



BELOIT POLICE DEPARTMENT POLICY MANUAL

PD-1010

PERSONNEL COMPLAINTS

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Special Instructions/Attachments/Sources			

1010.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Beloit Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1010.2 POLICY

The Beloit Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining or employment agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

1010.3 DEFINITIONS

Personnel complaints: A personnel complaint is an allegation of a violation of the Standards of Conduct, departmental policies, procedures, or a criminal act committed by a member of the department

Internally generated complaints: A personnel complaint that is generated by a member of the Department.

Externally generated complaints: A personnel complaint filed by a community member or outside organization, etc.

1010.4 PERSONNEL COMPLAINTS

Personnel complaints may be investigated by a supervisor of rank greater than the accused member or referred to an outside law enforcement agency, depending on the seriousness and complexity of the investigation.

Personnel complaints, if sustained, may result in official Department discipline up to and including termination from the Department.

In order to assist with data tracking and promote community transparency, members accepting or filing a personnel complaint shall ensure it is on the proper form based on the above parameters. Personnel complaint forms are available in the Department's forms folder found in PowerDMS.

1010.4.1 SOURCES OF PERSONNEL COMPLAINTS

The following applies to the source of personnel complaints:

- (a) Individuals from the public may make a personnel complaint in any form, including in writing, by email, in person, or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a personnel complaint based upon observed misconduct or receipt from any source alleging misconduct where further action is warranted and could result in disciplinary action.
- (d) Anonymous and third-party personnel complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

1010.5 AVAILABILITY AND ACCEPTANCE OF PERSONNEL COMPLAINTS

1010.5.1 PERSONNEL COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the Department website.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1010.5.2 ACCEPTANCE

All personnel complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary and the interview is audio and video recorded.

This department will investigate all false claims made against its law enforcement officers. Knowingly making a false complaint against an officer may subject the complainant to a fine pursuant to Beloit City Ordinance 15.01 or a Class A forfeiture (Wis. Stat. § 946.66; Wis. Stat. § 66.0511). It is incumbent upon the supervisor involved to discern malicious intent from a misunderstanding of the law or policy when investigating a false complaint.

1010.6 DOCUMENTATION

In order to ensure transparency and accountability, all complaints shall be documented in a Personnel Complaint Report by the supervisor receiving the complaint. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible. All investigative narrative reports shall be placed on a department memorandum form and follow the administrative investigation format in this policy. Upon completion, all personnel complaints shall be forwarded to the Chief of Police through the chain of command.

All personnel complaints shall be documented in the software database that records and tracks personnel complaints. On an annual basis, the Assistant Chief or designee should audit the log and send an annual report to the Chief of Police.

1010.7 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1010.7.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a low priority personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor or law enforcement agency investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any personnel complaint, the complaint form is completed, and;
 - 1. The original complaint will be forwarded to the commanding officer of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
 - 2. Enter the personnel complaint into the department's software database.
 - 3. The commanding officer shall ensure the complainant is contacted and interviewed.
 - 4. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's captain or the assistant chief, who will initiate appropriate action.
- (b) Responding to all personnel complaints in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
 - 1. Follow-up contact with the complainant should be made as soon as practical or within 24 hours of the Department receiving the complaint.

2. If the matter is resolved and no further action is required, the supervisor will document the resolution on a department memorandum form and forward the form to the commanding officer.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Chief of Police is notified through the chain of command, as soon as practicable.
 - (e) Promptly contacting the commanding officer through the chain of command, for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination. The commanding officer shall promptly notify the Chief of Police via the chain of command of any such complaint. The Chief or assigned designee will ensure the Human Resources Department is notified as appropriate.
 - (f) Forwarding personnel complaints to the lieutenant, who will determine, in consultation with their commanding officer, whether to contact the complainant or assign the complaint for investigation.
 - (g) Investigating a personnel complaint as follows:
 1. Making reasonable efforts to positively identify and obtain names, addresses, emails, and telephone numbers of witnesses.
 2. Ensuring immediate medical attention is provided when appropriate.
 3. Photographs of alleged injuries and accessible uninjured areas are taken when appropriate.
 - (h) Ensuring that the procedural rights of the accused member are followed.
 - (i) Ensuring interviews of the complainant, witnesses and employee are generally conducted during reasonable hours.

