

UW Whitewater Police



Complaint Investigation

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I. Purpose

To provide procedures for community members to bring forward complaints, including anonymous complaints, regarding misconduct by UW-Whitewater Police Department (UWWPD) employees, as well as to provide procedures for complaint investigation.

II. Policy

UWWPD recognizes the community’s right to bring forward legitimate complaints regarding misconduct by employees. It also recognizes that malicious and false accusations are sometimes made. Nevertheless, all complaints against the department or its employees shall be investigated by a supervisory officer.

The chief of police or designee will decide based on the initial facts of the complaint if the investigation should be done in house or if an outside law enforcement agency, such as the Wisconsin Department of Justice Division of Criminal Investigation should be brought in as an impartial investigative agency.

III. Procedure

A. Complaint Registering Procedures

1. UWWPD will disseminate the following information via department website to the public concerning the proper procedures for registering complaints against members of the agency:
 - a. It is the policy of the UW-Whitewater Police Department to investigate all complaints against any member of the department. As with any investigation, the accused is presumed innocent until proven otherwise. Proper adherence to the provisions of this policy will exonerate the innocent and facilitate prompt and equitable corrective action when necessary. To make a complaint against a University Police Department employee, notification can be made to a department supervisor as follows.
 - i. Come in person to the department’s offices, located in Goodhue Hall, during business hours (Monday - Friday, 8:30am - 4:30pm).

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- ii. Call the University Police Department's non-emergency number at (262) 472-4660.
 - iii. Mail your complaint to University Police, Attn: Chief of Police, 790 W. Starin Road, Goodhue Hall, Whitewater WI, 53190.
 - iv. E-mail your complaint to police@uww.edu.
- b. All complaints are forwarded to a supervisor for prompt consideration. If the allegation of misconduct is extremely serious in nature (complaints involving criminal activity, complaints against command personnel, or complaints of excessive use of force), the Chief of Police or designee will be notified without delay.
 - c. Anonymous Reporting: While it is not necessary that you provide your name or any other identifying information for your complaint to be investigated, you are encouraged to do so. Providing this information helps ensure the matter is properly and thoroughly considered, and allows the supervisor to keep you informed of the status and disposition of the complaint.

B. Complaint Investigation by a Supervisor

1. When a supervisor learns of a complaint they will complete a "Complaint Statement" form, request a written statement from the complainant, and make the complainant aware that knowingly making a false complaint regarding the conduct of a law enforcement officer is a crime [946.66(2)]. The supervisor should then determine if the allegation(s) constitute a:
 - a. Procedural complaint – based on actions that are incorrect according legal/policy/procedure guidelines.
 - b. Minor misconduct complaint – based on actions that are alleged to concern improper behavior, attitude or rudeness, unprofessional conduct, or vehicle operations. Minor misconduct complaints, if sustained, could result in disciplinary action ranging from written reprimand to limited suspension.
 - c. Major misconduct complaint – based on actions that are alleged to concern abuse of authority, bias based profiling, constitutional rights violations, corruption, criminal misconduct, death or serious bodily injury, discharge of firearm, substance abuse, or repeated acts of minor misconduct. Major misconduct complaints, if sustained, could result in disciplinary action to include significant suspension, dismissal, or criminal charges.
2. Any complaints regarding incidents that could be construed as a crime need to be reported to the Chief immediately.
3. After obtaining preliminary information the supervisor will decide if the matter would best be resolved:
 - a. Informally, with no possibility of discipline. This could include a discussion with the police officer about the incident.
 - b. Through an administrative investigation when it appears the allegations, if sustained, could result in a form of discipline.

