



# University of Wisconsin–Madison Police

## Policy: 52.1

### SUBJECT: COMPLAINT INVESTIGATION PROCEDURES

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#### POLICY:

The University of Wisconsin–Madison Police Department shall implement objective and fair procedures for conducting complaint investigations. Internal investigations shall be conducted to ensure prompt corrective action is taken when deemed appropriate, training needs associated with the delivery of services are identified, and personnel are shielded to the degree possible from unwarranted criticism pursuant to the discharge of official duties.

#### DEFINITIONS:

“Misconduct” refers to wrongful actions by an employee, intentionally or unintentionally, which result from erroneous judgment or a disregard for established policies or procedures.

“Complaint” refers to an allegation by an individual that any Department employee has misused authority, acted illegally or unethically.

#### PROCEDURE:

##### 52.1.1 COMPLAINT INVESTIGATION

The following specifies the necessity of investigating complaints against the Department or its employees:

- A. All complaints against the Department or its employees shall be investigated, including anonymous complaints. All external complaints shall be reviewed by the Professional Standards Lieutenant or designee and processed in a thorough and expeditious manner. All Resolutions shall be documented in the Records Management System Internal Affairs Module and sent to the Professional Standards Lieutenant or designee for tracking.
- B. Supervisors and managers should complete the citizen compliant module form located on the Department records management system to report any external complaint. Once this form has been completed, an email should be sent to the affected employee’s immediate supervisor and the Professional Standards Lieutenant. This form must be completed even if the complaint is resolved at the supervisor level.
- C. When review of citizen complaints shows solely a difference of opinion regarding guilt or innocence of the complainant in the case of a citation or criminal charge, the complainant will be advised that the court system is the proper venue for a decision.
- D. When review of a citizen complaint shows the complaint is of a frivolous and repetitive nature the complaint will be forwarded to the Chief or an Assistant Chief of Police, who should review each complaint for validation before disregarding it for lack of a credible complainant.
- E. Complaints may be lodged in person, by mail, email, or by telephone. Anonymous complaints shall be accepted and investigated to the extent possible.

### **52.1.2 COMPLAINT RECORDS**

The following shall govern the process for maintaining a record of all complaints against the Department or its employees:

- A. The Department investigates all complaints against the Department or any of its employees. The records management system shall maintain a record of all external complaints against the Department or its employees. The Professional Standards Lieutenant or designee shall manage the external complaint process and report complaints against the Department or its employees to the Chief of Police in accordance with this policy.
- B. Supervisors are encouraged to resolve minor issues through discussion. If a minor issue can be resolved to the satisfaction of all persons, the details of the issue and its resolution shall be passed on to the employee's supervisor and the Professional Standards Lieutenant or designee.
- C. When complainants send written materials, the Professional Standards Lieutenant or designee shall maintain records of allegations of misconduct. These files shall be securely maintained. Reviewing and/or copying of all such files is restricted to the following:
  - 1. Copies of complaint investigation files will only be prepared at the direction of the Chief of Police. The Professional Standards Lieutenant or designee shall maintain a record of all copies. Complaint investigation files are confidential and shall not be released without the approval of the Chief of Police.
  - 2. In circumstances where a court order requires a disclosure of a complaint or complaint investigation records to an outside party, the Professional Standards Lieutenant or designee will provide concerned employees all materials that were ordered by the Court to be disclosed. No materials shall be released without approval of the Chief of Police.

### **52.1.3 INTERNAL AFFAIRS DIRECTION AND CONTROL**

The following provides guidelines for reporting internal affairs matters to the Chief of Police:

- A. The Professional Standards Lieutenant, all captains, and assistant chiefs shall have the authority to report directly to the Chief of Police on matters related to the internal affairs function. The Chief of Police or designee shall receive all pertinent complaint investigation information directly from the Professional Standards Lieutenant or the captain or assistant chief of the affected work unit.
- B. Activities associated with internal affairs may include recording, registering, and controlling the investigation of complaints against employees, managing the investigation of alleged or suspected misconduct within the Department, consulting with other investigative agencies, consulting with University counsel and the District Attorney's office when necessary, and maintaining the confidentiality of investigations and associated records.
- C. The sensitivity and impact of various complaints on the direction and control of an agency require that the agency's chief executive officer receive all pertinent information in a manner that is direct and timely.

### **52.1.4 COMPLAINT PROCEDURE DISSEMINATION**

The following shall govern making information available to the public on procedures to be followed in registering complaints:

- A. The Department shall make information available to the public regarding procedures to be followed in registering complaints against the Department or its employees. Contact information for registering or filing a complaint shall be listed on the Department website and on traffic stop pamphlets.
- B. Any employee receiving a request from the public on procedures to be followed in registering complaints shall provide that person with the information. An employee not familiar with the procedures shall refer the requesting individual to a supervisor for an explanation of the procedures.

