



POLICY & PROCEDURE

HOLMEN POLICE DEPARTMENT

SUBJECT:	CITIZEN COMPLAINTS AND INTERNAL INVESTIGATIONS	NUMBER:	6.12
		ISSUED:	10/04/2016
SCOPE:	All Personnel	REVIEWED:	01/27/2017
DISTRIBUTION:	Policy and Procedure Manual	<input checked="" type="checkbox"/> RESCINDS	
		<input type="checkbox"/> AMENDS	
REFERENCE:	WI §62.13(5), §66.0511(3), §164.02-.05, and §946.66; WPD P&P 4.02	WILEAG 4th EDITION STANDARDS: 1.9.1, 1.9.2, 1.9.3, 1.9.4, 1.9.5, 4.2.1.3	

INDEX AS: Agency Investigation of Complaints
 Responsible Individual or Position
 Complainant Notification
 Employee Notification
 Maintenance of Records
 Annual Review

PURPOSE: The purpose of this Policy & Procedure is to promote the integrity of the Holmen Police Department by informing all employees and the public of established procedures for accepting, processing and investigating complaints concerning allegations of employee misconduct, and assure the prompt and thorough investigation of alleged or suspected employee misconduct.

This Order consists of the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. PROCEDURE

I. POLICY

Establishment of procedures for investigating complaints and allegations of employee misconduct is crucial to demonstrate and protect this agency's integrity. The Village of Holmen Police Department will accept and investigate fairly and impartially all complaints off employee conduct to determine the validity of the allegation. It is the policy of the Holmen Police Department that all incidents of alleged or suspected violations of State law, local ordinances or Department rules, regulations or orders must be investigated in a timely manner.

II. DEFINITIONS

COMPLAINT: A report that is filed as part of a procedure established under WI §66.0511(3).

CITIZEN COMPLAINT: A complaint against an officer or officers of this department from a known source regarding alleged misconduct.

PROCEDURAL COMPLAINT: A complaint based on actions that, if performed properly, are acceptable according to legal guidelines and Department policy; e.g., complaints concerning towing vehicles, parking, traffic enforcement, etc.

MINOR MISCONDUCT COMPLAINT: A complaint based on allegations of minor misconduct by employees of the Department. Examples of minor misconduct include isolated incidences of mild rudeness or offensive language by an officer, traffic infractions by an officer, minor rules and regulations violations, etc.

LAW ENFORCEMENT OFFICER: Has the meaning given in WI §165.85(2)(c).

CRIMINAL INVESTIGATION: The process of investigation into alleged acts of misconduct that, if sustained, may be the basis for filing criminal charges.

INFORMAL INQUIRY: A meeting between supervisory personnel and an employee, who has become the subject of a procedural or misconduct complaint, for the purpose of mediating the complaint or discussing the facts to determine whether a formal investigation should be initiated.

INTERNAL AFFAIRS COORDINATOR: The police chief has the authority and responsibility of coordinating the internal affairs function. If the internal affairs investigation involves the police chief, an outside agency will be contacted to conduct the investigation.

INTERNAL INVESTIGATION: The process of investigation into alleged acts of misconduct that, if sustained, may be the basis for filing administrative charges.

SERIOUS MISCONDUCT: Examples of serious misconduct include, but are not limited to, corruption, brutality, misuse of force, breach of civil rights, criminal misconduct, or repeated acts of minor misconduct.

III. PROCEDURE

A. Citizen Complaints.

If a citizen has a concern regarding the Holmen Police Department, its policies/procedures or individual members they are encouraged to file a complaint in a timely fashion with the police chief or his/her designee; the Village Administrator; or a Trustee of the Village Board.

1. Receipt and Processing. (1.9.1.4)

a. Persons desiring to file a complaint will be encouraged to complete a written complaint on the Citizen Complaint Form.