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- c. Through a criminal investigation when it appears the allegations, if sustained, could result in a request for criminal charges.
 4. In fairness to the employee and in the interest of departmental integrity, the supervisor will provide to any employee who becomes the subject of a complaint investigation a written statement of the allegations and the employee's rights and responsibilities relative to the investigation within five (5) days of receipt of the complaint.
 5. After informing the employee, the supervisor shall conduct a complete and thorough investigation, and shall maintain the confidentiality and security of all persons and records involved in the inquiry.
 6. If the complaint is sustained and discipline is recommended by the investigating supervisor the Chief of Police or designee shall complete a review. Upon review, the Chief of Police or designee will determine if discipline is appropriate, and if it is, shall administer it in a fair and consistent manner with regard to the rights of all concerned.
- C. Notifying the Chief of Police of a Complaint:** Complaints accepted by supervisors shall be brought to the Chief's attention as soon as possible, but not to exceed five working days.
- D. Complaint Investigation Time Limits**
1. The impact of a complaint on the integrity of the department and on employee morale necessitates a speedy resolution to such issues.
 2. Therefore, it is required that complaint investigations be completed as soon as possible but not to exceed 30 days.
 3. Justification to exceed this time frame will be submitted in writing to the Chief of Police or designee and made part of the working file.
- E. Informing the Complainant**
1. The investigating supervisor shall keep the complainant informed concerning the status of a complaint, to include at a minimum:
 - a. Verification of receipt that the complaint has been received for processing;
 - b. Periodic status reports;
 - c. Notification of the results of the investigation upon conclusion.
- F. Employee Rights**
1. The rights of an employee under investigation shall be determined by the nature of the investigation. Rights associated with an administrative investigation differ from those associated with a criminal investigation.
 - a. Administrative Investigation: During an investigation for strictly administrative purposes, an employee may be compelled to answer questions directly related to their official duties. Answers received in such a manner may not be used in a criminal proceeding involving the employee. Prior to any questioning, the employee shall be read the appropriate "Informing the Employee" form. The following guidelines apply to an interview during an investigation for strictly administrative purposes:

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- i. The purpose of the investigation is to obtain information to determine whether disciplinary action is warranted. The answers obtained may be used in disciplinary proceedings resulting in reprimand, demotion, suspension or dismissal.
 - ii. All questions asked of the employee under investigation that are specifically related to his or her official duties must be fully and truthfully answered. Refusal to answer may result in disciplinary action.
 - iii. No Miranda rights are required.
 - iv. The employee has no sixth amendment right to counsel.
 - v. The Wisconsin Police Bill of Rights (Wis. Stats., Chapter 164) applies and will be adhered to.
- b. Criminal Investigation: During a criminal investigation involving an employee the investigator shall perform the following prior to any interview with the accused employee.
- i. Advise the employee of Miranda rights.
 - ii. Advise the employee that if they assert their right not to answer questions, no adverse administrative action will be taken based upon the refusal.
 - iii. If the employee decided to answer questions at this point, the responses may be used in both criminal and disciplinary proceedings.
 - iv. In order to assure that the department actions can't be construed as coercive, the request for an attorney will be granted even if the employee has not yet been criminally charged or had their freedom of action deprived.
2. When employees are notified that they have become the subject of an investigation, regardless of the type of investigation, they will be issued a written statement of the allegations and their rights and responsibilities relative to the investigation (see attachment C).

G. Submission to Tests, Procedures, Financial Disclosure Statements

1. An accused employee may submit a written request for a behavioral cause investigation or breath, blood, urine, polygraph, voice stress test or physical examination if they believe such would be beneficial to his defense. The department may require such tests of the accused employee. The results of these tests would be limited to administrative use except as provided by law.
2. Any member of the department accused of a criminal offense or any other incident that might seriously affect their employment with the department may be asked to submit to a polygraph or voice stress examination, but they shall not be required to submit to the examination. When the polygraph or voice stress examination is used, the employee will be informed of the questions to be asked prior to taking the test. The examiner may add response questions of his choice, but these response

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questions will be common in nature and not related to any other incident. Refusal to take a polygraph or voice stress examination by the accused will not be a factor in weighing the evidence in determining guilt.