### **52.1.5 CITIZEN COMPLAINT INVESTIGATION SUMMARIES**

The following shall govern the statistical compilation of investigation records:

- A. The Professional Standards Lieutenant or designee shall compile annual statistics based upon records of complaint investigations. These statistics shall be made available to the public and Department employees on the Department website.
- B. Annual statistical information on complaint summaries shall consist of statistics only; names or other specific details shall not be included in the compilation of statistics.

#### **52.1.6 COMPLAINT INVESTIGATION – ASSIGNMENT**

The following procedures shall govern actions associated with assigning a complaint investigation:

- A. Complainants who wish to file a complaint in person or via telephone should be referred to any supervisor unless the complaint involves that employee. If no supervisor is available, the Manager on Call shall be notified.
- B. Supervisors are encouraged to resolve minor issues through discussion. If a minor issue can be resolved to the satisfaction of all persons, the details of the issue and its resolution shall be passed on to the employee's supervisor. Supervisors and managers should complete the Department complaint intake form on the records management system to report any external complaint.
- C. If a complaint cannot be resolved through informal discussion with a supervisor or is of a serious nature, the complainant should be advised by the supervisor of the options listed below:
  - 1. For complaints such as, but not limited to, discourtesy, verbal abuse, sarcasm, or minor procedural violations, the complainant must submit a written complaint, but need not give a sworn statement.
    - a. If the complainant arrives in person, he or she shall be furnished the Department complaint letter and complaint form. If the complainant's name and address are known, the information shall be forwarded to the Professional Standards Lieutenant or designee. Once completed the letter and form should be forwarded to the Professional Standards Lieutenant or designee.
    - b. If the complaint is received by telephone and the complainant's name and address are known, the information shall be forwarded to the Professional Standards Lieutenant or designee. The supervisor who spoke with the complainant shall send a complaint form or direct the complainant to the UW–Madison Police Department website to download a complaint form.
    - c. If the complaint is received by fax, electronic mail or in writing, the complaint should be forwarded to the Professional Standards Lieutenant or designee who will promptly forward the complaint form to the complainant.
  - 2. For complaints involving serious policy or procedural violations, use of excessive force violations, violations of laws, court orders or civil rights, the complainant must submit a written complaint and the Attestation and Notary Form must be completed and notarized.
- D. In certain cases, immediate action must be taken to correct a potentially dangerous situation. When alcohol or drug use is suspected as related to duty performance, the Manager on Call (MOC) shall be notified.
- E. The Professional Standards Lieutenant or designee shall assign complaint investigations as follows:
  - 1. Complaints such as but not limited to discourtesy, verbal abuse or sarcasm or minor procedure violations should be assigned to the employee's immediate supervisor unless his or her supervisor is unavailable.
  - 2. Complaints involving serious policy or procedure violations, use of excessive force, violations of law, court orders or civil rights will be referred to the captain responsible for the employee, and the Chief of Police.
- F. In the event the alleged behavior may warrant criminal prosecution, two investigations shall be initiated, one criminal and one administrative. The complaint will be forwarded immediately to the Chief of Police for assignment.
- G. For all complaints which are assigned for investigation, a copy of the complaint shall be forwarded to the captain responsible for that employee.

#### **52.1.7 NOTIFICATION TO THE CHIEF**

The following procedure shall govern notification to the Chief of Police regarding complaints against the Department or its employees:

- A. The Captain of the affected work unit shall notify the Chief of Police of every allegation of serious misconduct and inquiry report taken. This notification shall ordinarily be during the bi-weekly Captains/Chief's meeting.

- B. If, during the course of the administrative investigation, the Captain of the affected work unit reasonably believes the complaint involves a serious policy or procedure violation, use of excessive force, violation of law, violation of a court order or civil rights, the Captain shall notify the Chief of Police immediately.

#### **52.1.8 COMPLAINT INVESTIGATION – PROVISIONS**

The following specifies time limits and other provisions for completing internal affairs investigations:

- A. All complaints assigned for investigation shall be completed within 45 days of receipt unless specific circumstances prevent this from occurring. Exceptions may only be granted upon direct order of the Chief of Police, or a designee.
- B. Status reports on the progress of the investigation shall be given by the assigned investigator to the Professional Standards Lieutenant or designee not less than once during every seven day period.

#### **52.1.9 NOTIFICATION TO REPORTING PARTY**

The following shall govern keeping the complainant informed concerning the status of a complaint:

- A. The Professional Standards Lieutenant or designee will mail a letter (verification of receipt that the complaint has been received for processing) to the reporting party.
- B. The Professional Standards Lieutenant or designee shall provide periodic status reports to the complainant when the case extends beyond 45 days.
- C. A captain or higher authority shall mail a letter to the reporting party notifying them of the results of the Department's investigation upon conclusion.

#### **52.1.10 EMPLOYEE RIGHTS**

The following shall govern notification of the subject of an internal affairs investigation:

- A. When an employee is notified that he or she has become the subject of an internal affairs investigation, the Professional Standards Lieutenant or designee shall issue the employee a written statement of the allegations and the employee's rights and responsibilities relative to the investigation.
- B. Employees who are the focus of an investigation are entitled to representation. Employees who are interviewed as part of a complaint investigation, but are not the focus of the investigation, are not entitled to representation.

