FORT ATKINSON POLICE DEPARTMENT POLICY	TITLE: 203 - Internal Investigations		
ISSUE DATE: 09-01-15	LAST UPDATE: 09-12-22	SECTION: Professional Standards	FILE NAME: Internal Inv.
POLICY SOURCE: Chief of Police			TOTAL PAGES: 19
SPECIAL INSTRUCTIONS: Supplemental Forms attached: Paid Administrative Leave Form & FAPD Citizen Complaint Packet			

I. PURPOSE

This policy establishes the internal affairs function of the Fort Atkinson Police Department and identifies the purpose and procedures for conducting investigations of complaints against the department or its employees.

II. POLICY

It is the policy of the Fort Atkinson Police Department to ensure that the integrity of the department and its employees is maintained. This shall be accomplished through an internal system of investigation and review founded on objectivity, fairness and justice. This internal affairs process shall be invoked for all complaints against the department or its employees.

III. DISCUSSION

The internal affairs function is important for the maintenance of professional conduct in a law enforcement agency. The integrity of a law enforcement agency depends on the personal integrity and discipline of each employee. To a certain degree, the public opinion of a law enforcement agency is determined by the quality of the internal affairs function and the ability to respond to allegations of misconduct by the agency or its employees.

The Fort Atkinson Police Department encourages citizens to bring forward legitimate grievances regarding misconduct by employees. It also recognizes that malicious and deliberate false accusations are occasionally made against the department or its employees. Nevertheless, all accusations must be investigated to protect the integrity of the department and its employees and to instill public confidence in the organization. In some cases, the extent of the investigation may be limited to substantiating the falsity of the accusation.

IV. DEFINITIONS

A. Procedural Complaint: A complaint based on actions that, if performed properly, are acceptable according to legal guidelines and department policy; e.g., complaints over towing vehicles, parking or traffic enforcement, etc.

B. Minor Misconduct Complaint: A complaint based on allegations of minor misconduct by employees of the department. Examples of minor misconduct include rudeness or verbal abuse by an officer, traffic infractions by an officer, minor rules and regulations violations, etc. Another determinant of minor misconduct is that the alleged action, if sustained, could result in disciplinary action ranging from verbal counseling to a letter of reprimand.

C. Serious Misconduct Complaint: A complaint based on allegations of serious misconduct by employees of the department. Examples of serious misconduct include, but are not limited to, corruption, brutality, misuse of force, breach of civil rights, criminal misconduct, untruthfulness, or repeated acts of minor misconduct. Another determinant of serious misconduct is that the alleged action, if sustained, could result in disciplinary action to include suspension, dismissal, and/or criminal charges.

D. Citizen Complaint: A complaint arising out of an interaction between an employee of the Fort Atkinson Police Department and a citizen, including other city employees. The complaint may be procedural, minor, or serious in nature.

E. Preliminary Investigation: A fact-finding investigation designed to assist a supervisor in determining whether a complaint should be handled through the process of informal inquiry or internal investigation.

F. Informal Inquiry: A first line supervisory review of a procedural or minor misconduct complaint. An informal inquiry may involve simple mediation of the complaint and/or a meeting with the officer for the purpose of determining the facts and the appropriate form of resolution.

G. Internal Investigation: A formal investigation of an employee who has become the subject of a misconduct complaint.

H. Criminal Investigation: The process of investigation into alleged acts of misconduct that, if sustained, may be the basis for filing criminal charges.

I. Representation: Authorized representative as allowed by State law and/or union agreements.

V. PROCEDURE

A. Internal Affairs Function

1. The internal affairs function of the Fort Atkinson Police Department exists for the purpose of coordinating the investigation of serious misconduct by department employees, reviewing the investigation of minor misconduct complaints and procedural complaints, and maintaining records of all complaints against the department and its employees in a secure setting.

2. The Investigations Supervisor shall administer the internal affairs function of the Fort Atkinson Police Department. The Investigations Supervisor shall report directly to the Chief of Police on all matters related to internal affairs.

