

POLICY #52-1



INTERNAL AFFAIRS – CITIZEN COMPLAINTS

Issue Date: 9/2/2016

Revision Date: 6/24/20

Review Date: 8/27/17; 6/27/18; 7/10/19; 6/24/20

Issuing Authority: Richard Fuller

Accreditation Standards: 52.1.1; 52.1.2; 52.1.3; 52.1.4; 52.2.1; 52.2.2; 52.2.3; 52.2.4; 52.2.5; 52.2.6; 52.2.7; 52.2.8; 26.1.2; 26.1.4; 26.1.5; 26.1.6; 26.1.7; 26.1.8

GENERAL CONSIDERATIONS

A relationship of trust and confidence between the employees of this police department and the citizens of the community is essential to the successful accomplishment of law enforcement objectives. All police employees are expected to conduct themselves, whether on or off duty, in such a manner as to reflect favorably upon themselves and the Department. The consistently high quality of this standard of conduct establishes and maintains the reputation of the Department and encourages the support of the community for police purposes and goals.

In the Weymouth Police Department this function of internal affairs may be delegated by the Chief to the Captain of Investigative Services who in turn may assign a rated officer from the unit. For the purposes of this Policy and Procedure, the term Internal Affairs Section will refer to any of the foregoing as appropriate. [52.1.3]

The internal affairs function is important for the maintenance of professional conduct in a law enforcement agency. The integrity of the Department depends on the personal integrity and discipline of each employee. To a large degree, the public image of this Department is determined by the quality of Internal Affairs investigations responding to allegations of misconduct against the Department, officers and/or civilian employees.

The primary responsibility of the Internal Affairs function is to respond to allegations of misconduct against the police department and its employees. [52.1.1 An officer assigned to complete an Internal Affairs investigation will be responsible for recording, registering, and controlling the investigation of complaints against employees; supervising and controlling the investigation of alleged misconduct within the department; and, maintaining the confidentiality of internal affairs investigations and records by securing them in a locked filing cabinet. A proper Internal Affairs investigation will ensure that the integrity of the Department is maintained through an internal system where objectivity, fairness and justice are assured by intensive and impartial investigation and review. [52.1.2]

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The responsibility for supervising, conducting, coordinating, and maintaining the Internal Affairs function of the Department lies with the Captain of Investigative Services who shall report directly to the Chief of Police. All findings will be prepared in writing and presented to the Chief of Police with a recommendation for disposition. [52.1.3]

Since an Internal Affairs investigation involves allegations against a member of the Department, it is essential that the process not only be lawful, but confidential as well. This necessitates strict confidentiality and full adherence to procedure.

The objectives of an Internal Affairs investigation are:

1. Protection of the public;
2. Protection of the employee;
3. Protection of the Department;
4. Removal of unfit personnel;
5. Correction of procedural problems.
6. Address training deficiencies

All alleged or suspected violations of laws, ordinances, by-laws, department rules, regulations, policies, procedures, and orders (verbal or written), must be investigated according to the procedures outlined for each. These include: [52.1.1]

1. Alleged violations reported to the Department's superior officers by other members of the Department, either orally or in writing;
2. Alleged violations, observed or suspected, by Department superior officers;
3. Citizens' complaints of alleged police misconduct which are made in person, by letter, by telephone, or anonymously (includes prisoner complaints).

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It is the policy of this police department to investigate all complaints against a member of the Department or against the agency itself, regardless of the source of such complaints, through a regulated, fair, and impartial Internal Affairs Program. [52.1.1]

PROCEDURES

1. Internal Discipline
 - 1.1. Code of Conduct: All members of the department must be thoroughly familiar and comply with all department rules, regulations, policies, procedures and orders.
 - 1.2. Disciplinary Actions: Rules and Regulations list several methods of discipline to be administered in a fair and impartial manner for infractions of department rules, regulations, policies, procedures and orders. These include oral reprimand, written reprimand, suspension, demotion and

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dismissal. The following methods may also be employed in addition or as alternatives to the above:

