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# UW–Madison Police Department

## Policy: 52.1

**SUBJECT: EMPLOYEE INVESTIGATIONS AND CORRECTIVE ACTION**

**EFFECTIVE DATE: 06/01/10**

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**STANDARD: CALEA 26.2.1 -26.3.8 IACLEA 4.2.4 – 4.2.11 WILEAG 1.9.1, 1.9.4**

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### INDEX:

52.1.1 CITIZEN COMPLAINTS

52.1.2 INTERNAL INVESTIGATIONS

52.1.3 CORRECTIVE ACTIONS AND FORMAL DISCIPLINE

### POLICY:

The University of Wisconsin–Madison Police Department shall implement objective and fair procedures for conducting citizen complaint investigations, internal investigations and carrying out corrective actions of its employees. All department investigations shall be conducted in order 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. Any corrective actions taken towards its employees should be fair and unbiased and comply with existing laws and UW-Madison policies. All complaints, investigations, and corrective actions shall be documented in an organized manner so regular reviews and analysis can be conducted and the department can comply with accreditation standards and open records laws.

### 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.

“Citizen Complaint” refers to an allegation by an individual that any Department employee has misused authority, acted illegally or unethically or acted in violation of UWPD policy, or UW-Madison work rules.

“Internal Investigation” refers to the department’s investigation of an employee’s conduct in response to a citizen complaint, a complaint from another department employee, or supervisor observations.

“Corrective Action” refers to actions taken by the department to address an employee’s performance or behavior. Such actions may include informal training and coaching or may be formal discipline such as letters of reprimand, suspension, demotion or termination.

“Formal Discipline” refers to actions taken by the department to address a significant problem with an employee’s conduct. Such actions may include letters of reprimand, suspensions, demotions, or terminations.

### PROCEDURE:

#### 52.1.1 CITIZEN COMPLAINT(S)

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

##### A. Receipt of Complaints:

1. All citizen complaints against the Department or its employees shall be investigated, including those that are anonymous. All citizen complaints shall be reviewed by the Professional Standards Lieutenant or designee and processed in a thorough and expeditious manner.
2. Citizen complaints may be lodged in person, by mail, email, or by telephone. Anonymous citizen complaints shall be accepted and investigated to the extent possible. Complainants who wish to file a citizen 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.
3. Supervisors are encouraged to resolve minor complaints through discussion. If a minor complaint can be resolved to the satisfaction of all persons, the details of the complaint and its resolution shall be passed on to the employee’s supervisor and the Professional Standards Lieutenant.

4. If a citizen complaint cannot be resolved through informal discussion with a supervisor or is of a serious nature, the supervisor shall complete one of the following or a combination thereof;
  - a. If the complaint is received in-person or via telephone, the supervisor will complete the complaint form on behalf of the complainant with as much detail as the complainant provides and forward the form to the Professional Standards Lieutenant.
  - b. If the citizen complaint is received by fax, electronically or in writing, the complaint shall be forwarded to the Professional Standards Lieutenant for investigation.
5. 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.
6. Supervisors and managers shall notify the Professional Standards Lieutenant in writing of any citizen complaint, even if the complaint is resolved at the supervisor level without a formal complaint form completed. The Professional Standards Lieutenant shall be responsible for entering and tracking all citizen complaints.

**B. Investigating citizen complaints:**

1. All citizen complaints shall be forwarded to the Professional Standards Lieutenant immediately upon receipt for investigation. 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.
2. The Professional Standards Lieutenant shall assign the complaint to the Captain of the employee's work unit. Upon receipt of the complaint, the Captain of the employee's work shall investigate the complaint or assign a supervisor to investigate the complaint.
3. The assigned investigator shall notify the employee in writing they are the subject of a citizen complaint and the general nature of the complaint.
4. The Professional Standards Lieutenant or designee shall reply to the complainant in writing, advising the complainant that the Department has received the complaint and they will be notified within 45 days as to the outcome of the investigation of their complaint. The Professional Standards Lieutenant or designee shall provide periodic status reports to the complainant when the case extends beyond 45 days.
5. In the event the alleged behavior may warrant criminal prosecution, two investigations shall be initiated, a criminal investigation and an internal investigation. The complaint will be forwarded immediately to the Chief of Police for assignment. The two investigations shall be kept separate and the criminal investigation shall be conducted by an outside agency determined by the Chief of Police.
6. A Captain or higher authority shall inform the complainant in writing of the results of the Department's investigation, upon conclusion.
7. The Captain of the work unit or designee will advise the employee in writing of the outcome of the investigation of the complaint upon its conclusion.
8. The Captain of the work unit shall forward all formal decisions in writing to the Professional Standards Lieutenant immediately upon conclusion of the complaint investigation.