3. The Chief of Police or designee may require that an employee submit to certain specific examinations. These examinations may consist of laboratory or medical examinations, photographs of the employee, a live line-up with an employee participating, or disclosure of the employee's financial records. Other examinations, as ordered in writing, may also be necessary. Medical examinations must be performed under the supervision of a licensed medical professional. These examinations may involve, but are not limited to, the taking of blood, body fluids, removal of body hairs or fingernail clippings and scraping. Photographs may be taken of the employee to show to complainants or witnesses. If the photographs are to be used for identification purposes, they must be shown in accordance with the rules of evidence.
 4. When ordered to do so, an employee shall be required to make financial disclosure statements when such statements are directly and narrowly related to an administrative or criminal investigation.
- H. **Relieved from Duty:** The Chief of Police or designee has the authority to relieve employees from duty with pay and full benefits. The relief from duty may be a temporary administrative action pertaining to an employee's physical or psychological fitness for duty or an action pending disposition of a complaint investigation.
- I. **Conclusion of Fact**
1. When investigating a complaint, the investigating supervisor shall address each allegation of misconduct, and the findings and conclusion of fact must cover one or more of the following:
 - a. Sustained - Investigation disclosed sufficient evidence to prove the allegation on which disciplinary action will be based.
 - b. Not Sustained - Investigation failed to discover sufficient evidence to clearly prove or disprove the allegation upon which disciplinary action would be based.
 - c. Exonerated - The acts alleged did occur but were justified, lawful, and proper.
 - d. Unfounded - The factual information derived during the investigation revealed that the alleged misconduct did not occur or did not involve the employee cited or was untrue.
 - e. Policy failure - Information learned while conducting the investigation suggests that current procedures could be improved to prevent recurrence.
- J. **Records Maintenance and Security; Annual Statistical Summaries**
1. The Chief of Police or designee shall maintain a record of all complaints against UWWPD or its employees.

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- a. To maintain security and confidentiality of these records, they are stored electronically in the secure section of the police drive that is only accessible by upper administration.
 - b. Internal affairs records will be retained for ten years from the date of the employee's separation of employment from UWWPD.
2. UWWPD shall publish an annual summary, made available to the public of the complaints received and investigated by the department, and their final disposition.

K. Attachments:

1. Attachment A: UWWPD Complaint Statement Worksheet
2. Attachment B: UWWPD Complaint Findings Worksheet
3. Attachment C: UWWPD Informing the Employee Worksheet

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Attachment A. UWWPD Complaint Statement Worksheet

UNIVERSITY OF WISCONSIN – WHITEWATER POLICE DEPARTMENT COMPLAINT STATEMENT

Complainant: _____

Address: _____

Phone Number: _____

Complainant Notification of 946.66 (2): Whoever knowingly makes a false complaint regarding the conduct of a law enforcement officer is subject to a Class A forfeiture.

Employee(s) Involved:

Type of Complaint:

- Procedural _____
- Minor Misconduct _____
- Major Misconduct _____

Complaint Statement (Add pages or statements if necessary)

Supervisor Name _____

Date _____

Employee notified of complaint

Date: _____

Chief notified of complaint

Date: _____

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Attachment B. UWYPD Complaint Findings Worksheet

UNIVERSITY OF WISCONSIN – WHITEWATER POLICE DEPARTMENT COMPLAINT FINDINGS

Complainant: _____

Address: _____

Phone Number: _____

Employee(s) Involved:

Type of Complaint:

- Procedural
- Minor Misconduct
- Major Misconduct

Conclusion:

- Sustained
- Not Sustained
- Unfounded
- Exonerated
- Policy Failure

If the complaint is sustained the following information, if applicable, will be obtained and attached to this report by the investigating supervisor:

- Improper Conduct – The misconduct described utilizing all factual information
- Proper Conduct – A definition of what the proper course of action should have been
- Policy Failure – Could procedures be improved to prevent reoccurrence
- Discipline administered or recommended as appropriate

Supervisor Signature _____ Date: _____

Supervisor Name _____

- Employee notified of finding Date: _____
- Chief notified of finding Date: _____
- Complainant notified of finding Date: _____

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Attachment C. UWYPD Informing the Employee Worksheet

UNIVERSITY OF WISCONSIN – WHITEWATER POLICE DEPARTMENT ADMINISTRATIVE INVESTIGATION INFORMING THE EMPLOYEE

To: _____

From: _____

Date: _____

A supervisor of the department is presently investigating an incident (s) and or complaint involving your conduct and/or performance.

This investigation could lead to disciplinary action, demotion, dismissal, or criminal charges.

The nature of this investigation includes allegations of:

At your request, you shall be entitled to the presence of a designated grievance representative at any investigatory interview.

You may be requested to submit a written report, detailing your knowledge of the incident(s) under investigation.

This is an internal administrative investigation and the answers you give, or the fruits thereof, can not be used against you in a criminal proceeding. You are hereby ordered to answer questions and submit to any required statements or reports. Refusal to respond during the investigatory interview, or any response which is untruthful could result in disciplinary action up to and including termination of employment.

I hereby acknowledge that this form has been read to me. I understand that I may have a copy of this form upon my request.

Employee Signature

Date: _____

Time: _____