

**CITY OF OCONOMOWOC POLICE DEPARTMENT
POLICIES & PROCEDURES**

DATE: September 7, 2020

HISTORY: September 16, 2019
June 10, 1997

SUBJECT: Citizen Complaints Against Department Personnel

POLICY NUMBER: 96-007

I. PURPOSE

To maintain the confidence of the community in its local police, the Department must be able to fairly and impartially investigate and dispose of complaints against its personnel. All citizen complaints against members of the Department will be courteously accepted and fully investigated.

II. POLICY

The department will conduct all investigations arising from citizen complaints in a fair and open manner consistent with the rights of all concerned and aimed at determining the truth.

III. AUTHORITY

WISCONSIN STATUTES provide the Chief of Police with the authority to establish or issue rules of conduct. Wisconsin Statutes also provide for hearings by the Fire and Police Commission in matters involving citizen complaints.

IV. PROTECTIONS

Any person including a member of this Department, has the right to file a complaint.

- A. Complaints may be oral or in writing.
- B. Anonymous complaints may initiate the complaint process.
- C. All members of the department accused in a complaint have the right to respond to the allegations.
- D. If a complaint does not contain a specific allegation with facts to support it, and cannot be proven by investigation, the complaint will be dismissed as unfounded and that action will be reported to the complainant and the member complained against in writing.
- E. Both the complainant and accused have The accused has the right to appeal to a court of law or the Fire and Police Police and Fire Commission. In the absence of an appeal, the decision of the Chief of Police will be final.
- F. If it becomes apparent at any stage of the complaint process that criminal activity may be involved, the District Attorney will be informed.

V. INFORMAL COMPLAINT PROCESS

- A. If a complaint is merely a misunderstanding, the Officer In Charge may attempt to mediate the dispute. This process will be documented by a memo to the Captain of Police.
- B. If the dispute cannot be mediated, or if the complainant is not satisfied with mediation, the complaint will be handled under the formal complaint process.

VI. FORMAL COMPLAINTS PROCESS

- A.** The formal complaint process must be used whenever a complaint alleges criminal activity, excessive force, violation of a constitutional right, or when the informal complaint process has failed.
 - 1. The complaint shall be in writing and signed by the complainant. This complaint will be forwarded to the Captain of Police for review.
 - 2. The Chief of Police or designee, will appoint an investigating officer, who will:
 - a. Obtain written statements from the complainants and any witnesses.
 - b. Obtain a detailed written statement of the situation from the member who is the subject of the complaint.
 - c. Conclude the investigation within 30 days of being appointed as investigator. The Chief of Police may grant an extension in writing with notice to the member complained against and to the complainant.

VII. INVESTIGATIVE REPORT REQUIREMENTS

- A.** The heading will contain the details that identify the reporting investigator/supervisor, the person to whom the report is directed, the date and time of the report, and other details that may be required.
- B.** The complaint section will contain a brief statement of the accusation, the name of the accuser, and of the accused. The who, what, where, when and how will be in this section of the report to provide those who review it a brief description of the subject matter.
- C.** The investigation section of the report should contain a detailed account of the inquiry to which the reader might refer for particulars beyond those contained in the summary of the investigation section.
- D.** The summary of the investigation section will contain a concise account of the material findings of the inquiry. This section should give the reader a complete but brief resume of all the evidence obtained. In effect, the summary is an overview of all relevant evidence obtained, whether tending to prove or disprove the allegations of the complaint.
- E.** The conclusion section of the report should report the investigating officer's conclusions drawn from the investigation.
- F.** When required by the Chief of Police, the investigating officer will offer their recommendations based on the merits of the case.
- G.** Unless requested by the Chief of Police, the investigating officer should refrain from editorializing in this report. This should not deter the investigator from giving their opinion regarding the credibility of, or conflicts in, the evidence, if doing so will aid others in reaching a fair and accurate conclusion.
- H.** The addenda section should include such supporting data as verbatim transcripts of statements, arrest reports, evidence or property report, booking information, exemplars, descriptions of physical evidence and so forth.

VIII. OFFICER BILL OF RIGHTS

- A. If an officer is under investigation and is subjected to interrogation for any reason that could lead to disciplinary action, demotion, dismissal or criminal charges, the interrogation shall comply with the following requirements:
 - 1. The officer under investigation shall be informed of the nature of the investigation before any interrogation.
 - 2. At the request of the officer under interrogation, he or she may have representation present at all interrogations.
 - 3. Evidence obtained during any interrogation not conducted according to this section may not be used in any subsequent disciplinary proceeding against the officer.

IX. FINDINGS OF INVESTIGATION REQUIRED

- A. Sustained: When the facts obtained support the complaint.
- B. Exonerated: When the evidence shows that the act complained of did in fact occur but the act was legal, proper, and necessary.
- C. Unfounded: Is used to show that the act complained of did not in fact occur and that the complaint was false.
- D. Not Sustained: The cases which investigation cannot resolve, either because sufficient evidence is not available or because of material conflicts in the evidence, are resolved in favor of the accused employee require a finding of "not sustained."
- E. Misconduct Not Based on the Complaint: Should an investigation reveal that the employee was guilty of misconduct not part of the original complaint, the case may be classified as misconduct not based on the complaint.

X. EXCEPTIONS TO THIS POLICY MAY BE AUTHORIZED ONLY BY THE CHIEF OF POLICE

This policy is effective immediately
and will supersede any directives or understandings in conflict