



# Lexington Police Department

Lexington, Kentucky

## GENERAL ORDER

BY THE AUTHORITY OF THE CHIEF OF POLICE

### **G.O. 2011-06C Public Integrity Unit**

Rescinds: GO 2011-06B

Effective Date: 12/29/17

Distribution

| All Sworn Officers

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## **I. PURPOSE**

The purpose of this policy is to establish the duties and responsibilities of the Public Integrity Unit.

## **II. POLICY**

It is the policy of the Lexington Police Department that it has a duty to fully and completely investigate accusations of officer misconduct to protect the department's integrity and its credibility in the community.

It is the policy of the Lexington Police Department that the Public Integrity Unit is responsible to investigate allegations of misconduct and complaints received involving department officers. All allegations of officer misconduct shall be promptly and thoroughly investigated.

It is also the policy of the Lexington Police Department to adhere to the provisions of KRS 67A.280, Sections 21-44 and 21-45 of the Lexington-Fayette Urban County Government (LFUCG) Code of Ordinances, the guidelines contained in the LFUCG Employee Handbook, and other applicable ordinances, policies, and procedures related to receiving, documenting, and investigating internal or external civilian employee complaints and issuing employee discipline. All allegations of civilian employee misconduct shall be promptly and thoroughly investigated by the appropriate department supervisor.

The Public Integrity Unit shall also maintain a comprehensive Personnel Early Warning System intended to facilitate early identification of officers who may require agency intervention efforts. Prompt identification of these officers enhances the agency's ability to respond effectively and to take appropriate remedial action as warranted.

## **III. PROCEDURES**

NOTE: The use of the term "officer" throughout this policy refers to sworn police officers of any rank.

A. The Public Integrity Unit (PIU) is a component of the Bureau of Investigation. The BOI Assistant Chief manages the overall PIU function and ensures the integrity of PIU investigations.

B. The Public Integrity Unit is under the direction of a commander, who reports to the BOI Assistant Chief and who has the authority to report directly to the Chief of Police. The PIU commander is responsible for all Public Integrity Unit functions.

C. The Public Integrity Unit is responsible to:

1. Monitor all criminal investigations of department employees.
2. Receive, record, refer, and investigate complaints against officers or the department.
3. Conduct internal administrative investigations involving allegations of officer misconduct generated from within the department or from outside sources.
4. Administer the department's Personnel Early Warning System IAPro software program.
5. Maintain a record of all disciplinary actions issued by the Chief of Police.
6. Maintain the confidentiality and security of Public Integrity Unit investigations and records.

a. Confidentiality

1. Due to the sensitive nature of the Public Integrity Unit investigations, all files, reports and related information shall be considered confidential.
2. The need for confidentiality is self-evident; but is specifically emphasized here for the protection of witnesses, informants and respondents so no disclosure of information will occur which would be detrimental to the prestige, personal esteem, or reputation of a person or employee. Administratively closed cases used for purposes of educating and informing supervisors may be discussed in formal training settings.

b. Office Security

1. The Public Integrity Unit office will be locked at any and all times when a Public Integrity Unit employee is not present.
2. A combination dead bolt lock is installed on the Public Integrity Unit entry door. The headquarters master key shall not be keyed to access the Public Integrity Unit entry door lock.
3. Only employees assigned to the Public Integrity Unit will be issued keys to the office. When any Public Integrity Unit employee is transferred, the PIU commander or the BOI Assistant Chief shall ensure that all PIU office keys are returned.
4. All hard copy investigative files shall be maintained in lockable filing cabinets. Electronic files shall be maintained in a secured system. All PIU employees shall exercise due care to ensure that investigative files are not accessible to anyone not authorized access.
5. All investigative files will be maintained or destroyed in accordance with current records retention schedules and the terms of the current collective

bargaining agreements.

6. The Public Integrity Unit will maintain a secure electronic database utilizing passwords and security levels. Access to these electronic databases is restricted to the Public Integrity Unit and Computer Information Systems Unit employees.

7. Conduct regular and unannounced inspections of department facilities, vehicles, equipment and employees.

8. Liaison with the courts, monitor employee court attendance and maintain effective working relationships between department employees and court personnel.

9. Monitor off-duty employment.

#### D. Complaints

1. Complaints are processed per the procedures outlined in GO series 1973-02 Disciplinary Procedures, per KRS, and per the terms of the current collective bargaining agreements.

2. Records related to the receipt of complaints and all investigative files shall be maintained in a secure manner. Records shall be retained in accordance with current records retentions schedules.

3. The Public Integrity Unit shall notify the Chief of Police immediately of any formal complaints filed against any officer. Notification of informal complaints shall be done through the affected bureau, unless the commander of the PIU determines another course of action. Any action taken on informal complaints shall comply with the appropriate collective bargaining agreement.

