

4.8, INTERNAL INVESTIGATIONS / CIVILIAN COMPLAINTS

4.8.1 Purpose

The purpose of this policy is to inform employees and the public of departmental procedures for addressing complaints of misconduct.

Policy

It is the policy of this department to investigate all complaints of alleged employee misconduct and to equitably determine whether the allegations are valid or invalid and to take appropriate action. All allegations of departmental or officer misconduct shall be properly investigated whether such complaints are received verbally, in writing, through a third party, or anonymously.

There shall be no retaliation in any form by any member of this agency directed at an individual who makes a complaint.

During the complaint intake process, no questions shall be asked of a complainant regarding their immigration status.

Officers who withhold information, fail to cooperate with department investigations or who fail to report alleged misconduct or malfeasance of employees to a supervisor shall be subject to disciplinary action.

When a person who is noticeably intoxicated or impaired wishes to make a complaint, he or she shall be encouraged to wait until the earliest opportunity after he or she has regained sobriety to do so. When the Supervisor determines the circumstances require immediate action, preliminary details of a complaint should be taken by a Supervisor, when available, regardless of the person's sobriety. In that event, the internal affairs designee should re-interview the person after he or she has regained sobriety.

If a complainant expresses fears of retaliation as a result of filing a complaint, they must be assured that those fears will be taken seriously. Complainants should be asked to provide the basis for their concerns, if possible, and the information provided should be noted in the complaint. This will allow the unit, supervisor or internal affairs designee to be aware of these fears and develop reasonable strategies to assist the complainant in dispelling those fears.

4.8.2 The Internal Investigation

The Chief of Police's Office is responsible for all internal investigations conducted within the Waterford Police Department. Officers assigned to assist the Chief's Office with internal investigations shall report to, and serve at the pleasure of, the Chief of Police.

The Chief of Police will ensure that the integrity of the department is maintained through an internal system where objectivity, fairness, and justice are assured by intensive, impartial investigation and review. The Chief's Office coordinates and exercises staff supervision over investigations of complaints or allegations of misconduct against the Waterford Police Department and its members.

The Chief's Office is responsible for the following:

- A. recording, registering and controlling investigations of complaints against agency personnel
- B. supervising and controlling investigations of alleged misconduct within the department
- C. maintaining the confidentiality of records of all internal investigations

The Chief of Police or his designee is responsible for developing sufficient information to support an appropriate disposition of each matter being investigated. The investigators shall diligently pursue every legitimate course of action in their efforts to obtain facts. It is not the responsibility of the Chief's designee to adjudicate matters which it has investigated. It is a fact-finding body, which will present completed investigations to the Chief of Police for final disposition. The following conclusion of fact shall be used upon completion of the internal investigation.

Unfounded

Complaint or incident is false and not factual.

Exonerated

Complaint or incident did occur, but actions of members involved were proper and lawful.

Not Sustained

Insufficient evidence to either prove or disprove the complaint or incident.

Sustained

The complaint or incident is supported by sufficient evidence of misconduct by Departmental personnel.

4.8.3 Internal complaints (general)

An appropriate investigation shall be conducted for all complaints made against the Waterford Police Department and its members. Complaints may be in any manner including verbal, in writing, by telephone, through a third party, or anonymously. It is also the policy of this department to appropriately address citizens inquires concerning departmental regulations, procedures and policies, action taken by agency employees in the performance of their duties, and similar issues which involve the Department and its members.

4.8.4 Complaint procedure

When a complaint is made regarding alleged employee misconduct, the ranking supervisor on duty of the Division or Unit to which the employee is assigned shall be summoned to receive the complaint. If there is no supervisor available from a particular Division or Unit, the ranking patrol supervisor on duty shall receive the complaint. If a complaint involves a supervisor, an officer of the next higher rank shall receive the complaint. Reasonable efforts shall be made to resolve the complaint immediately if appropriate. In no event is a complainant to be told to return at another time, or that no one is available to handle his or her complaint. No employee shall refuse to assist any person who wishes to file a citizen complaint or discourage, interfere with, hinder, delay, or obstruct a person from making a citizen complaint.