B. Authority and Responsibility Regarding Internal Affairs

1. Individual Responsibility

a. Each employee shall perform his/her duties and assume the obligations of his/her rank in the investigation of complaints or allegations of misconduct against any member of the department.

b. Each employee shall fully cooperate with the person conducting an investigation involving a complaint or allegation of misconduct against any member of the department.

c. Any employee who has, or is alleged to have, knowledge of circumstances surrounding a citizen complaint, or an internal investigation shall submit a written report on the matter upon request by the person conducting such an investigation.

2. Non-supervisory Personnel

a. When non-supervisory personnel observe misconduct, or receive complaints of misconduct, they shall immediately notify a supervisor of the matter.

3. Supervisory Personnel

   a. When a supervisor observes misconduct, or receives a complaint of misconduct, he or she shall immediately conduct a preliminary investigation into the matter for the purpose of determining whether the complaint alleges serious or minor misconduct or is procedural in nature.

   b. Upon completion of a preliminary investigation, the initiating supervisor shall notify the Investigations Supervisor as soon as practical.

   c. Supervisory personnel shall complete a thorough investigation when directed to do so as part of the internal affairs function of the department.

   d. Supervisors shall maintain the confidentiality and security of all records generated through the internal affairs function of the department.

4. Investigations Supervisor

   a. The Investigations Supervisor shall register all complaints against department personnel.

   b. The Investigations Supervisor shall coordinate the investigation of serious misconduct by department employees, review the investigation of minor misconduct complaints and procedural complaints, and maintain records of all complaints against the department and its employees.

   c. The Investigations Supervisor shall apprise the Chief of Police of the existence, progress, and final outcome of each internal investigation initiated within the department.

   d. Upon conclusion of an internal investigation, the Investigations Supervisor shall review the investigation for thoroughness and make a recommendation to the Chief of Police.

   e. The Investigations Supervisor may serve on the Use of Force Review Team as a resource to ensure continuity in situations where concurrent investigations of a single incident are being conducted according to guidelines established in the Use of Force policy and Internal Affairs process. The Investigations Supervisor may request a use

of force review for the purpose of reviewing an internal investigation based upon "use of force" that does not automatically fall under the jurisdiction of the use of force review team.

5. Chief of Police

   a. The Chief of Police shall review completed internal investigations and recommendations for disciplinary action and determine the final disposition of the investigation.

   b. Nothing in this policy diminishes the authority of the Chief of Police to order suspensions, terminate temporary or probationary employees, or to file charges irrespective of recommendations made by subordinates.

   c. The Chief of Police will decide the appropriate action, if any, to include discipline and/or alternative corrective actions.

C. Citizen Complaint Process

1. All complaints against the department or its employees will be courteously received and thoroughly investigated. This shall include complaints received anonymously, as well as those reported by a citizen not directly associated with the complaint.

2. The supervisor receiving the complaint shall provide the complainant with an email or correspondence on Department letterhead as written verification that the complaint has been received for processing. This shall also include the “Citizen Complaint Statement Form” and “Attestation and Notary Form” (see appendix below).

3. Upon receipt of a citizen complaint, a supervisor shall initiate a preliminary investigation into the matter, and document his or her findings. The preliminary investigation may include such steps as:

   a. Interviewing the complainant, reporting person, or witnesses,

   b. Collecting written statements,

   c. Reviewing documents or audio/visual tapes,

   d. Observing injuries or physical evidence supporting the allegation.

4. The preliminary investigation shall result in a determination as to whether the complaint alleges serious misconduct, minor misconduct, or is procedural in nature.

5. The preliminary investigation report shall be forwarded to the Investigations Supervisor. The Investigations Supervisor will register all complaints received.

6. The Investigations Supervisor will coordinate the investigation of allegations of minor misconduct or procedural complaints through the informal inquiry process. The informal inquiry may be conducted by the Investigations Supervisor personally or assigned to a first line supervisor.

7. If the complaint alleges serious misconduct, the Investigations Supervisor will initiate an internal investigation.

8. The Chief of Police shall ensure records confidentiality by maintaining a secure file of all citizen complaints and shall compile a summary of all complaints filed against the department and its employees annually.