- C. Conclusion of Fact Findings:** a conclusion of fact shall be made by the assigned investigator for each citizen complaint of alleged misconduct. The conclusion of fact is the final result of an analysis of the information. Completed citizen complaint 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.

**D. Records of Complaints:**

1. The Department shall make information available to the public regarding procedures to be followed in registering citizen complaints or commendations towards the Department or its employees. Contact information for registering or filing a citizen complaints or commendation shall be listed on the Department website and on traffic stop pamphlets.
2. Any employee receiving a request from the public on procedures to be followed in registering citizen complaints or commendations shall provide that person with the information. An employee not familiar with such procedures shall refer the requesting individual to a supervisor for an explanation of the procedures.
3. The Professional Standards Lieutenant shall manage the citizen complaint process and will have direct access to notify the Chief of Police of complaints against the department or its employees.
4. When complainants send written materials, the Professional Standards Lieutenant shall maintain records of all written materials involving citizen complaints. These files shall be securely maintained
5. The Professional Standards Lieutenant shall maintain a record of all the citizen complaints against the Department or its' employees in the Records Management System.
6. Copies of citizen complaint investigation files will only be prepared at the direction of the Chief of Police. The Professional Standards Lieutenant shall maintain a record of all copies. Citizen complaint investigation files are confidential and shall not be released without the approval of the Chief of Police.
7. The Professional Standards Lieutenant shall compile annual statistics based upon records of citizen complaint investigations and commendations. These statistics shall be made available to the public and Department employees on the Department website.
8. Annual statistical information on all citizen complaints investigations shall consist of statistics only; names or other specific details shall not be included in the compilation of statistics. This statistical information will include the number of citizen complaint investigations and the conclusion of facts.

**52.1.2 INTERNAL INVESTIGATION(S)**

**A. Internal Investigation(s) Procedures:**

1. An internal investigation can be initiated for the following reasons, including but not limited to;
  - a. Citizen Complaint- it is determined that the citizen complaint is significant in nature and may result in formal discipline
  - b. Complaint(s) from department employee(s)
  - c. Supervisor/Chain of Command
2. All complaints against the Department or its employees shall be investigated, including those that are anonymous. Anonymous complaints shall be accepted and investigated to the extent possible.

3. The Captain of the employee's work unit shall be responsible for determining if a formal internal investigation is necessary, and if so, assign an investigator.
4. Once an internal investigation is initiated, the Captain of the employee's work unit shall notify the Professional Standards Lieutenant in writing, as soon as practical. The Professional Standards Lieutenant 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.
5. All complaints assigned for investigation shall be completed within 90 days of assignment unless specific circumstances prevent this from occurring. Extensions must be requested by the Captain of the affected work unit and may only be granted upon direct order of the Chief of Police, or a designee.
6. If, during the course of the internal investigation, the Captain of the employee's 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.
7. The sensitivity and impact of various complaints on the direction and control of an agency require that the Chief of Police receive all pertinent information in a manner that is direct and timely.

**B. Employee Rights:**

1. When an employee is notified that he or she has become the subject of an internal affairs investigation, the assigned investigator or designee shall issue the employee a written statement of the allegations and the employee's rights and responsibilities relative to the investigation.
2. 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.
3. 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.
4. 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 and in consultation with Office of Human Resources, if a question exists concerning fitness for duty.
5. An employee suspected of drug or alcohol use while on duty may be required to undergo breath, blood, and/or urine tests.
6. An employee under investigation may request, at their expense, a breath, blood, urine, psychological, or truth verification.
7. 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.
8. An employee may be required to submit financial disclosure statements when such documents are relevant to a particular internal affairs investigation.
9. An employee may be required to submit to being audio or video recorded.
10. 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.

11. 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.

**C. Disposition and Conclusion of Fact Findings:**

1. The assigned investigator shall review all information and evidence collected during the investigation and will determine whether a possible violation has occurred. The investigator will complete a written report with their findings and forward to the Captain responsible for the employee.
2. Upon completion of all investigations, the Captain responsible for the employee shall review the report for completeness, and if necessary, return to the assigned investigator for further investigation. The Captain shall evaluate the investigator's findings and determine if any corrective action should be taken. The Captain will be responsible for notifying the employee in writing of a pre-disciplinary hearing.
3. At the conclusion of the investigation, the Captain of the employee's work unit or designee shall inform the employee in writing the outcome of the investigation, including any corrective action. This written notification shall be completed even no corrective action is taken towards the employee.
4. When the investigation reveals a violation that requires corrective action, the Captain of the employee's work unit will confer with the Chief of Police and/or Assistant Chief (s) and shall begin the process of corrective action. Corrective action shall follow University of Wisconsin-Madison personnel guidelines. The Captain of the employee's work unit shall notify the employee's chain of command of the outcome of the investigation and corrective action, if applicable.
5. Any corrective action shall be conducted in accordance with just cause and the progressive discipline system used by the University of Wisconsin. 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.