The following steps shall apply to all complaints:

- A. The supervisor receiving the complaint shall gather all pertinent details regarding the complaint including but not limited to:
 - 1) names and addresses of any witnesses to the incident
 - 2) receiving any available physical evidence
 - 3) taking necessary photographs if applicable/appropriate
 - 4) memo of explanation to the Office of the Chief of Police
- B. The supervisor receiving the complaint shall check the Civilian Complaint Form for completeness and give the complainant a photocopy of the complaint form. The supervisor shall also insure the complainant is aware of the investigation process.
- C. The supervisor receiving the complaint shall forward the completed Civilian Complaint Form along with a department memo to the Chief of Police.
- D. The Chief of Police will review the complaint form and any associated documentation and make a determination if a formal internal investigation shall be initiated.
- E. The Chief of Police shall base his decision as to whether the nature and seriousness of the allegations warrant an Internal Investigation. In general, Internal Investigations will be recommended for, but will not be limited to:

- 1) use of excessive force complaints
- 2) allegations of civil rights violations
- 3) claims of serious unethical conduct which may not be criminal
- 4) abuse of authority/office

F. If an Internal Investigation is initiated, the Chief of Police shall notify the Lieutenant or other supervisor assigned to the complaint in writing of the Internal Investigation. In addition, the Chief of Police or his designee shall notify the complainant in writing that he has ordered an Internal Investigation into the matter.

In addition to the above procedure, the Chief of Police may at any time initiate an Internal Investigation based on:

- 1) a matter he has personal knowledge of
- 2) information brought to his attention by a member of the Department
- 3) information brought to his attention by any other source

The Chief of Police or his designee shall investigate all complaints made by motor vehicle operators who feel they were stopped in violation of Directive 6.3.1. (Uniform Enforcement Procedures). The Chief of Police or his designee shall forward a copy of such complaint along with the findings of the investigation to the Office of the Chief State's Attorney as required by law.

4.8.5 Conduct of Internal Investigation

The Chief of Police shall assign an Internal Investigation case number to each complaint received and shall begin a proper investigation.

Certain investigations requiring specific expertise may justify assigning other agency personnel to the internal investigation on a temporary basis. The Chief of Police shall make such assignments as he determines necessary. During the investigations for which the assignment was made, the officer shall be under the functional supervision of the Chief of Police or his designee.

If it becomes apparent during the course of an Internal Investigation that criminal charges could possibly be lodged against an employee, the supervisor assigned shall be notified, who will notify the Chief of Police.

Should probable cause exist to substantiate a criminal charge, the Chief of Police or his designee shall direct the Investigative Services commanding officer or his designee to conduct a criminal investigation of the matter.

During all criminal investigations involving a member of this agency, liaison shall be maintained with the prosecutor, Superior Court (Assistant State's Attorney for Part A or Part B offenses, depending on the severity of the alleged crime).

Any criminal investigation shall be completed first, separate and apart from the internal investigation. Any criminal investigation takes precedent over the internal investigation.

4.8.6 Investigations conducted at the Division level

If it has been concluded by the Chief of Police that due to the nature of the complaint, it is to be handled at the Division level, the Chief of Police or his designee shall direct that such an investigation be conducted. The commanding officer of the Division or his designee shall be assigned to conduct such an investigation. In general, the types of investigations that will be conducted at the Division level include:

- A. failure to follow procedures
- B. slow or no response to calls for service

- C. failure to take proper action
- D. improper operation of department vehicles
- E. tardiness in reporting for duty
- F. violations of department dress code
- G. poor demeanor or rudeness

Completed investigations at division levels shall be forwarded to the Chief of Police or his designee who shall review all relevant details to ensure appropriate procedures were followed, and an adequate investigation was conducted. After review, the case shall be logged with the Chief of Police for recording purposes with an internal case number.