VI. Informal Inquiry

A. The informal inquiry process shall be used to investigate allegations of minor misconduct or complaints of a procedural nature.

B. The decision to resolve a citizen complaint through informal inquiry shall be made following a preliminary investigation into the alleged misconduct or procedural concern and a determination that the matter does not involve serious misconduct.

C. The informal inquiry process may involve mediation of the complaint with the citizen or reporting party, but will always involve an interview with the identified employee.

D. Prior to interviewing an employee regarding his or her involvement in a complaint alleging minor misconduct or a procedural concern, the inquiring supervisor shall advise the employee of the nature of the allegation and that it is his or her intent to resolve the matter through informal inquiry. The employee shall be permitted to have representation if he or she desires.

E. In the event an informal inquiry will take more than thirty days to complete, the assigned supervisor shall provide the complainant with a status report, and on thirty-day intervals, thereafter.

F. Upon conclusion of an informal inquiry, the supervisor shall take the following action:

1. Make a determination regarding the final disposition of the complaint.

2. Notify the employee of the final disposition of the complaint.

3. Notify the complainant of the final disposition of the complaint.

4. Take any appropriate corrective action.

5. Forward the report to the Investigations Supervisor; make any necessary entries into the Personnel files.

VII. Internal Investigation

A. The internal investigation process shall be used to investigate allegations of serious misconduct.

B. The investigation is a fact-finding process to determine the truth. The facts obtained may exonerate the employee or may be used as the basis for disciplinary action.

C. The decision to address a citizen complaint through internal investigation shall be made following a preliminary investigation into the alleged misconduct or procedural concern and a determination that the matter involves serious misconduct.

D. Upon determining through preliminary investigation that a citizen complaint involves an allegation of serious misconduct, the supervisor shall notify the Investigations Supervisor. This notification shall occur as soon as practicable.

E. Upon learning of a citizen complaint alleging serious misconduct, the Investigations Supervisor shall register the complaint, assign a supervisor as an investigator, prepare and forward any relevant internal investigation materials to the supervisor assigned to conduct the investigation, and notify the Chief of Police that an internal investigation has been initiated. The Investigations Supervisor shall monitor the complaint through its completion.

F. Once assigned, the supervisor shall conduct a thorough investigation, documenting the investigation and provide status reports to the Investigations Supervisor every ten business days until completion. Every

effort shall be made to complete the investigation within thirty days. The Investigations Supervisor may grant extensions to the thirty-day requirement.

G. During the course of the internal investigation, the assigned supervisor shall ensure that the confidentiality and security of all information and records generated is maintained.

H. In the event an internal investigation will take more than thirty days to complete, the assigned supervisor shall provide the complainant with a status report, and will continue to do so at thirty-day intervals, thereafter.

I. When an employee is notified that he or she is the subject of an internal investigation, the employee shall be notified of the allegations.

J. Upon conclusion of an internal investigation, the investigating supervisor shall forward the investigation for review and comment to the Investigations Supervisor. The investigation shall then be forwarded to the Chief of Police for final review.

K. Following a final ruling by the Chief, the Investigations Supervisor shall ensure the complainant and employee are advised in writing of the final outcome of the internal investigation.

VIII. Criminal Investigations

A. During the review of a preliminary investigation of alleged serious misconduct, the Investigations Supervisor shall consider the need for a criminal investigation. In the event a criminal investigation is deemed appropriate, the matter shall be assigned to the Investigations Supervisor for investigation. At the direction of the Chief, the assistance of an outside investigative agency may be sought.

B. The Chief of Police shall oversee the criminal investigation.

C. The Investigations Supervisor shall ensure that liaison is maintained with the district attorney's office in investigations involving alleged criminal conduct on the part of an employee.

D. If a criminal investigation is initiated at any point following a review of a preliminary investigation alleging serious misconduct or the initiation of an internal investigation, all matters related to the internal investigation will be suspended pending the outcome of the criminal investigation.

E. Rights and Responsibilities of an Employee under Investigation

1. When an employee is notified that he or she is the subject of an internal investigation, the employee shall be notified of the allegations and his or her rights and responsibilities relative to the investigation.