4. The Public Integrity Unit shall provide statistical summaries regarding complaint investigations as requested. An annual summary will be included in the department's Annual Report for public distribution.

5. The Public Integrity Unit shall maintain liaison with the prosecutor's offices as needed involving any investigations of alleged criminal conduct by an officer of the department.

#### **IV. PUBLIC INTEGRITY UNIT PROCEDURES RELATED TO THE PRISON RAPE ELIMINATION ACT (PREA)**

The definitions for the terms 'sexual abuse' and 'sexual harassment' related to PREA are located in GO series 2013-04 Prison Rape Elimination Act Lockup Standards (PREA) and in GO series 1992-13 Temporary Detention and Interview Rooms.

The agency shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and/or sexual harassment<sup>1</sup>.

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<sup>1</sup> Prison Rape Elimination Act [PREA] 115.122 (a). US Department of Justice, 28 C.F.R. Part 115. May 17, 2012. Page 14

## A. Criminal and Administrative Agency Investigations

### 1. Administrative investigations<sup>2</sup>

- a. Shall include an effort to determine whether staff actions or failures to act contributed to the sexual abuse and/or sexual harassment; and<sup>3</sup>
  - b. Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings<sup>4</sup>.
2. Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible<sup>5</sup>.
3. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution<sup>6</sup>.
4. The agency shall retain all written reports referred to in c. and d. of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years<sup>7</sup>.
5. The departure of the alleged abuser or victim from the employment or control of the lockup or agency shall not provide a basis for terminating an investigation<sup>8</sup>.
6. When outside agencies investigate sexual abuse, the agency shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation<sup>9</sup>.

## B. Evidentiary Standard for Administrative Investigations

1. The agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated<sup>10</sup>.

## C. Data Collection<sup>11</sup>

1. The agency shall collect accurate, uniform data for every allegation of sexual abuse at lockups under its direct control using a standardized instrument and set of definitions.<sup>12</sup>
2. The agency shall aggregate the incident-based sexual abuse data at least annually.<sup>13</sup>

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<sup>2</sup> Prison Rape Elimination Act [PREA] 115.171 (f). Page 20

<sup>3</sup> Prison Rape Elimination Act [PREA] 115.171 (f. 1). Page 20

<sup>4</sup> Prison Rape Elimination Act [PREA] 115.171 (f. 2). Page 20

<sup>5</sup> Prison Rape Elimination Act [PREA] 115.171 (g). Page 20

<sup>6</sup> Prison Rape Elimination Act [PREA] 115.171 (h). Page 20

<sup>7</sup> Prison Rape Elimination Act [PREA] 115.171 (i). Page 20

<sup>8</sup> Prison Rape Elimination Act [PREA] 115.171 (j). Page 21

<sup>9</sup> Prison Rape Elimination Act [PREA] 115.171 (l). Page 21

<sup>10</sup> Prison Rape Elimination Act [PREA] 115.172. Page 21

<sup>11</sup> Prison Rape Elimination Act [PREA] 115.187. Page 23

<sup>12</sup> Prison Rape Elimination Act [PREA] 115.187 (a). Page 23

<sup>13</sup> Prison Rape Elimination Act [PREA] 115.187 (b). Page 23

3. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Local Jail Jurisdictions Survey of Sexual Violence conducted by the Department of Justice, or any subsequent form developed by the Department of Justice and designated for lockups.<sup>14</sup>
4. The agency shall maintain, review and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.<sup>15</sup>
5. Upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.<sup>16</sup>

#### D. Data Review for Corrective Action

1. The agency shall review data collected and aggregated pursuant to Section IV. C above in order to assess and improve the effectiveness of its sexual abuse prevention, detection and response policies, practices and training including:<sup>17</sup>
  - a. Identifying problem areas;<sup>18</sup>
  - b. Taking corrective action on an ongoing basis; and<sup>19</sup>
  - c. Preparing an annual report of its findings and corrective actions for each lockup, as well as the agency as a whole.<sup>20</sup>
2. Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.<sup>21</sup>
3. The agency's report shall be approved by the agency head and made readily available to the public through its website.<sup>22</sup>
4. The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a lockup, but must indicate the nature of the material redacted.<sup>23</sup>

#### E. Data Storage, Publication and Destruction

1. The agency shall ensure that data collected pursuant to Section IV. C above are securely

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<sup>14</sup> Prison Rape Elimination Act [PREA] 115.187 (c). Page 23