- 1.2.1. Training: In some cases, a member's disciplinary or productivity deficiencies may be addressed by additional training in the problem area. Successful completion of the course of training and application on the job will determine the effectiveness of this method. This may be accomplished through prompt "in-house" training by a supervisor, training officer, or certified instructor. At the discretion of the Chief of Police, an employee may be required to attend such training. [26.1.4(a)]
 - 1.2.2. Counseling: At those times that a supervisor recognizes a minor problem or the potential for one with a member, they may choose to discuss the matter with the employee and attempt to remedy the situation before more stringent disciplinary methods are required. If after discussion with the employee the problem continues, the supervisor will notify, in writing, the Captain of Investigative Services of the reasons necessitating such action. A copy of such notice will be given to the employee. [26.1.4(b)]
2. Punitive Actions: Instances warranting punitive actions being taken against an employee will vary from case to case; is the infraction a repeat offense, should the employee have known right from wrong, was the act or omission egregious, etc. Upon the Chief's recommendation, an employee may be subject to punitive action such as, but not limited to, letter of reprimand, extra duty, assignment change, suspension and termination. The Chief will conduct a thorough review of all the facts pertaining to the infraction(s) before making his determination. [26.1.4(c)]
3. Role of the Supervisor [26.1.5]
 - 3.1. The first-line supervisor's familiarity with their personnel allows them the best opportunity to observe or foresee disciplinary problems and to determine the most appropriate methods to deal with them.
 - 3.2. The first-line supervisor has the primary responsibility for overseeing the conduct, discipline, and duty performance of all personnel under their supervision and the basic accountability for failure to take warranted disciplinary action.
 - 3.3. Supervisors shall be responsible for discovering marginal or problem employees and for uncovering any evidence of corruption, dishonesty, or malfeasance by personnel under their command.
 - 3.4. Supervisors must exercise discretion in the application of disciplinary action. As noted before, the use of counseling by a supervisor may avert a potential disciplinary problem or prevent a minor problem from escalating. Supervisors may also issue an oral reprimand to an employee for a minor infraction when they occur. [26.1.5]
 - 3.5. All supervisors have the authority to relieve from duty with pay all agency personnel, sworn and non-sworn, under his/her command for the balance of the assigned shift only if said Supervisory has determined that the employee is unfit or unable to perform his/her assigned duties or responsibilities. [52.2.7] In all cases, the Chief of Police shall immediately be notified and advised

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of the circumstances surrounding such action and a written report will be submitted outlining the incident. This action may or may not occur as a result of a need for disciplinary investigation or action. [26.1.5]

3.5.1. Examples of relieving for non-disciplinary reasons would be as follows: [52.2.7]

- If the officer or employee is suffering from an illness and appears too sick to work effectively or safely.
- If the officer or employee reports to work injured, is injured during the performance of duties and a physician advises that he/she be relieved, or is injured on duty and refuses to acknowledge the apparent danger the injury may place himself/herself in if remaining on duty.
- The officer's or employee's mental state or behavior as the result of an unusual or traumatic situation presents a danger or fitness for duty concern and therefore responsibilities may not be performed safely and properly.

3.6. Supervisors may initially investigate and relieve any officer or employee from duty, with pay, for the balance of the assigned shift only, for any infraction or violation of the Rules, Regulations, Policies, Procedures or Orders of the Department. The following are only examples; not limited to. [52.2.7] [52.2.1(a)]

3.6.1. Reporting to duty while under the influence of alcohol or controlled substance.

3.6.2. Insubordination

3.6.3. Leaving assigned post or refusing to perform assigned duties.

3.6.4. Committing a criminal offense while on or off duty

3.6.5. Falsifying a statement or record

3.6.6. Abusing, stealing, damaging, destroying, or defacing property or equipment of the Department or others

3.6.7. Improper use of Department property

3.6.8. Conduct unbecoming a police officer

3.7. Any Shift Supervisor who relieves an officer or employee from duty for disciplinary reasons shall immediately file a report to the Chief containing all details of the matter. This report will be left with the Lieutenant on duty, with copies going to the Chief of Police. Further investigation into the matter will be conducted in accordance with the procedures outlined in this policy.

3.8. All supervisors have the duty to ensure that discipline is maintained within the department. It should be remembered that discipline can be positive in nature and includes recognizing and rewarding exemplary performance, training, counseling, as well as punitive discipline.

4. Employee Recognition [26.1.2]

4.1. Employees can be recognized for exceptional performance in several ways. If it is believed that an employee's actions have risen above and beyond their normal job performance, the person

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noting this exceptional performance is to write a report recommending recognition to the employee's immediate supervisor detailing his/her actions. This report will then be passed to a Watch Commander for review who in turn will pass it on to the Chief of Police. A Watch Commander can be the one to note exceptional performance by an officer as well. In this case, the Watch Commander will draft the report and forward it to the Chief of Police.