1010.7.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a ranking member of another law enforcement agency, the following applies to members covered by the Law Enforcement Officers' Bill of Rights.

- (a) An accused member should be informed of the nature of the investigation (Wis. Stat. § 164.02(1)(a)) by providing the member with a completed copy of the Beloit Police Department "Informing the Member" form.
- (b) An accused member may be allowed to stipulate to the allegations in accordance to Stipulation Agreement Section 1010.12.
- (c) Interviews of an accused member shall be conducted during reasonable hours, preferably when the member is on-duty. If the member is off-duty, he/she shall be compensated according to the collective bargaining agreement.
- (d) Interviews of an accused member shall be at the Beloit Police Department or other reasonable and appropriate place as approved by the Chief.

- (e) Two interviewers shall conduct the interview with one designated as the primary who should ask questions of the accused member.
- (f) Prior to any interview, an accused member should read the department's Garrity form, and both the member and supervisor shall sign and document the date and time on the form.
- (g) All interviews should be for a reasonable period and the member's personal needs should be accommodated.
- (h) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (i) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively, and may be subject to discipline for failing to do so.
 - 1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter, after being given a Garrity advisement.
 - 2. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g. discussion of processes, timing, implications).
 - 3. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (j) The interviewer shall record all interviews of members and witnesses.
- (k) All members subjected to interviews that could result in discipline, have the right to have an uninvolved representative present during the interview (Wis. Stat. 164.02(1) (b)). However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (l) An employee shall not be disciplined, retaliated against or threatened with retaliation for requesting that a representative be present, or for acting as the representative for another officer (Wis. Stat. § 164.03)
 - 1. All members shall provide complete and truthful responses to questions posed during interviews. Any misleading statements with the intent to deceive, or misrepresenting or omitting material information will subject the member to discipline up to and including discharge.
- (m) A member may only be compelled or requested to submit to a polygraph examination in accordance with Wis. Stat. § 111.37.

1010.7.3 ADMINISTRATIVE INVESTIGATION FORMAT

All investigations of personnel complaints shall be thorough, complete, and essentially follow this format:

Introduction - Include the identity of the members, appointment date, assignment, the identity of the assigned investigators, the initial date and source of the complaint.

Synopsis - Provide a brief summary of the facts giving rise to the investigation. This includes how the complaint came to the department's attention, who the complainant is, if not identified in the introduction, where and when did the misconduct occur, etc. Include any additional allegations that arose from the original investigation.

Allegation Summary - List the allegations separately, including the Standards of Conduct, and any additional applicable policy sections, with a brief summary of the evidence relevant to each allegation. A recommended disposition should be provided for each allegation. This is limited to the investigators assessment as to whether or not he/she believes there is sufficient evidence to substantiate each allegation listed and any additional policy violations that were discovered through the investigation.

Investigative Summary - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Interviews should be labeled in the investigative summary with the name, role, date, and time of the interview, followed by a comprehensive summary. A separate memo detailing each interview shall be completed and attached. Other evidence related to each allegation should also be detailed in this section

Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report. A printout of the member's 5-year disciplinary record shall be included in the file.

1010.7.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded.

Exonerated - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

Not sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. The assigned supervisor shall consult with the member's commanding officer to determine if such matters require further investigation depending on the seriousness of the complaint and the availability of sufficient information.

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

1010.7.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within 60 days from the date of assignment.

1010.7.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate. These updates shall be documented in the investigative summary.

1010.8 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces, and other areas, including desks, offices, and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio, or other document or equipment.

1010.9 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave or suspended for cause:

- (a) Shall be required to relinquish any department badge, identification, assigned weapons, and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) Shall be served with a Department Administrative Leave Form detailing specific requirements and expectations during such leave. A copy of said form will be forwarded immediately to the Human Resources Director.
- (d) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1010.10 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

The Beloit Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

1010.11 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of any personnel complaint investigation, an investigative report should be forwarded to the Chief of Police through the chain of command. Each level of command should review and include their comments in writing before forwarding the report. The Chief of Police may accept or modify any classification

or recommendation for disciplinary action. Forms of discipline include punitive and non-punitive action as documented in the Department's Discipline Matrix.

1010.11.1 COMMANDING OFFICER OR DESIGNEE RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Commanding Officer or designee of the involved member shall review the entire investigative file, the member's disciplinary file and any other relevant materials.