**D. Internal Investigation Records:**

1. The Captain shall forward all documentation related to the investigation to the Professional Standards Lieutenant upon immediately upon completion of the investigation. The Captain may also review the matter for training, procedural, and policy deficiencies and follow up, if necessary, with the appropriate staff.
2. The Professional Standards Lieutenant shall maintain records of all internal investigation files. These files shall be securely maintained. If an open records request is made or court order issued, copies of internal investigation files will only be prepared at the direction of the Chief of Police. The Professional Standards Lieutenant shall maintain a record of all copies. Internal investigation files are confidential and shall not be released without the approval of the Chief of Police.
3. The Professional Standards Lieutenant shall compile annual statistics based upon records of internal investigations. These statistics shall be made available to the public and Department employees on the Department website.
4. Annual statistical information on all internal affairs investigations shall consist of statistics only; names or other specific details shall not be included in the compilation of statistics. This statistical information will include the number of internal investigations and any corrective actions taken.

**52.1.3 CORRECTIVE ACTIONS AND FORMAL DISCIPLINE**

- A. The necessity and authority of management to enact appropriate corrective action for its employees is recognized pursuant to federal and state laws, including the Wisconsin State Statute's Law Enforcement Officers' Bill of Rights, department policies, rules, and regulations. Emphasis should be placed on preventing situations requiring formal

disciplinary actions through effective employee-management relations. The system of corrective actions is based upon the determination of whether or not employee behavior considered for corrective action was the result of an accident, a mistake, or an intentional act of wrongdoing. University employees may be disciplined for violation of Work Rules for University Employees if there is just cause. In most instances, a progression of corrective actions will be applied in an effort to reinforce appropriate behaviors with an employee.

**B. Department Corrective Action and Discipline:**

1. Remedial training may be employed by itself or in conjunction with one or more of the other components of the corrective action system. Remedial training as a function of corrective action strengthens an employee's performance by improving employee productivity and effectiveness using positive and constructive methods. Employees are required to diligently maintain an acceptable level of competence in the performance of their duties. Employees' acts that are committed because the employees either misunderstood procedures or were never made aware of the correct action are indicators of training needs. These needs may be corrected by remedial training programs. Supervisors are required to identify any shortcomings, deficiencies, or lack of sufficient knowledge in their employees' job performance. When appropriate, training recommendations will be made based on those areas identified.
2. The purpose of coaching is to allow the supervisor the opportunity to bring to the employee's attention the need for the employee to improve his or her performance, work habits, behavior, or attitude and to serve as education against further unsatisfactory conduct. The supervisor should use the occasion to identify and define the area needing improvement and inform the employee as to how much improvement can be realistically achieved. The supervisor involved shall record in the employee's performance evaluation instances when coaching rises to the level of a performance improvement plan or formal letter of work expectations.
3. Formal discipline beyond coaching as a component of the department's corrective action system may be employed in conjunction with the remedial training. In all cases in which formal discipline is employed, the coaching component shall also be employed. Formal discipline generally shall be imposed in a progressive manner from minimum to maximum. Depending upon the seriousness of the infraction, formal discipline may be imposed up to the maximum. In all formal discipline actions, the following criteria shall be used to determine the appropriate level of disciplinary action: the seriousness of the incident, the circumstances surrounding the incident, the employee's disciplinary records, the employee's work performance, the overall negative impact on the Department caused by the incident, the probability that future similar problems will occur, and the length of the employee's employment. Formal discipline may include the following:
  - a. A written reprimand. A formal letter to an employee concerning misconduct, unacceptable performance, or repeated lesser infractions. The reprimand is placed in the employee's personnel file. Written reprimands can be issued by the Captain of the affected work unit, Assistant Chief (s) and Chief of Police.
  - b. Suspension. A temporary enforced absence from duty in a non-pay status imposed for significant misconduct or repeated lesser infractions. This action cannot be taken without prior notification and approval from the Chief. Only the Chief or Assistant Chief(s) may issue an order of suspension.
  - c. Demotion. A reduction in rank, job classification, or pay grade and/or step. Demotion is only exceeded by termination in its severity. Demotion is categorized as voluntary or involuntary. Voluntary demotion is a voluntary reduction in pay, or a requested transfer that is accompanied by a signed statement. Involuntary demotion may be utilized in circumstances in which a member exhibits unsatisfactory performance or personal conduct in one position but shows potential for becoming a productive member in another position. It may be used as an alternative to dismissal. Only the Chief may issue an order of demotion.
  - d. Dismissal. Termination of employment for conduct clearly demonstrating an unwillingness or refusal to perform to Department standards or other employee acts of a nature that would warrant dismissal. This action cannot be taken without prior notification and approval from the Chief. Only the Chief may issue an order of termination.

e. Any employee subjected to formal discipline beyond coaching shall receive the following information in a timely manner:

- i. The reason for the disciplinary action.
- ii. The scope or type of disciplinary action.
- iii. The effective date of the disciplinary action.
- iiii. Employee appeal and hearing rights.