Based on the action performed by the employee such as, but not limited to, receiving a promotion, saving the lives of others, risking personal injury to help another, etc. the Chief may choose to do any of the following:

- 4.1.1. Write a letter of commendation to the employee to be placed in their personnel file.
- 4.1.2. Make a request to the Mayor that the employee receive recognition by the Town for their action. Generally, recognition is honored with a brief ceremony at Town Hall or the Police Station.

5. Command Level Authority

The following is an outline by rank and command level of authority of supervisors to discipline their subordinates. [52.2.1(a)] [[52.2.7]

- 5.1. First-Line Supervisor (Sergeant): Has the authority to counsel, evaluate, praise and recommend for recognition. They also have the authority to issue oral reprimands, written warnings, relieve from duty as specified above, or recommend more serious punitive disciplinary action as appropriate.
- 5.2. Lieutenant: Has all the above plus the authority to issue written reprimands with the approval from any Captain or recommend more serious punitive disciplinary action as appropriate.
- 5.3. Captain: Has all the above plus the authority to recommend suspension, demotion and termination.
- 5.4. Chief of Police: Has all the above, plus the authority in accordance with the just cause provision of the collective bargaining agreement, all applicable law and policy to promote, suspend and terminate an employee.

Any supervisor who is directed to act in the capacity of a rank above his/her ordinary or usual rank shall, for that necessary time, possess the authority of that rank.

6. Procedures for Instituting Disciplinary Action

- 6.1. The supervisor alleging misconduct of an employee shall complete a written report to their immediate supervisor or commanding officer.
- 6.2. Upon receipt of a report, the commanding officer shall take all necessary steps within their authority to address the situation. In those cases, where such request exceeds their authority, the request shall be forwarded to their immediate supervisor for action.

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- 6.3. Upon receipt of a report requesting disciplinary action, the Commanding Officer shall review the circumstances and ensure that proper action was taken.
- 6.4. All written reports requesting disciplinary action or employee commendation shall be forwarded to the next higher superior officer above the supervisory taking the disciplinary action or employee commendation. [26.1.2]
- 6.5. If the disciplinary action taken was in the form of training, the Captain of Administrative Services shall place a copy of the written request, along with a description of the training given, in the officer's training folder. [26.1.4(a)]
- 6.6. The Chief of Police will review and maintain all records of disciplinary actions against all employees that involve training or counseling. These records will be stored in the employee's personnel file which will be located in a locked room to which there is limited employee access [26.1.8]

7. Complaint Procedures

7.1. Complaint Report Form

- 7.1.1. A standard complaint report form should be used to record all complaints of misconduct, mistreatment, or unethical practices against police department personnel, whether registered by a citizen, initiated from within the police department, or forwarded by another governmental agency.
- 7.1.2. The following information shall be included on the complaint report form:
 - Date and time of complaint report;
 - Name, address, and telephone number of the complainant;
 - Name, address and telephone numbers of any witnesses to the reported incident;
 - Name, rank, badge number (or description) of the employee against whom the complaint is made;
 - Date, time and location of the reported incident;
 - Complainant's description of the incident which resulted in the complaint;
 - Signature of complainant;
 - Signature of parent or guardian if complainant is under eighteen years of age;
 - Date and time the Chief of Police received the complaint.
- 7.1.3. Every person making a complaint against a department employee shall receive a copy of his or her complaint to serve as a receipt verifying that such complaint has been received. [52.2.4(a)]
- 7.1.4. When a complaint is made in person, the Chief of Police will ensure that the complainant receives a copy of his or her complaint to serve as a receipt as a written verification that the complaint has been received. A CAD-coded (computer aided dispatch) Civil Complaint will be initiated to serve as verification that the complaint was received.

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7.1.5. When a complaint is received over the telephone the Watch Commander will initiate a CAD-coded Civil Complaint to serve as verification that the complaint has been received. Only the complainant's information need be recorded and the fact that it is a citizen's complaint.

7.2. Receiving and Recording Complaints

7.2.1. The Watch Commander at the time the complaint is made shall be responsible for the efficient receiving and complete recording of any complaint of police employee misconduct made by a citizen in person or received by telephone. This will include a citizen's complaint form and a written incident report in Microsoft Word. A copy of the written report shall be submitted with the citizen's complaint form.

