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## Personnel Complaints

### 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 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that may constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

**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.

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. Internally generated complaint forms are available in the Department's forms folder.

#### 1010.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

**Informal** - A matter in which the Shift Commander is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member. An Informal Complaint would normally include minor, non-repetitive violations resulting in training or policy review of the involved member as opposed to official Department discipline.

**Formal** - A matter in which a supervisor or officer of higher rank determines that further action is warranted. Such 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

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complexity of the investigation. Formal complaints, if sustained, may result in official Department discipline up to and including termination from the Department.

**Procedural** - A matter in which the Shift Commander is satisfied that the allegation does not violate Department policy or federal, state or local law, policy or rule. These matters generally include clarification regarding policy, procedures, law or the response to specific incidents by the Department.

#### 1010.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints 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 complaint based upon observed misconduct or receipt from any source alleging misconduct that could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

#### 1010.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

##### 1010.4.1 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. Forms may also be available at other City facilities.

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

##### 1010.4.2 ACCEPTANCE

All 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

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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 misunderstanding of the law or policy when investigating a false complaint.

### **1010.5 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 Department memorandum 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 complaints and inquiries, including procedural complaints, shall be documented in an electronic database that records and tracks complaints both numerically by year and by name of the member. The database shall include the nature of the complaint, complainants name, date received and completed, and disposition to include the actions taken or discipline imposed to address the complaint. On an annual basis, the Assistant Chief or designee should audit the log and send an annual report to the Chief of Police.

### **1010.6 ADMINISTRATIVE INVESTIGATIONS**

Allegations of misconduct will be administratively investigated as follows.

#### **1010.6.1 SUPERVISOR RESPONSIBILITIES**

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or 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.

In regards to complaints involving members of the Special Operations Division (SOD), the Lieutenant or supervisory designee shall fulfill the responsibilities of the Shift Commander and supervisor as noted in this section and will be responsible for accepting initial complaints during SOD regular working hours.

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, a complaint form is completed.
  1. The original complaint form will be directed to the Shift Commander of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation. The Shift Commander is responsible for notifying and consulting with the member's commanding officer regarding the complaint.

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2. 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 Chief of Police, who will initiate appropriate action.
- (b) Responding to all complaints in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
  - (a) Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
  - (b) If the matter is resolved and no further action is required, the supervisor will note the resolution on a Department memorandum form and forward the form to the Shift Commander.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Shift Commander and Chief of Police are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Shift Commander for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination. The Shift Commander 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 Division is notified as appropriate.
- (f) Forwarding unresolved personnel complaints to the Shift Commander, who will determine, in consultation with their commanding officer, whether to contact the complainant or assign the complaint for investigation.
- (g) Investigating a complaint as follows:
  1. Making reasonable efforts to positively identify, obtain names, addresses and telephone numbers of witnesses.
  2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (h) Ensuring that the procedural rights of the accused member are followed.
- (i) Ensuring interviews of the complainant are generally conducted during reasonable hours.

### 1010.6.2 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) Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty. If the member is off-duty, he/she shall be compensated according to the collective bargaining agreement.
- (b) Interviews of an accused member shall be at the Beloit Police Department or other reasonable and appropriate place as approved by the Chief.

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- (c) Two interviewers should conduct the interview with one designated as the primary who should ask questions of the accused member.
- (d) Prior to any interview, a 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.
- (e) All interviews should be for a reasonable period and the member's personal needs should be accommodated.
- (f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. 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.
- (g) 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.
  - (a) A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Garrity* advisement.
  - (b) 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).
  - (c) No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer shall record all interviews of members and Department witnesses.
- (i) 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.
- (j) 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.
- (k) A member may only be compelled or requested to submit to a polygraph examination in accordance with Wis. Stat. § 111.37.

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### 1010.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

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

**Introduction** - Include the identity of the members, 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.

**Summary** - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding 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 investigation or interviewing of the member.

**Evidence** - 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. 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.

### 1010.6.4 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.

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### 1010.6.5 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 discovery by an individual authorized to initiate an investigation.

### 1010.6.6 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.

### 1010.7 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.

### 1010.8 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:

- (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.

### 1010.9 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.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

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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.

### **1010.10 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, but are not limited to, training, policy review and punitive action.

Punitive action may consist of:

- (a) Oral Reprimand
- (b) Written Reprimand
- (c) Suspension
- (d) Demotion
- (e) Termination

If suspended for cause, the member is subject to the provisions in section 1010.8 of this policy.

#### **1010.10.1 CAPTAIN RESPONSIBILITIES**

Upon receipt of any completed personnel investigation, the Captain of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Captain may make recommendations regarding the disposition of any allegations.

Prior to forwarding recommendations to the Assistant Chief, the Captain 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 Captain shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

#### **1010.10.2 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 personnel file and any other relevant materials. The Assistant



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Chief should make a recommendation regarding the disposition of any allegations and forward the entire investigative file to the Chief of Police for final disposition.

#### 1010.10.3 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation 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 using the Department discipline matrix (add form #), if any, that should be imposed.

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 and the effective date of the 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)).

#### 1010.10.4 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.

#### 1010.11 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

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apprised, through the investigative process, 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 thereafter 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.

#### **1010.12 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.

#### **1010.13 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)).

#### **1010.14 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 City of Beloit Human Resources Manual, Section 3.07.

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### **1010.15 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.