#### **52.1.11 COMPLAINT INVESTIGATION – INVESTIGATIVE CONDITIONS**

The following procedures shall specify the procedures associated with internal affairs related examinations, identifications, investigations and searches:

- A. All special procedures and examinations shall be conducted in accordance with applicable state and federal laws, university policies and regulations, and Department directives, where appropriate.
- B. An employee may be required to submit to medical and/or laboratory examination(s) at the expense of the Department when the examination is specifically directed and narrowly related to a particular internal affairs investigation. Medical, psychiatric, or psychological examinations may be ordered at Department expense if a question exists concerning fitness for duty.
- C. An employee suspected of drug or alcohol use while on duty may be required to undergo breath, blood, and/or urine tests.
- D. An employee under investigation may request, at their expense, a breath, blood, urine, psychological, or truth verification.
- E. Photographs may be taken of an employee for use during the course of an investigation. An employee may be required to participate in a line-up for viewing by citizens for the purpose of identification.

- F. An employee may be required to submit financial disclosure statements when such documents are relevant to a particular internal affairs investigation.
- G. Property belonging to the agency is subject to inspection at any time. Such property includes, but is not limited to paper and electronic files, desk, vehicles, and lockers.
- H. Deception detection devices shall only be used in accordance with Wisconsin State Statute 111.37. An employee may request truth verification or other testing, at their expense, if it is believed such an examination would be beneficial to the employee's defense.

**52.1.12 RELIEVING AN EMPLOYEE FROM DUTY**

The following procedures shall govern pertinent actions related to the relief of employees from duty:

- A. Only the Chief of Police may suspend, demote, or discharge a subordinate. Such action shall be in accordance with applicable state and federal laws, university policies and procedures, and Department directives, where appropriate.
- B. An employee may be temporarily relieved from duty where there is an issue as to his or her physical or psychological fitness for duty or pending the disposition of an internal affairs investigation. When this action is taken, all members of the command staff shall be informed.
- C. A supervisor shall have the authority to relieve a subordinate of duty for the remainder of the work day when it appears that the employee's continued presence on the job poses a substantial or immediate threat to the welfare to the Department or to the public. Circumstances in which an employee may be relieved for duty for the remainder of the work day may include being under the influence of alcohol or drugs, acting in an insubordinate manner, being mentally and/or emotionally unstable, and neglecting duties. Being relieved for the remainder of the work day shall not constitute a suspension, demotion, or discharge.
- D. An employee who is relieved of duty shall be advised to report to the Chief of Police or designee the following business day. A supervisor who temporarily relieves an employee from duty shall immediately notify the manager on call and then complete a detailed report by the end of their tour of duty. The manager on call shall then notify the Chief of Police of the occurrence.

**52.1.13 COMPLAINT DISPOSITIONS AND CONCLUSION OF FACT FINDINGS**

The following governs notification of the complaint disposition and conclusion of fact findings:

- A. Upon completion of the investigation, the Captain responsible for the employee should review the report for completeness, and if necessary, return to the assigned investigator for further investigation. The captain will maintain a central file of the investigation documents.
- B. Upon receipt of an investigation, the captain responsible for the employee shall review all information and evidence resulting from the investigation and determine whether a possible violation has occurred. If the investigation reveals a likely violation, which if true warrants a verbal or written reprimand, or other minor corrective action, the captain or designee shall follow personnel guidelines to carry out such actions. If the investigation reveals a likely violation, which if true warrants a harsher penalty such as suspension, or identifies a possible officer or public safety issue, the captain shall meet with the Chief or an assistant chief to discuss possible courses of action. The captain shall communicate the final result to the complainant in writing and communicate the results to the employee through the employee's chain of command. The captain may also review the matter for training, procedural, and policy deficiencies and follow up, if necessary, with the appropriate staff.
- C. The Chief of Police or an assistant chief, after conferring with the captain responsible for the person being investigated, shall begin the process of corrective action. Corrective action shall follow University of Wisconsin personnel guidelines.
- D. A conclusion of fact shall be made for each investigation into alleged misconduct. The conclusion of fact is the final result of an analysis of the information. Completed internal investigations shall be classified as follows:
  1. Unfounded – when the investigation reveals that the alleged action did not occur.
  2. Inconclusive – where the investigation fails to uncover conclusive evidence in support or denial of the alleged action.

3. Exonerated – where investigation reveals that the alleged action did occur and was within Department policy and state law and was appropriate.
  4. Founded – when the investigation reveals that the alleged action did occur and was not within Department policy or state law or was inappropriate.
- E. Any disciplinary action shall be conducted in accordance with just cause. Consideration shall be given to the seriousness of the violation, the extent of injury to the victim, if any, the employee's service record, and the number of or nature of any prior sustained complaints.
- F. As part of the follow-up to a complaint investigation, the supervisor shall explain the outcome to the involved employee and will assess the need for a debriefing.
- G. The compliant shall be noted by the supervisor for inclusion in the Personnel Early Warning System report.