- 1) If an employee of the Department receives a complaint either in person, or by phone, or by mail, the employee should record all information such as name, address and phone number.
- 2) The complainant should be told that the complaint should be filed utilizing the Department form and filed with one of the individuals listed in III.A., above or by direct contact with one of those individuals.
- 3) The employee will contact the police chief as soon as practicable with the above information.
- 4) A known complainant shall be notified of the receipt of their complaint and the impending investigation.

b. Anonymous written complaints shall be handled with the same degree of accord as those where the identity of the complainant is known: however, the identity of the complainant will be kept confidential by the individual receiving the complaint until such time as revealing the identity becomes necessary. The complainant will be notified at the time of the pending release and given the option to withdraw the complaint.

c. Complaints received from an unknown source will be handled to the degree possible based on the information provided by the unknown source.

d. When possible, written, signed complaints should be witnessed by the receiver and one (1) copy given to the complainant.

e. Complaints against the police chief shall be referred to the Village Administrator directly.

2. Investigation of Complaints. (1.9.1.1)

a. All citizen complaints shall be forwarded directly or through channels to the police chief, or the Lieutenant or/and Village Administrator if the police chief is the subject of the complaint.

b. Citizen complaints will be investigated the same as other internal investigations

c. Citizens shall receive periodic updates on the progress of investigations.

- d. All investigated complaints shall be completed whether or not the citizen complainant follows through with their complaints.
 - e. Upon conclusion of an investigation, the police chief shall ensure that the complainant and the employee are advised in writing of the final outcome of the internal investigation.
3. Incidents initiated by a civil suit or notice to file civil suit are not subject to this policy statement.

B. Personnel Investigations

1. It is essential that public confidence be maintained in the ability of the Department to investigate and properly adjudicate complaints against its employees. The Department should endeavor to preserve the rights of the employee as well as those of the public, and any investigation or hearing arising from the complaint should be conducted in an open and fair manner with the truth as its primary objective. The Department accepts complaints against its members and fully investigates all such complaints to the appropriate disposition. Procedures for filing a complaint shall be made available to the public including this policy and procedure.
2. The five (5) primary objectives of a personnel investigation are:
 - a. Protection of the public.
 - b. Protection of the Department.
 - c. Protection of the employee.
 - d. Correction of procedural problems.
 - e. Removal of unfit personnel.
3. False complaints of police misconduct (1.9.1.4).
 - a. Whoever knowingly makes a false complaint regarding the conduct of a law enforcement officer is subject to sanctions determined by WI State Statutes.(§66.051(3) and §946.66)
4. Allegations of employee misconduct received from Department personnel are recorded on a Department Memorandum with specific information relative to the alleged employee misconduct.
5. Allegations of employee misconduct received from any source outside the Department are recorded on the Citizen Complaint Statement form with specific information relative to the alleged employee misconduct, or inquiries concerning Holmen Police Department policies, procedures or tactics.
6. The information recorded is that which is necessary to begin an investigation into the events surrounding the allegation.
7. The Citizen Complaint Statement form concerning alleged misconduct is completed whether the allegation is received in person at the Department, by telephone, or at some other location, or by some other

means and forwarded to the police chief.

8. Based upon the allegation received, employee misconduct is investigated by the Department as a “formal investigation”, “informal investigation” or as an “inquiry”.
9. If an employee receives information about a significant allegation of employee misconduct requiring immediate investigation, the police chief should be notified as soon as practicable.
10. Employee cooperation.
 - a. All employees are required to cooperate with the investigation of personnel misconduct.
 - b. Failure to do so will result in disciplinary action for failure to obey orders.

(1.9.1.3)

11. During the preliminary investigation, the police chief shall determine whether the complaint is based on procedure, minor misconduct, or serious misconduct and whether the complaint would be best resolved through an informal inquiry, internal investigation, or criminal investigation. It may be deemed by the police chief that no investigation is warranted.

C. Formal Investigations.

1. A formal investigation is conducted on serious allegations of misconduct where an investigator is assigned to obtain formal interview statements from the employees involved.
2. A personnel investigation is determined to be formal by the police chief primarily based upon the nature and complexity of the allegation.
3. Examples of personnel investigations that may be determined as formal include, but are not limited to:
 - a. Allegations of violation of the law.
 - b. Allegations regarding morals.
 - c. Allegations of brutality.