**C. Supervisor Role(s) in Corrective Actions:**

1. Initiating corrective action is primarily the responsibility of the first line supervisor.
2. All types of formal discipline shall be documented and involve the employee's chain of command.
3. Supervisors and managers shall provide complete information and associated documentation to the Professional Standards Lieutenant as soon as the formal disciplinary investigation is initiated and when it is completed.
4. The Professional Standards Lieutenant shall document formal discipline in the Professional Standards Module of the department's Records Management System. The Professional Standards Lieutenant shall maintain the official department discipline record and ensure documentation of written reprimands, suspensions, and terminations are copied to the appropriate chain of command and to Workforce Relations in the Office of Human Resources.
5. Supervisors shall also follow UW-Madison Policy regarding discipline which is located in Chapter 18, Discipline Including Dismissal, of the Human Resources policies.
6. Supervisory and administrative personnel should understand and appreciate the crucial role they possess in the corrective action process. As leaders within the organization, such persons are responsible for documenting work-related behavior.
7. Supervisory and administrative personnel shall observe the conduct and appearance of subordinates and determine when corrective action is warranted. Early detection of poor habits, attitudes, and actions by subordinates may reduce or eliminate the need for any subsequent formal discipline.
8. Supervisory and administrative responsibilities shall include the following: training, coaching, and counseling employees; communicating expected standards of performance; developing and implementing policies, procedures, rules and regulations; identifying, rewarding, and correcting performance; documenting pertinent facts in a timely manner; and maintaining secure records systems.

**D. Relief from Duty:**

1. 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.
2. An employee may be temporarily relieved from duty with pay where there is an issue as to his or her physical or psychological fitness for duty or pending the disposition of a citizen complaint investigation and/or internal investigation. When this action is taken, all members of the command staff shall be informed.
3. A supervisor shall have the authority to relieve a subordinate of duty for the remainder of the work day on paid status 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, or neglecting duties. Being relieved for the remainder of the work day shall not constitute a suspension, demotion, or discharge.

4. 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.

**E. Appeal Procedures:**

1. Appeals of formal discipline actions shall be conducted in accordance with the established UW-Madison grievance policy. Such appeals shall be processed according to employment classification through established grievance procedures.
2. Detailed grievance procedures regarding discipline are outlined in University policies and Office Human Resources references. These references contain detailed information regarding initiation procedures, time limits, recording methods, hearing authorities, and scope of the appeal process.

**F. Dismissal Notification:**

1. If employee misconduct results in dismissal, the following information shall be provided to the employee: a written statement citing the reason for dismissal; the effective date of the dismissal; and a statement of the status of fringe and retirement benefits after dismissal.
2. This directive shall apply to all full-time permanent and project employees, including those who are at the entry level in probationary status.

**G. Maintenance of Formal Discipline Records:**

1. The Captain of the employee's work unit shall provide copies of all formal written documents regarding the employee's formal discipline to the Professional Standards Lieutenant immediately upon issuing of the discipline. Such documents include but are not limited to: Investigatory Meeting Letters, Pre-disciplinary Meeting Letters, Investigation Reports and Final Discipline Letters.
2. The Professional Standards Lieutenant or designee shall maintain written records of all formal discipline in secure personnel files. Access to such files shall be restricted to authorized persons.
3. Reviews of disciplinary-related records shall be conducted in accordance with all applicable University procedures.
4. The following records shall be entered in the employee personnel files: written reprimand, suspension, demotion, and dismissal. Letters of formal discipline up to demotion may be purged from non-supervisory personnel files after five years, provided that no similar performance concerns have occurred during that time.
5. Copies of formal discipline, citizen complaint investigation and/or internal investigation files will only be prepared at the direction of the Chief of Police or designee. The Professional Standards Lieutenant shall maintain a record of all copies. Formal discipline, citizen complaint investigation and/or internal investigation files are confidential and shall not be released without the approval of the Chief of Police or designee.
6. In circumstances where a court order or open records request requires a disclosure of formal discipline, citizen complaint investigation and/or internal investigation files to an outside party, the Professional Standards Lieutenant shall notify and provide current employees all materials that were ordered by the Court or open records request, that will be disclosed and be given an opportunity to contest the release. No materials shall be released without first conferring and receiving the approval of the Chief of Police or designee. Those materials being released will be done so in accordance with open records laws.