

<b>Subject: Citizen Complaints</b>		
Directive Number 000	Effective Date 01-20-11	WILEAG 22.2.1, 26.1.4, 26.1.5, 26.1.8, 52.1.1, 52.1.2, 52.1.5, 52.1.6, 52.1.10, 82.2.2

**Introduction**

The purpose of this policy is to effectively handle citizen complaints of department staff. This policy will serve to enhance our relationship with the public, and is vital to maintaining a positive relationship with our community.

This policy is designed to address complaints regarding the actions of individual officers, and/or the department in general. It will also serve to make the public aware of their options should they feel they were mistreated by an officer.

**General Policy****A. INITIAL HANDLING**

1. Upon receiving a complaint from a citizen, this department will thoroughly investigate the allegations made by the citizen. The initial complaint will be handled by a ranking officer (Sergeant, Lieutenant, Chief), and the Chief of Police will be notified as soon as practical of the complaint.
2. A citizen complaint which involves a dangerous and or in progress situation, such as an intoxicated employee, must be reported immediately to Department administration starting with the Chief of Police and descending through the chain of command.
3. If no ranking officer is available, an officer may provide the complainant a Citizen Complaint Packet, which is attached at the end of this policy. Upon issuing the complaint packet, the complainant should be advised to:
  - a. Complete the form
  - b. Initial the envelope across the seal
  - c. Mail, or personally deliver the form to the Chief of Police or his/her designee.
4. Upon receiving a complaint packet, an officer / secretary should:
  - a. Initial the envelope across the seal.
  - b. Secure the envelope by hand delivering to the Chief of Police, or if unavailable slide the envelope under the chief's door. Under no circumstances should any non-sworn personnel or non-ranking officer serve as an interviewer of the complainant, or read the complaint forms, unless directed to do so by the Chief of Police.

B. CLASSIFICATION OF COMPLAINTS

1. All complaints received will fall under one or more of the following complaint type classifications:

a. Complaint on officer procedure (Type 1)

1. This type of complaint generally refers to the department's policies and procedures, and whether or not the officer in question followed these policies and procedures. Examples of this type of complaint are:

- a. Improper call handling
- b. Improper uniform
- c. Failure to complete reports on a timely basis
- d. Other minor infractions relating to policy / procedure

b. Complaint of minor officer misconduct (Type 2)

1. This type of complaint focuses on allegations of minor misconduct by an officer, and generally involves the individual actions and / or conduct of an officer. Examples of this type of complaint are:

- a. Complaints of officer demeanor: this may include an officer's language, gestures, acceptance of gratuities, or other offensive behavior. This may also include actions involving a conflict of interest and/or misuse of influence as a police officer.
- b. Complaints regarding violation of rules of conduct: This may include improper operation of departmental vehicles and/or accidents arising from this type of operation, acts of insubordination, and intermediate violations of policy.
- c. Complaints of officer harassment: This may include officer action or non-action based on such factors as appearance, race, sex, age, etc.
- d. Repeated violations of officer procedure classification

c. Complaint regarding serious officer misconduct (Type 3)

1. This type of complaint is based on allegations of serious misconduct by officer/officers. Examples of this type of complaint are:

- a. Use of excessive force
- b. Intoxication

- c. Corruption
- d. Criminal Misconduct
- e. Sexual Harassment
- f. Violation of civil rights
- g. Repeated acts of minor misconduct

C. COMPLAINTS AGAINST OFFICERS AND NON-SWORN PERSONNEL

1. All complaints received against officers will be received in a courteous and professional manner, and will be thoroughly investigated.
2. Upon receipt of the complaint, the ranking officer shall initiate a preliminary investigation into the matter, which may include the completion of a citizen complaint affidavit, depending on the seriousness of the complaint that is made. The ranking officer shall also, if necessary, conduct an interview with the complainant, and if necessary take immediate steps to discontinue the misconduct that is occurring.
3. The complainant will be made aware that pursuant to Sec. 946.66, Wisconsin Statutes, “Whoever knowingly makes a false complaint regarding the conduct of a law enforcement officer is subject to a Class A Forfeiture”.
5. Type 1 (Officer Procedure) and Type 2 (Minor Misconduct) complaints will generally be handled via either an informal inquiry or internal investigation. The internal investigation option will be pursued only if it appears that the allegations could result in discipline (if found to be factual).
6. Type 3 (Serious Officer Misconduct) complaints shall be handled by the Chief of police or his/her designee, and the Chief will be required to complete an Internal Investigation Report form. In the event that the misconduct is of a criminal nature, the investigation will be turned over to the Dane County Sheriff’s Office, or other outside police agency.

