chief of Police, who will take such action as may be necessary to determine whether an offense has been committed, and if there is probable cause to believe a department member committed it.

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- (b) If an offense has been committed, and probable cause exists to believe an member committed it, the superior officer will contact an outside agency having jurisdiction and request assistance. All preliminary evidence will be turned over to the investigating agency. The superior officer will advise the outside agency that the Department is withdrawing from the criminal investigation, and the outside agency is being vested with full and exclusive authority to pursue the investigation as they deem appropriate.
- 4. Outside agency failure to act
 - (a) Whenever an outside agency is unable, or declines, to investigate an alleged crime committed by a member of the Department, or unreasonably delays investigation, or,
 - (b) Where the outside agency impairs the investigation by failing to follow commonly accepted law enforcement standards, the Department shall intercede as necessary to ensure the integrity of the investigation, whether such action is necessary on scene or after the fact. The actions taken may include ordering the member involved to submit to tests or examinations, collecting evidence, interviewing witnesses, or other any action necessary to assure a competent and complete investigation. The results of the investigation will be promptly submitted to the prosecutor's office.
 - 5. Command officers investigating criminal cases involving members will take care to separate the criminal case from the internal investigation, using the guidelines set-forth under "On scene investigations" above.
 - 6. Closing investigations
 - (a) Criminal investigation of an member, or internal disciplinary inquiries where an member is alleged to have committed a crime, will not be disclosed without the written permission of the Chief of Police.
 - (b) Non-member investigations
 - 1. It is the department's policy that all criminal investigations be conducted in a professional, fair and impartial manner, including investigations in which an member of another criminal justice agency is involved, as either the victim or accused. Investigations involving members of other criminal justice agencies will follow all normal departmental procedures and conform to commonly accepted criminal justice standards.
 - 2. No member of Chelsea Police will extend "courtesies or privileges" to the members of other criminal justice agencies where to do so impairs, diminishes or undermines the quality of a criminal investigation.
 - 3. The results of the investigation will be presented in a timely manner to the prosecutor's office for review.
 - 4. The Chief of Police must approve any exception to normal operating procedures.