2. No Miranda rights are required.

3. The employee has no Sixth Amendment right to counsel, as the interview does not serve criminal prosecution.

4. During an internal investigation, an employee may be compelled to answer questions directly related to his or her official duties. All questions asked of the employee under investigation that are specifically related to employment must be fully and truthfully answered. Answers received in such a manner may not be used in a criminal proceeding involving the employee. Refusal to answer may result in disciplinary action.

5. At the request of an employee under investigation, he or she may have a representative of his or her choice present during any interview.

6. In a situation where an internal investigation has been suspended in lieu of a criminal investigation, the employee shall be afforded rights consistent with a standard criminal investigation.

    a. The investigating supervisor shall advise the employee of his or her Miranda rights.

    b. The investigating supervisor shall advise the employee that if he or she asserts his or her rights not to answer questions, no adverse administrative action will be taken based upon the refusal.

    c. If the employee decides to answer questions after being advised of his or her Miranda rights, the responses may be used in both criminal and administrative proceedings.

F. Investigative Tools and Resources

1. Examination

a. Any supervisor may, based on his/her reasonable suspicion, require a department employee who is on duty to submit to a test for alcohol or drug use at a professional medical facility.

b. When ordered by the Chief of Police, employees shall be required to submit to any additional examinations that are specifically directed and narrowly related to an internal investigation of the employee's performance or fitness for duty.

c. Whenever an employee is ordered by the Chief of Police to undergo an examination as a condition of his or her employment, the examination will be provided at no cost to the employee and the employee will be in pay status for the duration of the examination and associated travel time.

d. If, at any time, the investigator determines the investigation is likely to result in criminal charges being preferred against the employee under investigation, the investigator may confer with the City Attorney before proceeding under this section.

2. Photograph and Lineup Identification Procedures

a. When ordered by the Chief of Police, an employee shall submit to being photographed for the purpose of creating a photograph array when such an array is needed to identify an employee accused of serious misconduct or a criminal complaint.

b. If, at any time, the investigator determines the investigation is likely to result in criminal charges being preferred against the employee under investigation, the investigator may confer with the City Attorney before proceeding under this section.

3. Financial Disclosure Statements

a. When ordered by the Chief of Police, an employee shall be required to make financial disclosure statements when such statements are directly and narrowly related to an internal investigation.

b. If, at any time, the investigator determines the investigation is likely to result in criminal charges being preferred against the employee under investigation, the investigator may

confer with the City Attorney before proceeding under this section.

IX. Duty Status of Employee Subject of an Investigation

A. Administrative Leave

1. If the alleged misconduct is of a serious nature, or the employee does not appear fit to continue performing official duties, the supervisor shall place the employee on administrative leave with pay and provide the employee with instructions for reporting to the department. The Chief of Police may assign the employee under investigation to administrative duties pending the conclusion of the internal investigation.

2. When placed on administrative leave, the supervisor shall:

a. Provide the employee with a copy of "Rules While on Administrative Leave". (Appendix A)

b. Take possession of the employee's specified department issued equipment.

3. Administrative leave with pay may continue pending the outcome of an investigation.

B. Complaint Adjudication

1. Completed internal investigations shall be classified using the following guidelines:

a. Unfounded: Investigation indicates that the allegations are false.

b. Not sustained: Insufficient evidence to either prove or disprove the allegations.

c. Sustained: The allegations are supported by sufficient evidence to conclude they are true.

d. Exonerated: Investigation indicates that the incident occurred, but was justified, lawful, and proper under the circumstances.

2. A conclusion of fact shall support the final complaint classification.

3. All completed investigations will be maintained in the department's files by the Chief of Police or designee.

C. Appeal Procedures

Employees wishing to appeal the outcome of any internal investigation shall do so according to the grievance procedure established in the City of Fort Atkinson Employee Handbook, unless the employee is a member of a collective bargaining unit that has agreed with the City on an alternative grievance procedure.

D. Release of Information

1. During the course of an internal investigation the department or its members will not identify any employee under investigation.