7.2.2. Courtesy and cooperation should be extended to all citizens registering complaints or otherwise inquiring about complaint procedure.

7.2.3. This initial contact between a complaining citizen and police authorities is a most important stage in the complaint process as the complainant is often tense, angry, and emotionally upset, and the potential for hostility is great.

7.2.4. No person should be denied an opportunity to register a complaint, nor should any such person be directed to return or call back later. If the complainant is intoxicated, the complaint should be recorded and the complainant advised to return at a later date. The complete written complaint form and the watch commander's incident report must be filed with the office of the Chief of Police.

7.2.5. Every complaint report form shall be given an identifying number, so that the processing of complaints can be carefully monitored. The Captain of Investigative Services will assign this identifying number if not already assigned one by the Shift Supervisor.

7.2.6. Citizens making complaints in person should be requested to read over their complete report, to make any necessary corrections or additions and to sign their complaint.

7.2.7. If a complainant refuses to sign a complaint, a notation to that effect should be made on the complaint form.

7.2.8. Citizens making complaints by telephone should be informed that their signed complaint is requested; however, no telephone complaint should be refused or rejected because the complainant does not wish to sign a complaint form or because he/she does not wish to be identified. A CAD entry shall be initiated.

7.2.9. No complaint should be rejected solely because it is anonymous, as anonymous complaints can often be a valuable source of information and should be considered on their individual merits. [52.1.1]

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- Care must be taken, however, that the Department employees are not subject to unjust, frivolous, or capricious complaints.

7.3. Complaints Received by Mail

- 7.3.1. If a complaint of misconduct or mistreatment by a department employee is received by mail, the allegations shall be incorporated in a standard complaint form and the original communication attached thereto.
- 7.3.2. If the information so received is insufficient or incomplete the complainant shall be contacted, if possible, and informed of the Department complaint procedure and any necessary additional information obtained. In any case, The Chief of Police will cause a CAD to be initiated under Civil Complaint documenting all the information as necessary.

7.4. Departmental Complaints

- 7.4.1. Formal departmental complaints of misconduct against a department employee shall be initiated by the preparation of a formal letter submitted through the chain of command. The Captain of Investigative Services shall make the Chief of Police aware of all formal departmental complaints. The Chief of Police shall be notified (verbally or by other means of telecommunication) immediately by the Captain of Investigative Services or by the Officer in Charge during his absence, of any allegations of criminal activity involving an employee or the agency. [52.1.3] [52.2.2]

7.5. Complaints by Prisoners

- 7.5.1. Any prisoner who alleges misconduct or mistreatment by a department employee shall be advised by the Officer-in-Charge of the station of his/her rights to submit a complaint report form in the usual manner and such complaints should be investigated and processed in the same manner as other citizen's complaints.

7.6. Complaints from Governmental Agencies

- 7.6.1. When information is received or obtained from other governmental agencies alleging specific acts of misconduct against a department employee, this information shall be recorded on a standard complaint report form and an investigation initiated in the usual manner.

7.7. Street Complaints

- 7.7.1. If an officer on the street is approached by a citizen regarding a complaint of alleged misconduct against an employee of the police department, the officer shall inform such person that his or her complaint should be directed to the Officer-in-Charge of the station.

7.8. Verification of Receipt [52.2.4(a)]

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- 7.8.1. Every person making a complaint against a department employee shall receive a copy of his/her complaint to serve as a receipt verifying that such complaint has been received.
- 7.8.2. When a complaint is made in person, the officer receiving the complaint will ensure that the complainant receives a copy of his/her complaint to serve as a written verification that the complaint has been received.
- 7.8.3. When a complaint is received over the telephone or through the mail, the officer-in-charge of Internal Affairs shall be responsible to ensure that the complainant is sent a copy of his/her complaint to serve as a written verification that the complaint has been received.

8. Investigative Procedures

8.1. Categories of Complaints

- 8.1.1. The Department has established guidelines regarding which categories of complaints will be handled and investigated by a formal internal investigation and which by a shift supervisor, as part of routine discipline. The criteria for determining the categories of complaints to be investigated and/or reviewed by Internal Affairs Investigation include, but are not limited to, allegations of: [52.2.1(b)]

- Corruption;
- Brutality;
- Use of excessive force;
- Violation of civil rights; and
- Criminal misconduct.

