

<b>MARSHALL POLICE DEPARTMENT POLICY</b>		TITLE: <b>CITIZEN COMPLAINT POLICY</b>	
ISSUE DATE: 08-24-2007	LAST UPDATE: SEPT 16, 2015	SECTION: Administrative	FILE NAME: CITIZEN COMPLAINT
POLICY SOURCE: Chief Lee Hellenbrand			TOTAL PAGES: 6
SPECIAL INSTRUCTIONS:			

I. PURPOSE

The purpose of this policy is to provide a specific procedure for processing and resolving a complaint by any person regarding the conduct of a law enforcement officer or civilian employee as provided in Wisconsin Statutes 62.13(5) and 66.0511(3); to maintain the quality of police services, to improve the relationship between the police and citizens; and to provide citizens with a fair and effective avenue for resolving legitimate grievances against law enforcement officers.

The objective is to protect the public and to maintain the integrity of the Department and the individual employee. An essential balance must be maintained to ensure fair and impartial treatment of the issues and parties concerned. Throughout these procedures the rights of the individual police officer and citizen must be acknowledged and not compromised.

II. POLICY

It is the policy of the Marshall Police Department to accept, investigate, and resolve complaints by any persons regarding the conduct of law enforcement officers and civilians employed by the Department.

III. DISCUSSIONS

This policy and procedure is applicable to all department personnel and shall apply to complaints by any persons regarding the conduct of law enforcement officers and/or employees of the agency whether on or off duty.

IV. DEFINITIONS

1. Complaint – means to file a formal allegation against an employee under the guidelines of this policy.
2. Law Enforcement Officer - means any person employed by the state or any political subdivision of the state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances that the person is employed to enforce.

V. PROCEDURE

1. Receipt of Complaint by Non-Supervisory Personnel

When misconduct is observed or complaints of misconduct are received by non-supervisory personnel such member shall immediately notify a supervisor of the matter. Complaints received by telephone or in person shall be referred to a supervisor. A complainant should be encouraged to file his/her complaint in person.

2. Supervisory Personnel

- a. When misconduct is observed or complaints of misconduct are received by a supervisor, that person shall immediately initiate a preliminary investigation into the matter in

accordance with this policy.

- b. Upon initiation of the investigation, the supervisor shall notify the Chief of Police as soon as practical.
  - c. Supervisory personnel shall complete a thorough investigation when directed to do so by the Chief of Police.
3. Chief of Police
- a. The Chief of Police shall review the results of the investigation and will take such action as he deems appropriate.
  - b. Nothing in this policy and procedure shall be construed to limit prerogatives of the Chief of Police or any other supervisory officer to investigate or take corrective action against subordinates whenever appropriate, nor to prevent the Chief of Police from taking disciplinary action against a subordinate under Wis. Stat. 62.13(5), irrespective of any complaint.
4. Citizen Complaint Procedures
- a. All employees of the Department are charged with the responsibility for courteously and willingly receiving any complaint regarding the conduct of an employee employed by the Department, to include complaints made over the telephone, in person, received by mail, or electronic mail (email). Complaints received by telephone or in person shall be referred to the on-duty supervisor.
  - b. A complainant should be encouraged to file his or her complaint in person. All complaints should be documented on the Citizen Complaint Form (Appendix A) and signed by the complainant.
  - c. The supervisor shall use the Citizen Complaint Form to determine further action regarding the complaint. In situations where the concern of the complaint can be immediately resolved through an informal inquiry, the Citizen Complaint Form shall serve as the only record of the complaint. This resolution shall not be construed to preclude an independent investigation and/or discipline by the Department for such situations.
  - c. The supervisor or office in charge (OIC) will forward a completed complaint and all inter-office reports relating to the incident to the Chief of Police.
  - e. The Chief of Police will also review the complaint and reports. If necessary, an investigating supervisory staff officer shall be assigned.
  - f. Disciplinary action taken by the Chief of Police on a citizen complaint shall be reported to the President of the Oversight Committee pursuant to 62.13(5).
  - g. The Citizen Complaint Form shall include the following:
    1. Name and contact information of the person making the complaint, if known.
    2. Date, time and location of the incident and when the incident is being reported.
    3. Name of the employee(s) involved, if known, or action, policy, or procedure in question.
    4. Specific details of the complaint including any witnesses.
    5. Statement of appeal rights.
    6. A conspicuous notification of the prohibition and penalty under § 946.66 Wis. Stats.

5. Complaints against the Chief of Police
  - a. Shift commanders receiving complaints directed against the Chief of Police and arising out of specified conduct on the part of the Chief of Police, shall file the complaint with the Village President for investigation pursuant to Wis. Stat. 62.13(5).
6. Guidelines to the Officer Being Investigated
  - a. Section 164.02 of the Wisconsin Statutes provides:

**164.02 Interrogation.** (1) If a law enforcement officer is under investigation and is subjected to interrogation for any reason which could lead to disciplinary action, demotion, dismissal or criminal charges, the interrogation shall comply with the following requirements:

    - (a) The law enforcement officer under investigation shall be informed of the nature of the investigation prior to any interrogation.
    - (b) At the request of any law enforcement officer under interrogation, he or she may be represented by a representative of his or her choice who, at the discretion of the officer, may be present at all times during the interrogation.

(2) Evidence obtained during the course of any interrogation not conducted in accordance with sub. (1) may not be utilized in any subsequent disciplinary proceeding against the law enforcement officer.
  - b. All questions asked of the employee under investigation that are specifically related to employment must be fully and truthfully answered. Refusal to answer may result in disciplinary action.

## VI. DISPOSITION

### 1. Disposition of Complaints

The Chief of Police shall make the final disposition of the complaint as may be appropriate. No disposition involving disciplinary action will be made without first confronting the employee involved with the results of the investigation and affording the employee an opportunity to respond. The Chief of Police shall inform the employee in writing of a disposition of the complaint.

The case disposition classifications shall be as follows:

- 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, and an appropriate departmental action was imposed.

If sustained, the Chief of Police shall take such action against the employee as is appropriate, which may include disciplinary action against the employee pursuant to State Stat. 62.13(5).

- d. **Exonerated.** - Investigation indicates that the incident occurred, but was justified, lawful, and proper under the circumstances.
- e. **Policy failure.** - The investigation reveals that the allegations are true; however, the employee was acting in accordance with established Department policy.

2. Complainant Notification of Disposition

The Chief of Police or designee shall inform the complainant named in the complaint in writing of the disposition and the reasons therefore within a reasonable period of time.

3. Oversight Committee Notification of Disciplinary Action

The Chief of Police shall notify the President of the Oversight Committee of any disciplinary action taken with respect to a citizen complaint.

4. Complainant's Right to a Committee Hearing

As part of the written notification of the disposition of the complaint, the Chief of Police or designee shall inform the complainant that if not satisfied with the results of the investigation, he/she may, within 30 days of the date of such notification, file written Charges with the President of the Oversight Committee.

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Lee T. Hellenbrand  
Chief of Police