2. On an annual basis, the Investigations Supervisor shall prepare a statistical summary of internal affairs activities for dissemination to the public and agency employees if requested.

E. Union Agreements

The agreements between the City and labor unions shall take precedence over this procedure and practice as it pertains to employees covered by said agreement.

This policy and procedure is to be used in conjunction with all relevant existing Fort Atkinson Police Department policies, procedures, rules and regulations in such a manner as to further the pursuit of the department mission, vision, and goals.

_____

Adrian Bump Date
Chief of Police

APPENDIX A

[DATE]

To: [Name]

From: [Name]

Subject: Rules while on Administrative Leave

By way of this letter, I am informing you that effective [date]; you are hereby placed on Administrative Leave with pay.

This decision is based on the seriousness of recently reported allegations of [describe misconduct allegation or fit-for-duty issue] occurring on [date and location of incident]. An internal affairs investigation may be conducted. The investigation is a fact-finding process to determine the truth. The facts obtained may exonerate you or may be used in disciplinary proceeding resulting in reprimand, demotion, suspension or dismissal. Therefore, pending further investigation, you are placed on Administrative Leave. During such time, you must comply with the following rules:

1. You are not authorized to perform any official duties as a law enforcement officer to include conducting any official police business over the telephone. Additional restrictions include;

    a. You shall not go armed with a firearm in a law enforcement capacity.

    b. Should you witness a violation of the law that you feel requires a law enforcement officer to investigate, you should contact the appropriate police department or dial 911 to report the matter.

    c. If you are contacted at home or while out in the community by a person who requests your assistance or advice about a law enforcement matter, you should refer them directly to the Police Department and limit your involvement.

2. You are required to turn in any Fort Atkinson department issued equipment, such as, Badge, Handgun and ammunition, identification card, facility keys, squad keys, police radio, and/or other specialized equipment if not stored and maintained within the police facilities.

3. You are required to report by telephone to [name supervisor(s)] on a daily basis from Monday through Friday at 9 a.m. and be available for a telephone call between the hours of 8:00 a.m. and 10:00 a.m. from Monday through Friday.

4. You must notify your Patrol Supervisor of subpoenas received that mandate your appearance in court during the Administrative Leave period.

5. You are not permitted in the secured areas of the police department, unless accompanied by a supervisor, or you have preauthorization from the Chief of Police.

If you have any questions during this time, please see me or call (920) 397-9905.

_____ _____

Supervisor Date

cc: Chief of Police
Investigations Supervisor
Patrol Supervisor
City Labor Attorney

APPENDIX B

City of Fort Atkinson
Police Department

101 S. Water Street W.
Fort Atkinson, WI 53538
Voice: 920-397-9905
Fax: 920-563-3311

(date)

Dear ,

Attached is a Fort Atkinson Police Department Complaint Form. Please read this letter carefully before completing the form; it will explain the various options available to a complainant.

For complaints such as but not limited to discourtesy, verbal abuse or sarcasm and minor procedural violations, you must submit a written complaint, but need not give a sworn statement. For complaints involving serious policy or procedure violations, use of excessive force, violations of laws, ordinances, court orders or civil rights, you must submit a written complaint and be duly sworn before an official authorized to administer oaths such as a notary public. An Attestation and Notary form is enclosed; notaries are located at various locations in the city including the Fort Atkinson Police Department.

Please provide as much information as possible, including specific dates, times, and the names of officers involved. You may use additional paper as needed. It is very important that you provide us with the names of witnesses and how they can be contacted. It is especially important that you provide us with information so that we can contact you.

Once your complaint is completed, you may mail it to our office, or drop it off in person.
Our address is:

Chief of Police
Fort Atkinson Police Department
101 South Water Street West.
Fort Atkinson, WI 53538

Once we have received your complete materials, we will begin our investigation. At the end of our investigation, you will be notified of the results in writing. Every effort will be made to complete the investigation and department review within sixty days of receiving your complete materials. In the event the investigation and review is not completed within sixty days, a written update will be sent to you.