The Chief of Police or his designee shall be a resource to commanding officers of other Divisions or Units in conducting investigations of a less serious nature.

4.8.7 Citizen inquiries

Frequently, citizens contact the agency with questions regarding a policy, procedure, or tactic used by the department. This is a simple inquiry and may be handled by any member of the department.

When a citizen questions the actions of a member of the agency, the matter shall be referred to an on-duty supervisor who will determine if the matter is merely an inquiry that may be handled by providing routine information or if it is a matter that may require an investigation pursuant to this directive.

4.8.8 Notification of employee rights

When an employee of the Waterford Police Department becomes the subject of an internal investigation, that employee may be notified in writing of the scope and nature of the allegations, and the employee's rights and responsibilities relative to the investigation.

4.8.9 Records of complaints

The Chief of Police is responsible for maintaining accurate and complete records of all complaints against the department and its employees. These records shall be kept secured, and disposed in accordance with applicable laws. The Chief shall maintain yearly statistical summaries of investigations for dissemination.

4.8.10 Public and employee notification of complaint procedures

The Waterford Police Department may make available to the public, procedures for registering complaints against the department or its employees. This may be accomplished through the use of the media and informational brochures disseminated by the Department. Information shall also be disseminated to all agency employees.

4.8.11 Notification to Chief of Police regarding internal complaints

The Chief of Police shall be notified of all complaints against the Department or its employees.

The Chief of Police shall be notified immediately in the event a department employee is arrested or charged with a criminal offense or found to be under the influence of alcohol or drugs while on duty. The required notification will be made by the commanding officer receiving the report. The commanding officer shall ensure that all reports are completed and shall forward copies of those reports through the chain of command to the Chief of Police.

When an Internal Investigation has been concluded, the results shall be forwarded to the Chief of Police who will determine the appropriate action. The Chief shall notify the complainant(s) and all officers involved in the allegation and advise them of the final disposition.

4.8.12 Notifications to complainants

When the Chief of Police orders an Internal Investigation, written notification of this investigation will be sent to the complainant of that fact. At the conclusion of an Internal Investigation, the Chief of Police

shall contact the complainant in the matter and notify them of the outcome of the complaint. If appropriate, the Chief of Police or his designee should contact complainants periodically during the course of lengthy Internal Investigation. All such contacts shall be appropriately documented in the investigation file.

4.8.13 Security/confidentiality of Internal records

Completed Internal records shall be kept in a locked file cabinet in the Chief's office. The Chief of Police or his designee shall be the only personnel authorized to access these files, except as otherwise required by law.

4.8.14 Relief from duty

Supervisors or commanding officers may issue a temporary administrative suspension, with pay, for up to a period of 24 hours to an employee under the following circumstances:

- A. employee misconduct, personally observed by the supervisor or commanding officer which is extremely serious in nature and/or creates actual or potential harm to the officer or others
- B. the employee is unfit for duty due to physical or psychological reasons (e.g. intoxication)

The Chief of Police shall restore sworn members suspended under this section to duty within 24 hours of said suspension unless that employee remains unfit for duty.

If it becomes necessary to remove an employee from duty for an extended period of time, the Chief of Police shall take the required action in accordance with the disciplinary procedures outlined in the Union Contract.

4.8.15 Internal Investigations - other procedural guidelines

An employee shall not be subject to the following conditions without probable cause, and a proper search warrant issued by the court:

- A. Medical or laboratory examinations
- B. Photographs taken of the employee
- C. Directed to participate in a line-up
- D. Submission of personal financial disclosure statements

4.8.16 Time limits for Internal Investigations

Internal affairs investigations shall be investigated in a timely manner, usually taking less than ninety days. The Chief of Police may grant time extensions for investigations as required ensuring a fair conclusion of fact.