<sup>15</sup> Prison Rape Elimination Act [PREA] 115.187 (d). Page 23

<sup>16</sup> Prison Rape Elimination Act [PREA] 115.187 (f). Page 23

<sup>17</sup> Prison Rape Elimination Act [PREA] 115.188 (a). Page 23

<sup>18</sup> Prison Rape Elimination Act [PREA] 115.188 (a. 1). Page 23

<sup>19</sup> Prison Rape Elimination Act [PREA] 115.188 (a. 2). Page 23

<sup>20</sup> Prison Rape Elimination Act [PREA] 115.188 (a. 3). Page 24

<sup>21</sup> Prison Rape Elimination Act [PREA] 115.188 (b). Page 24

<sup>22</sup> Prison Rape Elimination Act [PREA] 115.188 (c). Page 24

<sup>23</sup> Prison Rape Elimination Act [PREA] 115.188 (d). Page 24

retained.<sup>24</sup>

2. The agency shall make all aggregated sexual abuse data from lockups under its direct control readily available to the public at least annually through its website.<sup>25</sup>

3. Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers.<sup>26</sup>

4. The agency shall maintain sexual abuse data collected pursuant to Section IV. C above for at least 10 years after the date of the initial collection unless Federal, State or local law requires otherwise.<sup>27</sup>

## V. PERSONNEL EARLY WARNING SYSTEM

A. The department's Personnel Early Warning System is intended to track key aspects of officer performance and to identify those officers who may require and/or who may benefit from department intervention efforts. The Public Integrity Unit is responsible for maintaining the department's Personnel Early Warning System, and to provide supervisors and administrators with timely identification of those officers who may be experiencing professional or personal difficulties.

1. Reported incidents, as outlined in C of this section.

2. A monthly report will be submitted as requested to the Chief of Police for review. This report will include any bias motivated complaints received by the Public Integrity Unit.

### B. Alert Reports and Annual Reports

1. Alerts are tracked and monitored by the IAPro software system.

2. The involved officer and the involved officer's assistant chief will be notified utilizing the currently approved electronic reporting method for any alert that is generated.

3. The Public Integrity Unit is responsible for preparing Alert Reports and Annual Reports listing individual officers who accumulate a predesignated number of incidents for the selected period of time. The Annual Report shall include an evaluation of the system to ensure that indication criteria are sufficient, and advise if indication levels require modification. In addition, the Annual Report shall indicate if there are recommended changes to the policy, procedure, or method of documenting incidents.

4. The Public Integrity Unit Alert Report will identify those officers who generate the following during a two (2) month period:

a. Five (5) or more BWC Activation Failure reports.

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<sup>24</sup> Prison Rape Elimination Act [PREA] 115.189 (a). Page 24

<sup>25</sup> Prison Rape Elimination Act [PREA] 115.189 (b). Page 24

<sup>26</sup> Prison Rape Elimination Act [PREA] 115.189 (c). Page 24

<sup>27</sup> Prison Rape Elimination Act [PREA] 115.189 (d). Page 24

5. The Public Integrity Unit Alert Report will identify those officers who generate any of the following during a three (3) month period:

- a. Three (3) or more response to resistance reports, including discharging firearms reports
- b. Three (3) or more vehicle pursuits
- c. Three (3) or more complaints of misconduct (Formal, Informal, or Inquiries)
- d. Five (5) or more of any combination of the above incidents.

6. The Public Integrity Unit Alert Report will identify those officers who generate the following during a twelve (12) month period:

- a. Two (2) at-fault collisions while on-duty or operating a department vehicle

7. The Public Integrity Unit Annual Report will identify those officers who generate any of the following during a twelve (12) month period:

- a. Three (3) or more at-fault collisions while on-duty or operating a department vehicle
- b. Six (6) or more response to resistance reports, including discharging firearms reports
- c. Six (6) or more vehicle pursuits
- d. Six (6) or more complaints of misconduct
- e. Ten (10) or more of any combination of the selected Personnel Early Warning System criteria

8. For each officer identified in either an Alert Report or Annual Report, the Public Integrity Unit will submit a report to the Chief of Police listing the officer's name, assignment, and a summary of the specific number and kinds of incidents which were used to identify the officer.

9. The Alert Report or Annual Report analysis may include a review of numerous factors involved in the officer's total history with the department. It may include, but is not limited to:

- a. Assignments
- b. Complaints
- c. Disciplinary actions
- d. Vehicle collisions
- e. On-duty injuries

- f. Commendations
- g. Documented counseling
- h. Productivity levels
- i. Performance appraisals
- j. Response to resistance
- k. Absentee history
- l. Vehicle pursuits

**C. Reporting Incidents**

1. Certain incidents are monitored by the Public Integrity Unit as part of the Personnel Early Warning System.

2. Supervisors are responsible for reporting these incidents utilizing the currently approved BlueTeam reporting method and/or other appropriate documentation to the Public Integrity Unit, via the chain of command, whenever an officer is involved in any of the below listed incidents:

- a. Response to Resistance
- b. Vehicle Pursuit
- c. Discharging Firearm
- d. Complaints of Misconduct
- e. Administration of Naloxone
- f. WRAP Restraint Usage
- g. BWC Activation Failure

3. At fault collisions:

a. At-fault collisions are also monitored by the Public Integrity Unit as part of the Personnel Early Warning System.

b. The Technical Services Unit supervisor is responsible to forward appropriate reports and documentation to the Public Integrity Unit, via the chain of command, whenever an officer has an at-fault collision involving a department vehicle.