D. Informal Investigations.

1. The primary difference between the formal investigation and the informal investigation is the manner in which the investigation is conducted.
2. An informal investigation is conducted on less serious allegations of misconduct where the investigation consists of obtaining memorandums from concerned employees regarding the allegations. Generally formal interviews or statements are not used. Instead, information is obtained via memorandums and existing records.
3. A personnel investigation is determined to be informal by the police chief primarily based upon the nature and complexity of the allegation.
4. Examples of personnel investigations that may be classified as informal

include, but are not limited to:

- a. Complaints of slow response.
- b. Alleged failure to take proper police action.
- c. Alleged poor attitude displayed by Department employee(s).

E. Inquiry.

1. An “inquiry” concerns a citizen contacting the police chief with questions about a policy, procedure, or tactic used by the Department, without the filing of a written complaint as described above.
2. When a citizen questions the actions of a Department employee and it is determined by the police chief that the employee acted within prescribed Department policy, procedure or tactics, the matter is handled as an “inquiry”.
3. Any employee other than the police chief who receives an inquiry from a citizen regarding Department policy, procedures or tactics should take the citizen’s information, note the inquiry and tell them they will be contacted by the police chief. Information concerning the inquiry should be forwarded to the police chief via electronic mail.
4. If after receiving the inquiry the police chief determines that the employee has not acted within prescribed Department policy, procedure or tactics, the police chief may deem the inquiry to be insufficient and may require the filing of a Citizen Complaint with procedures to be followed as applicable to the Citizen Complaint process.
5. Examples of an “inquiry” include, but are not limited to:
 - a. Why did an employee handcuff a prisoner?
 - b. Why was a field interrogation conducted?
 - c. Why was vehicle emergency equipment used?
 - d. For what reason was a high risk car stop made?

F. Responsibilities of the Internal Affairs Coordinator (Police Chief) (1.9.1.2)

1. The police chief shall be responsible for the coordination of all investigations regarding allegations of serious misconduct by department employees, monitoring the investigation of procedural and minor misconduct complaints, and maintaining records of all complaints against the department and its employees.
2. The police chief shall maintain the confidentiality and security of internal investigations and internal affairs records. These records shall be kept in a secure file in the police chief’s office. These records shall be kept separate from other department records, and access to them shall be strictly limited.
3. The police chief shall conduct investigations of alleged or suspected misconduct within the Department, assign the investigation to another supervisor or request another law enforcement agency to conduct the investigation. When assigned to another supervisor/agency, the police chief

shall supervise and control the investigation.

- a. The police chief shall also consider whether the alleged misconduct should result in a criminal investigation. In the event a criminal investigation is deemed appropriate, an investigation shall be conducted by another investigator or, with the approval of the police chief, the assistance of an outside investigative agency shall be utilized.
 - b. The police chief shall ensure that liaison is maintained with the District Attorney's office in investigations involving alleged criminal misconduct on the part of an employee.
4. In all cases involving a complaint of misconduct against the police chief, the management and authority for the investigation is with the Village Administrator.

G. Officers' Duties and Rights during an Investigation.

- The following policies and procedures should be employed in investigatory matters of the Village of Holmen Police Department. In each instance, the actions taken, from the initial investigation to final disposition, are to be fair and just. Officers are expected to abide by these practices and/or procedures set forth herein. For purposes of this Section, the term "officer" means any sworn employee of the Department.
- For purposes of this Section, the following procedures should apply regarding an officer's duties and rights during an investigation:
 1. Scope of Questioning During an Interview.
 - a. Prior to an internal interview concerning alleged criminal misconduct, the officer under investigation shall be read the *Miranda* rights. The provisions of *Miranda* shall be adhered to throughout the interview.
 - b. Prior to an internal interview concerning allegations of administrative violations, the officer under investigation shall be advised as follows:
 - 1) The officer can be required to answer all questions specifically, narrowly, and directly related to the performance of his/her official duties.
 - 2) Refusal to comply with an order to answer such questions is a violation of Departmental rules and/or policies, which may subject the officer to further discipline up to and including dismissal.
 - 3) Any required self-incriminatory admission made during the interview may be used only in subsequent administrative proceedings, and shall not be used against the officer in subsequent criminal proceedings.
 2. Counsel/Representative at Interview.
 - a. Officers may be permitted to have an attorney, supervisor, or other personal representative with them in the room during any interview