<u>Any written complaint submitted to us is a public record. This means that upon request, the complaint and related documents may be subject to disclosure to the news media or anyone else that makes a request for documents.</u>

The news media or any person may choose to make the complaint and investigation public once the investigation is complete. If you request confidentiality, the Department will make every legal effort to respect your request however; it is not possible to guarantee confidentiality. You may request confidentiality by checking the appropriate box on the Complaint Statement Form.

The Department routinely discloses summaries of complaints received. Summaries describe the nature of the complaint, the findings of the investigation, and what action, if any, was taken by the Department. Summaries do not identify individual officers, complainants or witnesses.

The Department is required by State law to inform you that, in accordance with Wis. Stats., Sec. 946.66(2), "whoever knowingly makes a false complaint regarding the conduct of a law enforcement officer is subject to a Class A forfeiture."

If you have any questions about the process, please call Investigations Supervisor at 920-397-

9905.

Thank you.

Respectfully,

Chief of Police
Fort Atkinson Police Department

Enclosure: Complaint form

FORM REQUIRED FOR ATTESTATION AND NOTARY

State of Wisconsin)
) *ss*
County of Jefferson)

_____ being first duly sworn on oath,

(Printed Name of Complainant)

deposes and says that he/she is the complainant in the matter described on the following pages; and he/she has read the foregoing complaint and knows the content thereof; that the same are true and complete to his/her own knowledge except as to those matters therein stated upon information and belief, and as to those matters he/she believes the same to be true.

Wisconsin Statute 946.32, False Swearing: (1) Whoever does the following is guilty of a Class "D" Felony.

(a) Under oath or affirmation makes or subscribes a false statement which (s)he does not believe is true, when such oath or affirmation is authorized or required by law, or is required by any public officer or governmental agency as a prerequisite to such officer or agency taking some official action.

OATH TO BE ADMINISTERED BY NOTARY:

Do you solemnly swear that the facts contained in the complaint, which you have today filed, are true and correct to the best of your knowledge, so help you God?

_____
Complainant's Signature (Under Oath)

_____
(Translator Signature, if applicable)

WITNESSES:

1._____

2._____

Subscribed and sworn to before me this _____ day of _____, _____.

Notary Public, Jefferson County, Wisconsin
My Commission (is permanent) or (expires on) _____.

FORT·ATKINSON | POLICE DEPARTMENT | Adrian J. Bump CHIEF OF POLICE

CITIZEN COMPLAINT FORM

Date Report Filed:_____ Agency Case #_____

Reporting Person_____ Date of Birth _____

Address _____

Phone # _____ Reporting Person is __ Victim __ Witness __ Other Involved

Date/Time of Occurrence _____ at _____ am/pm

Location of Occurrence _____

Name of Officer/Employee _____

Or Description _____

Attention: State Statue 946.66 (2) – False Complaints of Police Misconduct. Whoever knowingly makes a false complaint regarding the conduct of a law enforcement officer is subject to a Class A Forfeiture.

Give a narrative description of the events giving rise to the complaint.

_____

_____

_____

_____

_____

_____

_____

_____

_____

(Use additional provided form if more space is needed for narrative report.)

Certification: I certify that all the information and statements made in this complaint are true, complete, and correct to the best of my knowledge and are made in good faith.

Signature of Reporting Person _____ Date _____

After you complete and sign this citizen complaint form, place in the sealed envelope provided and submit to Supervisor or OIC

Complaint Process Log

This page completed by command staff personnel

Date Received: _____ Complaint Received How _____

Complaint Received By:_____
(Initial Command Staff Review)

Officer(s)/Employee(s) Involved:_____

_____

Complaint Reviewed by Chief:_____ _____
Date Time Chief Signature

Investigation Assigned: _____
Date Time Investigator

Investigation Completed: _____
Date Time Investigator

Findings: _____ Unfounded _____ Not Sustained _____ Exonerated _____ Sustained

Actions Taken:

_____

_____

_____

_____

Notice to Involved Officer(s)/Employee(s) _____
Date Time

Notice to Complainant _____ Notice By:_____
Date Time

Location of Investigative File:_____

___ Personnel File(s) Updated as necessary