- 8.1.2. Criteria for the assignment of an investigation to a shift supervisor may include such offenses as: [52.2.1(a)]

- Alleged rudeness;
- Tardiness; and
- Insubordination.

8.2. Immediate Resolution of a Complaint

- 8.2.1. In some cases, a complaint can be resolved to the complainant's satisfaction at the time by the Shift Supervisor.

- This immediate resolution can often be accomplished if the incident is clearly not of a serious nature, or arises from a misunderstanding or lack of knowledge of the law or limitations of a police officer's authority.
- If a complaint that arose from misunderstanding or lack of knowledge of the law was resolved by the Shift Supervisor, a notation will be made by the Shift Supervisor in his/her watch report, however, no formal complaint form should be filed.

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8.3. Investigation of Complaints

- 8.3.1. Any Internal Affairs investigation must be commenced immediately upon receipt of the complaint and must be completed within ten (10) days after the officer assigned to investigate has made contact with the complainant (unless extenuating circumstances exist. These circumstances shall be documented in writing by the officer and forwarded to the Chief who may grant an extension). Formal complaint forms can be obtained at the Weymouth Police Department. Once the formal complaint sheet is filled out and received by the Department, the time and date of arrival at WPD will be noted and a copy made for the complainant. [52.2.3]
- 8.3.2. If exigent circumstances precluded completion, then the Officer-in-Charge of the investigation shall notify the Chief of Police in writing of those circumstances.
- 8.3.3. In addition to the employee, if a citizen makes the complaint, the Chief of Police shall notify the complainant in writing of the results of the internal investigation within seven (7) days after the completion of the investigation. [52.2.4(c)]
- 8.3.4. Finally, the Officer-in-Charge of the investigation shall be responsible for providing the Chief of Police with status reports on the progress of the investigation every five (5) days. [52.1.3] [52.2.4(b)]
- 8.3.5. These reports shall contain all pertinent information relating to the progress of the investigation. At the complainant's request, the Chief or the investigating officer will attempt to update the complainant as to the status of the investigation every seven (7) days. [52.2.4(b)]
- 8.3.6. The officer assigned to investigate the allegation shall be responsible for conducting Internal Affairs investigations and shall report to the Captain of Investigative Services who will report directly to the Chief of Police. [52.1.3]
- 8.3.7. If the substance of a complaint, if proven, would be of a grave nature or is an accusation of a serious crime, against the agency or an employee, and immediate action is deemed necessary, the Chief, or the superior officer designated by the Chief, shall be verbally notified forthwith in order that an investigation can be initiated without delay. [52.2.2]
- 8.3.8. When an employee is notified that they have become the subject of an internal affairs investigations and before he/she is questioned or directed to submit a report regarding a complaint, such employee shall be issued a written statement of the allegations and the employee's rights and responsibilities relative to the investigation. [52.2.5]
- 8.3.9. An internal administrative investigation may inquire into a department employee's on-duty or off-duty conduct if such inquiry is responsibly and directly related to the employee's performance of duty, if such conduct affects the employee's fitness or ability to continue in the police service, or if it discredits the Department.

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8.4. Criminal Proceedings

If it is determined, after a preliminary investigation, that allegations against a department employee could result in a criminal prosecution, the accused employee must be granted all applicable constitutional and statutory rights.

8.4.1. Prior to being questioned regarding alleged personal involvement in criminal activity, a department employee who is under arrest, or who is the target of a criminal investigation, shall be given the warnings and rights required by the Miranda decision, including the rights to have an attorney present during any such questioning.

8.4.2. If this procedure is followed, any voluntary statement made thereafter could be admissible in a criminal proceeding, and it may otherwise be used for departmental disciplinary purposes.

8.4.3. A department employee who is being questioned about alleged personal involvement in criminal prosecution cannot be discharged or otherwise penalized, solely for invoking the right to remain silent as guaranteed by the Fifth Amendment or for refusing to sign a waiver of immunity.

8.4.4. However, as discussed below, an employee may be compelled to answer questions narrowly drawn and related to his/her on or off-duty conduct, and may be disciplined (including discharge) for failure to answer truthfully. [52.2.7]

8.5. Departmental Disciplinary Action

If it is determined as a result of preliminary investigation, that allegations made against a department employee could result in departmental disciplinary action, the accused employee is entitled to a fair and objective investigation and resolution of the charges made.