The Commanding Officer or designee should make recommendations regarding the disposition of any allegations.

Prior to forwarding recommendations to the Assistant Chief, the Commanding Officer or designee may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Assistant Chief, the Commanding Officer or designee shall include all relevant materials supporting the recommendation. The member's disciplinary record in relation to the Department's Discipline Matrix should be referenced when making a recommendation as to the classification of the allegation. The Commanding Officer may recommend disposition of allegations different than those recommended.

To conform to 1010.11, the Commanding Officer or designee shall inform the accused member of the allegations and supporting evidence prior to the pre-disciplinary meeting.

The Commanding Officer or designee shall ensure that any imposed discipline is carried out and documented appropriately.

1010.11.2 ASSISTANT CHIEF RESPONSIBILITIES

The Assistant Chief is responsible for the overall integrity and management of the Department's personnel complaints, to include the implementation of any processes designed to identify officers who may be in need of additional training or review based on identified patterns of violations.

Upon receipt of any completed personnel investigation, the assistant chief shall review the entire investigative file, the member's disciplinary file and any other relevant materials. The Assistant Chief should make a recommendation regarding the disposition of any allegations including the sanction category in the Discipline Matrix and forward the entire investigative file to the Chief of Police for final disposition.

1010.11.3 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Chief of Police shall review the investigative file. The Chief of Police may modify any recommended disposition and/or may return the file to the Assistant Chief for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police should determine the amount of discipline to be imposed if any, using the department discipline matrix.

Once the member has completed his/her pre-disciplinary meeting in conformity with Section 1010.11, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

In determining a disciplinary decision and in addition to the statutory requirements of just cause, the Chief shall also consider the following factors:

- (a) **Employee Motivation:** Was the member acting in the public's best interest and attempting to accomplish a legitimate police purpose?
- (b) **Degree of Harm:** What was the monetary cost to the Department or community; what was the extent of personal injury; what was the impact on public confidence?
- (c) **Employee Experience:** Is the member involved new or inexperienced in their current position or are they experienced?
- (d) **Intentional and Unintentional Errors:** Was the action reasonably the best decision with the information available or was it contrary to the law, an established ministerial duty, training, policy or otherwise malicious in nature?
- (e) **Employees Past Record:** To the extent allowed by law, is the members conduct repetitive and thus subject to progressive discipline?

The Chief of Police shall file a report with the board of commissioners immediately upon issuing a suspension or discharge of a member (Wis. Stat. § 62.13(5); Wis. Stat. § 62.50(13)).

1010.11.4 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Chief of Police or the authorized designee should ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded, incomplete) of the complaint.

1010.12 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to be apprised of the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

1010.13 STIPULATION AGREEMENT

For non-criminal allegation(s) in which a preponderance of evidence exists, the Chief of Police or designee may allow a member to stipulate to the allegation(s) in lieu of a personnel investigation. In such cases, the commanding officer of the member will supply the member with a stipulation agreement form. The member will

have 10 days to respond with their choice of 1) stipulate to the allegation(s), 2) stipulate to the allegation(s) and provide a written response, or 3) decline to stipulate to the allegation(s) and request a personnel investigation. The stipulation agreement form provides guidance on the process.

The stipulation agreement form will reduce the need for a full investigation unless the member requests it or member's commanding officer believes one is warranted.

Progressive discipline still applies for cases in which a stipulation agreement is used. Prior sustained offenses may impact the severity of discipline imposed in this case.

1010.14 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline unless agreed to by the City in a properly executed separation agreement.

1010.15 POST-DISCIPLINE APPEAL RIGHTS

A non-probationary employee may have the right to appeal the imposition of a disciplinary suspension, transfer, demotion or termination as provided in a collective bargaining agreement, City of Beloit Human Resources Non-Represented Personnel Manual, local ordinance or police commission rule (Wis. Stat. § 62.13(5)(i); Wis. Stat. § 62.50(13); Wis. Stat. § 59.26(8)(b)(6)).

1010.16 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and newly hired probationary employees and members other than non-probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy.

Any probationary period for sworn personnel may be extended at the discretion and request of the Chief of Police with the approval of the Police and Fire Commission (PFC Rule 6.02 (3)). Non-sworn personnel may have their probationary period extended in conformity with the City of Beloit Human Resources Manual, Section 3.07.

1010.17 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Files Policy.