**D. Chief of Police Review**



1. The Chief of Police will review Annual Reports submitted by the Public Integrity Unit. The Chief may direct further review into the performance of one or more of the officers listed within the report. Further review may be conducted by the Public Integrity Unit commander, the officer's bureau assistant chief or other employees designated by the Chief.

2. At the conclusion of the Chief's review, the Chief may take appropriate action that includes, but is not limited to:

- a. Discontinuing further review
- b. Recommend referral to an Employee Assistance Program (EAP)
- c. Training or retraining
- d. Counseling
- e. Close supervision and/or monitoring

Note: b, c, d, and e above are remedial actions.

3. The Chief, or designee, may develop a plan to remedy performance problems identified with an officer.

4. Remedial measures associated with this program are not an alternative to, nor should they influence, the outcome of pending disciplinary action relating to any incident.

5. Referrals to the Employee Assistance Program may be coordinated with the assistance of the Division of Human Resources.

#### E. Responsibilities of Supervisors

1. Supervisors may be interviewed or consulted concerning performance evaluations, work habits, interactions with the officer, counseling, and documentation of behavior.

2. Supervisors are responsible for forwarding documentation as requested.

3. As part of the overall program to assist the officer in improving performance, the officer's immediate supervisor shall be the person primarily responsible for ensuring any action(s) recommended for the officer are carried out, to include:

- a. Arranging the officer's schedule to permit participation in the Employee Assistance Program, retraining, or counseling.
- b. Documenting failure to attend training, EAP assistance, counseling, or inappropriate response to supervision.
- c. Informing and updating their lieutenant of the officer's performance.

F. Responsibilities of Lieutenants:

1. Lieutenants are responsible for:

- a. Ensuring proper documentation required for the Personnel Early Warning System is being forwarded by supervisors, and taking corrective measures when proper documentation is not forwarded to the Public Integrity Unit – either intentionally or inadvertently.
- b. Assisting supervisors under their command in identifying officer performance problems before they become more serious.
- c. Providing feedback to the supervisor implementing remedial action with an officer to ensure the plan is being followed and to monitor results.
- d. Providing progress reports to their immediate bureau commander concerning officer performance following intervention.
- e. Providing recommendations concerning intervention measures for officers identified by the Personnel Early Warning System.

**VI. ADDITIONAL PUBLIC INTEGRITY UNIT FUNCTIONS**

A. Inspector's Office

1. Responsibilities of the Inspector include and are not limited to:

- a. Ensure that department employees comply with policies and procedures.
- b. Conduct a full and a partial test of the emergency mobilization drill system annually.
- c. Conduct staff inspections and various other announced and unannounced inspections as required.
- d. Conduct audits of various units, accounts, funds and controlled substances training aids per the established schedules or as necessary.
- e. Review and process all critical incident reports, officer involved collisions, discharging firearms, and voided citations.
- f. Coordinate grievance process records maintenance.
- g. Complete an annual analysis of response to resistance reports, discharging firearms reports, officer involved collisions, and grievances.
- h. Serve as the department's safety inspector coordinator.
- i. Conduct Public Integrity Unit investigations as needed, take complaints on officers,

and record complaints that are documented by supervisors.

j. Conduct monthly audits of body-worn cameras usage, as prescribed in GO series 2015-15 Body-Worn Cameras, and track instances where a BWC should have been, but was not, activated.

B. Court Liaison Officer

1. Responsibilities of the Court Liaison Officer are outlined in GO series 1984-02 Court Attendance and Liaison and GO series 1978-01 Legal Process.

C. Report Review and Maintenance

1. All response to resistance reports, vehicle pursuit reports and discharging firearm reports shall be forwarded to the Public Integrity Unit, after review by the bureau assistant chief.
2. The Public Integrity Unit shall conduct a documented annual analysis of each type of the above reports of incidents of force for the purpose of identifying patterns or trends that could indicate training needs, equipment upgrades, and/or policy modification. Results of this analysis shall be forwarded to the Chief of Police.
3. The Public Integrity Unit shall also conduct a documented monthly analysis of vehicle pursuits for the purpose of identifying implications on the department related to policy, equipment, training, philosophical approach and interjurisdictional issues.

D. Off-Duty Employment

1. The Public Integrity Unit processes off-duty employment requests and manages compliance with off-duty employment regulations. Procedures are outlined in GO series 1973-15 Off-Duty Employment.

E. Grievance Procedure

1. Grievances are processed by the Public Integrity Unit in accordance with GO series 2011-05 Grievance Procedure.