8.5.1. All department employees, both sworn and non-sworn, when requested by the Chief or by a superior officer designated by the Chief, must respond fully and truthfully to all questions regarding their performance of official duties or their off-duty misconduct which affects their fitness or ability to remain in the police service. Any failure to answer completely and truthfully to such inquiries may be punished by appropriate disciplinary action, including dismissal from the Department. [52.2.7]

8.5.2. The official conducting the interrogation must, at the time of the interrogation, specify to the employee being questioned the precise repercussions (i.e., suspension, discharge, or the exact form of discipline) that may result if the officer fails to respond.

8.5.3. In the normal course of duty, officers are required to prepare reports of incidents and submit same in accordance with department policy and procedure. However, when a department employee is ordered to answer questions about a specific incident, that employee receives transactional immunity from criminal prosecution for any offenses to which the compelled testimony relates.

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8.5.4. The Supreme Judicial Court has held that Article 12 of the Massachusetts Declaration of Rights requires “transactional” immunity to supplant the privilege against self-incrimination when a public employee is being compelled to answer questions concerning possible criminal activities connected with his employment. Transactional immunity grants “immunity from prosecution for offenses to which compelled testimony relates.”

8.5.5. If the questions specifically, directly, and narrowly relate to the employee’s performance of official duties or his/her off-duty conduct which affects his/her fitness or ability to remain in the police service, and if such employee is informed that he/she will receive transactional immunity from criminal prosecution, he/she must answer or face disciplinary action, including dismissal from the Department, for refusing to answer such questions. [52.2.7]

8.5.6. No double jeopardy exists when a department employee is found not guilty in court of criminal charges and is then found guilty of departmental charges after disciplinary hearing, as the department charges are administrative in nature and can be sustained by a “preponderance of the evidence” rather than the criminal court standard of “beyond a reasonable doubt.”

8.6. Administrative Investigations

8.6.1. In conducting internal administrative investigations, a request for an attorney or an employee representative to be present will be granted if the investigation is not thereby unduly delayed. Officers have this right to representation when he/she reasonably believes their action will result in disciplinary action.

- Except in unusual situations, any interview or questioning should take place during the employee’s regular duty hours.
- Any interview or questioning should not be prolonged without reasonable rest periods and the opportunity for meals and such other personal necessities as are reasonably required.
- A department employee shall not be improperly harassed or threatened during this period of questionings.

8.6.2. In conducting an investigation of alleged employee misconduct, all appropriate investigation techniques and methods should be employed, consistent with legal requirements and all necessary concern for the individual rights of the accused employee.

8.6.3. An internal administrative investigation should be conducted with the same degree of professional competence as is devoted to a criminal investigation.

8.6.4. Upon orders of the Chief of Police or his designee, an employee may be required to submit to a medical or laboratory examination, at the Department’s expense. This examination must be specifically directed and narrowly related to a particular internal affairs investigation being conducted by the department. [52.2.6(a)]

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8.6.5. A police officer may also be required to be photographed and can be compelled to stand in a lineup for identification in connection with an administrative investigation, and refusal can be the basis for an additional disciplinary charge of refusal to obey a lawful order. Such a lineup should be fairly constructed and not unfairly suggestive investigation where criminal charges are contemplated. [52.2.6(b)(c)]

8.6.6. A police officer's personal property, including his home, car, and other property, is protected from unreasonable search and seizure under the Massachusetts Constitution, and any evidence illegally obtained may not be used as evidence in any administrative proceeding. Department property furnished to the officer, such as desks, lockers, computers, other electronic devices, or vehicles, in which it is clearly understood in advance that an officer has "no expectation of privacy", may be searched without a warrant.

8.6.7. A police officer may be compelled to submit a financial disclosure statement as part of an internal affairs investigation. If such a statement is requested, the Department shall show the relevance of such statement in writing, ask only for relevant and specific items, and allow a reasonable amount of time for submission. [52.2.6(d)]

8.6.8. Under the provisions of M.G.L. c. 149, s. 19B, police officers may be required to submit to a polygraph or lie detector test in connection with an internal administrative investigation if such test is conducted by a law enforcement agency in the course of a departmental investigation of criminal activity, and under such circumstances, officers may face disciplinary action for refusal. It should be noted that Article 12 rights apply here. [52.2.6(e)]

8.6.9. If possible, the complete interview with an employee in all internal administrative investigation should be recorded mechanically or by a qualified stenographer.