concerning allegations of misconduct by the employee (criminal or administrative). (WI §164.02(1)(b))

- b. The officer's representative is limited to acting as an observer of the interview, except where the interview focuses on, or leads to, evidence of potential criminal activity by the officer. In that case, an officer's legal representative may advise and confer with the officer during the interview.

3. Special Examinations.

- a. The Department may require a breath test, blood test, urine test, psychological, polygraph or medical examination upon the direction of the designated Departmental official/investigator. The police chief shall determine what additional test(s) will be administered on an individual basis, after conferring with the officer and investigator.
- b. An on-duty higher ranking officer, at the direction of the police chief should direct an officer to submit to a breath, blood or urine test when a level of inebriation/intoxication or drug usage is suspected as the factor directly related to duty performance or operating a Department vehicle.
- c. If an identification lineup is solely for administrative purposes and criminal prosecution is not anticipated, an officer can be required to participate in a lineup.

4. Rights during an Internal Investigation.

- a. Prior to any interview or special examination, the officer under investigation will receive confidential written notification of the complaint. This notification will include a copy of the original complaint or a summary adequately listing the relevant facts. (WI §164.02(1)(a))
- b. All interviews should be conducted while the officer is on duty, unless the seriousness of the investigation is such that an immediate interview is required.
- c. The complete interview shall be recorded.
- d. The accused officer(s) or their supervisor may contact the police chief to ascertain the status of the investigation of a complaint filed against them.
- e. The accused officer(s) will be given reasonable opportunity to explain their actions to the police chief prior to the imposition of any disciplinary action.

H. Dispositional Findings; Closure.

- The investigator's report and recommendations on a disciplinary matter or upon completion of an internal investigation will be forwarded to the police chief with a determination as to whether a violation has been sustained according to the evidence. The police chief shall have the authority to make the final determination as far as recommendations for discipline, as applicable.
- For purposes of this Section, the following procedures should apply:

1. Police Chief's Actions Following Completion of Investigation.
 - a. The police chief shall review the final report and supporting documents, and shall give final approval of the disposition of the case as follows:
 - 1) Sustained: Evidence sufficient to prove allegation.
 - 2) Not Sustained: Insufficient evidence to either prove or disprove allegations.
 - 3) Exonerated: Incident occurred but was lawful or proper.
 - 4) Unfounded: Allegation is false or not factual.
 - 5) Policy Failure: Flaw in policy/procedure likely caused incident.
2. Upon final approval and completion, the police chief shall carry out discipline as prescribed in Department Policy 4.02, Disciplinary Procedures.
3. When recommended disciplinary action will result in suspension, dismissal or demotion, a formal statement of charges and specifications may be prepared, pursuant to the policies and procedures adopted by the Wrightstown Village Board.
4. Any employee who is subjected to punitive action shall receive the information specified in Department Policy 4.02, Disciplinary Procedures.
- I. All completed investigation documents will be maintained in the Department's internal affairs files, maintained by the police chief. The case disposition and/or findings will be included in the employee's personnel file.
- J. All reports of employee conduct and subsequent administrative action will be tracked in accordance with Department Policy 4.03, Early Warning System.
- K. An annual review of all complaints shall be conducted to determine any patterns, tendencies, etc. that need to be addressed. The police chief or his/her designee shall conduct this review.

Shane Collins
Police Chief

This Policy cancels and supersedes any and all previous Policies and Directives relative to the subject matter contained herein.

Initial 10/04/2016