D. COMPLAINTS AGAINST RANKING OFFICERS

1. Complaints against a Sergeant or Lieutenant shall be processed by the Chief of Police or designee.
2. Complaints against the Chief of Police shall be processed by the Village Administrator.

E. LENGTH OF INVESTIGATION

1. All internal investigation shall be completed within 30 days, however this may be extended by the Chief of Police due to unforeseen circumstances. If the investigation has been delegated by the chief to a subordinate ranking officer, said ranking officer shall provide a status report to the Chief on a regular basis until such a time the investigation is completed.

F. OFFICER NOTIFICATION AND RIGHTS

1. Officer Notification: The officer shall be notified in writing That an investigatory interview is scheduled regarding the complaint. The interview will be schedule so that the officer has sufficient time to prepare and obtain a representative.
2. Officer Rights: The rights of an officer under investigation vary according to the nature of the allegations filed and subsequently the type of investigation that ensues. The rights are different for an administrative investigation than that of a criminal investigation, and the officer shall be advised of which type of investigation is being conducted. The following rights apply:
  - a.. Pursuant to Weingarten v. NLRB, 420 U.S. 251 95(1975), employees represented under a collective bargaining agreement are entitled to union representation during an interview where the employee is “compelled to answer” questions.
  - b.. Fifth Amendment Rights: Pursuant to Garrity v. NJ 385 U.S. 493 (1975). When an employee is compelled to answer questions, the department must advise the employee that nothing he/she says may be used in a criminal proceeding.
  - c.. Officers Right to Pursue False Accusations: It is recognized that some complaints against officers may be filed in a false and/or malicious manner. Officers, as private citizens, may pursue a civil action against the accuser if the accusation proves false, without any interference from the department, providing that said action is not encompassed within the scope of their duties as a police officer. This action is considered completely independent from the department, and the department does not take a positon on this matter.

G. SPECIAL INVESTIGATORY CONDITIONS REQUIRED OF EMPLOYEES

1. Medical, laboratory, examinations, and/or alcohol testing: An officer may be required to submit to medical/laboratory, and/or chemical breath testing examinations, if ordered to do so by a ranking officer. This may be conducted upon the ranking officer establishing reasonable suspicion related but not limited to the following:
  - a. Illegal Drug Usage
  - b. Use of alcohol while on duty
  - c. Presence or odor of intoxicants observed upon reporting for duty
  - d. Adverse Physical Condition
2. Photographs: An officer may be required to submit to a personal photograph to be used in a complaint investigation to confirm identity.

#### H. TEMPORARY SUSPENSION DURING INVESTIGATION

1. Pursuant to Sec. 62.13(5)(b-c), Wis. Stats., an officer may be suspended from active duty with pay pending the disposition of an internal investigation. Suspension shall come directly from the Chief of Police and or his designee (ranking officer).
2. An officer may also be suspended with pay pending the outcome of an administrative charge(s) filed with the Police and Fire Commission.
3. An officer may also be temporarily reassigned or placed on administrative leave with pay (depending on nature and circumstances of investigation) until a ranking officer has conducted a preliminary investigation.

#### I. CONCLUSION / DISPOSITIONAL FINDING OF INVESTIGATION

1. Upon the completion of the investigation, the ranking officer conducting the investigation shall assign one of the following dispositional categories to the complaint, and report the finding to the Chief of Police and the original complainant:
  - a. Unfounded: Investigation results show that the allegation was false in nature.
  - b. Not sustained: Investigation shows insufficient evidence to either prove or disprove the allegations.
  - c. Sustained: Investigation shows that the allegations are supported by sufficient evidence to conclude that they are indeed factual.
  - d. Exoneration: Investigation shows that the officer acted in accordance with departmental policy/procedure, and his/her actions were lawful and justified.

#### J. MAINTENANCE OF RECORDS

1. The Chief of Police shall maintain an accurate and updated record / log of all citizen complaints filed.
2. Complaint investigations records are a personnel record and will be maintained accordingly.

**BY ORDER OF THE CHIEF OF POLICE**

**Craig J. Sherven**

# Public Notice

The McFarland Police Department issues this public notice that pursuant to Sec. 66.0511(3), Wisconsin State Statutes, this department has developed a written policy regarding citizen complaint procedures. The public may review this policy by contacting the Chief of Police during normal Business hours.

**As required by Sec. 946.66 of the Wisconsin State Statutes:**

***“Whoever knowingly makes a false complaint regarding the conduct of a law enforcement officer is subject to a class A forfeiture”.***

**Any member of the public that wishes to file a complaint may do so by contacting an McFarland Police Department supervisor (Sergeant, Lieutenant, Chief of Police) at the McFarland Police Department, 5915 Milwaukee St, McFarland WI 53558. If a supervisor is not available, the attending officer will advise you as to when a supervisor will be available.**