8.7. Withdrawn Complaints

8.7.1. If during the progress of an internal investigation, the complainant indicates a desire to withdraw the complaint, every effort should be made to ensure that this decision is made voluntarily, and a signed statement to this effect should be obtained from the complainant.

8.7.2. Even though a complaint is withdrawn, a full report of the investigation to date should be prepared for the Chief and his approval obtained for the termination of the investigation.

8.7.3. Any attempt, directly or indirectly, on the part of the department employee to obstruct any internal investigation or to threaten or persuade any complainant to withdraw or abandon his complaint, is prohibited and will be treated most severely.

8.8. Report of Investigation

8.8.1. At the conclusion of any administrative investigation, a full written report shall be prepared for submission to the Chief, which shall include the following:

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- The original complaint report;
- Any additional statements taken from the complainant or statements obtained from witnesses;
- Any statement made or reports submitted by the department employee under investigation;
- A summary of all evidence gathered;
- Any mitigating circumstances;
- An evaluation of the complaint and a “conclusion of fact” as to whether the charges made by the complainant were: [52.2.8]
 - Sustained: Supported by sufficient evidence;
 - Not-Sustained: Inadequate or insufficient evidence;
 - Unfounded: The alleged act did not occur; or
 - Cleared: The actions of the accused department employee were in compliance with law or in accordance with Department policy and procedure.
- The Officer-in-Charge of the investigation shall see that all records and reports of such investigations are maintained in a secure area in order to ensure confidentiality. [52.1.2]
- Upon receipt of the report of investigation, the Chief should take further action as is necessary based upon findings in the particular case.
- Every person who has filed a complaint against an employee shall be notified promptly as to the final results of the investigation, personally if possible or otherwise by mail. [52.2.4(c)]
- If a disciplinary hearing is deemed necessary, the complainant shall be notified that his/her testimony may be required at that time.
- If the department employee is cleared of the charges made, he/she shall be officially exonerated in writing.

9. Confidentiality of Internal Affairs

- 9.1. In order to ensure that the individual rights of officers who are the subject of an Internal Affairs investigation are protected, all materials relevant to that investigation shall be kept strictly confidential and under lock and key by the Officer-in-Charge of the investigation. [52.1.2] [26.1.8]
- 9.2. All materials will be locked in the office of the Chief of Police. [26.1.8]
- 9.3. No statement regarding an Internal Affairs investigation will be made or issued to the media unless the charges have been sustained and action has been taken or initiated against the officer or employee. This will only be done with the permission of the Chief of Police.

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10. Investigative Files

- 10.1. A complete file of records on the investigation of all citizens and internal complaints shall be kept in the office of the Chief of Police. These files shall contain supporting investigative information, as well as notes taken during the investigation. These files shall be treated as confidential investigative files and shall include what disciplinary action was taken if any. [52.1.2] [26.1.8]
- 10.2. A copy of the complete investigation summary should be kept in a summary file in the office of the Chief of Police and will be the only source of public information about citizen complaints.
- 10.3. Officers will have access to their own internal affairs files on all completed investigations. [26.1.8]

11. Liaison with District Attorney

- 11.1. Any Internal Affairs investigations which may, or does, result in criminal charges being brought against an officer shall require the District Attorney's office to be appraised of the case for the purpose of advising on legal issues and ultimate prosecution, if necessary. Contact shall be made through the Chief of Police or his designee.

12. Relieving Employee from Duty

- 12.1. No officer shall be relieved from duty as a result of an Internal Affairs investigation unless such action is in accordance with Mass. General Laws, Chapter 31 - Section 41. All disciplinary action shall also be according to the same documents. [52.2.7]

13. Dismissal Procedures [26.1.7]

- 13.1. When dismissal is the disciplinary action taken by the Department, the dismissed employee will be notified in writing:

- 13.1.1. The reason for the dismissal; [26.1.7(a)]
- 13.1.2. The effective date of the dismissal; [26.1.7(b)]
- 13.1.3. The status of fringe benefits after dismissal; and [26.1.7(c)]
- 13.1.4. The status of retirement benefits after dismissal. [26.1.7(c)]

- 14. Appeal Procedures [26.1.6] - Appeal procedures for all employees (sworn and non-sworn) involving disciplinary actions are established by contractual agreements between the Town and the respective union's grievance procedures.

Richard M. Fuller, Jr.
Chief of Police