



# CITY OF SUN PRAIRIE POLICE DEPARTMENT POLICY AND PROCEDURE



## *Professional Standards*

Administrative Policy No. A-00

Eff. Date: 02/05/19

### **Policy**

Police personnel comprise of a special class of public employee. Because they are conspicuous and visible representatives of government their conduct is closely scrutinized. When police behavior is found to be excessive, unwarranted, or unjustified criticism is more severe than it would be for similar conduct by persons in other walks of life. The end result of criticism is lost community support and respect - both necessary ingredients to the department's capacity to perform the police function.

To maintain department integrity and public trust the Sun Prairie Police Department will investigate and properly resolve complaints against its employees and policies. The department is committed to investigating complaints in an open and fair manner, while preserving the rights of all those involved, and with the truth as its primary objective.

### **Objective**

To provide a framework for creating, maintaining and being accountable to a set of professional standards for all department members.

### **Definitions**

#### Code of Conduct:

Refers to CC-1, which is comprised of the departments Law Enforcement Code of Ethics, Vision Statement, Mission Statement, Core Values, and Policy & Procedures.

#### Complaint:

An allegation of an act or omission, which would constitute an employee's breach of the Code of Conduct or citizen dissatisfaction with the Code of Conduct or operating practice. May be generated by both external and internal sources.

#### Minor Complaints:

Generally, "minor" complaints are reports of conduct or patterns of conduct that, if proven true, would likely result in actions less than a letter of reprimand.

#### Non-minor Complaints:

Generally, "non-minor" complaints are reports of conduct or patterns of conduct that, if proven true, would likely result in a letter of reprimand or more serious discipline.

#### False Reporting of Police Misconduct (WI SS 946.66):

Whoever knowingly makes a false complaint regarding the conduct of a law enforcement officer is subject to a Class A forfeiture.

### **Procedure**

## A. USE OF RECORDING DEVICES

1. Members of the department are not to use concealed recording devices during interactions with department personnel on or off-duty, unless there is prior permission from the Chief of Police, which is considered on a case-by-case basis.

## B. UNLAWFUL CONDUCT

1. Employee Self-Reporting Requirements:
  - Members of the department who are cited for a municipal violation or non-criminal traffic violation (except OWI or hit & run) shall report the incident to their supervisor immediately upon their return to duty following the contact.
  - Members of the department who are arrested, cited, or come under investigation by any law enforcement agency regarding their involvement in a violation of criminal law, OWI or hit & run, shall report the incident to the Officer-In-Charge (OIC) or a member of the command staff **within eight hours** of the law enforcement contact.
  - The department shall review the circumstances of the incident and determine whether further investigation or action by the Sun Prairie Police Department is necessary.
  - The fact that an employee has not been charged or convicted of an incident does not bar departmental investigation and/or discipline under this policy.
2. Department personnel shall immediately notify a supervisor any time they are investigating an incident and become aware of any law enforcement officer who is a suspect of any criminal activity or OMVWI.

## C. COMPLAINT ACCEPTANCE, INVESTIGATION, AND DISPOSITION

### 1. OVERVIEW

- Employee's Responsibility
    - When involved in an investigation, employees are required to cooperate fully, answer questions truthfully, and to render material and relevant statements to the investigating officer.
  - Guideline for Complaint Acceptance
    - Citizen complaints will not be investigated if the complaint is received more than 90 days after the alleged incident, unless the complaint involves an alleged criminal violation or the complainant can show good cause for not making the complaint within the specified time limit.
    - In cases where citizen complaints are filed against arresting officers, the investigation may be suspended, at the direction of the Chief of Police, until the court proceedings are completed.
  - Prompt Disposition of Complaints
    - Investigations against employees of the Department will be prompt and disposition will be within 60 days of the assignment of the complaint. An extension of this time limit may be granted by the Chief of Police.
  - False Complaints
    - It is a violation of State Statute 946.66 to knowingly make a false complaint regarding the conduct of a police officer. It is the policy of this department to pursue charges against those who violate this statute.
- ### 2. RESPONSIBILITY FOR ACCEPTING/REFERRING COMPLAINTS

- Every employee of the Department has the responsibility to ensure that a citizen complaint is received and referred to the appropriate unit or supervisor.
- 3. METHODS AVAILABLE FOR RECEIVING CITIZEN COMPLAINTS**
- The methods available for receiving complaints from citizens are listed below and should be appropriate to the nature of the complaint as determined by the investigating supervisor.
    - A complainant may tender a complaint verbally, either personally or by telephone, or in writing.
    - For non-minor complaints, the department encourages complainants to complete the Employee Conduct Reporting Form.
    - Written complaints can be sworn to by the complainant before an official authorized to administer oath (e.g., a Notary Public).
    - A citizen can file any complaint against a commissioned employee with the Board of Police and Fire Commissioners, as provided in Wis. State Statute 62.13. A PFC complaint form is available, via the City's Clerks Office, to assist them with that process.
    - Citizens who have complaints against the Code of Conduct of the Department will be directed to submit their complaint in writing to the office of the Chief of Police.
- 4. RESPONSIBILITY OF SUPERVISOR RECEIVING CITIZEN COMPLAINTS**
- Investigating Supervisors are responsible for the following:
    - Being familiar with and conducting investigations in accordance with the Department's Code of Conduct and with chapter 164 of the Wisconsin Statutes.
    - Conducting prompt, thorough, and fair investigations whether "minor" or "non-minor."
    - Respecting the dignity of all persons involved in an investigation.
    - When appropriate, referring employees to the City's Employee Assistance Program.
    - Notification of the involved employee(s) will be completed at the discretion of the investigating supervisor in order to preserve the integrity of the investigation.
    - Separating witnesses, when appropriate, while conducting an investigation. Employees may be ordered to not discuss their involvement in an investigation with others. Such an order should only be imposed for the length of time reasonably necessary. It is not the Department's intent to restrict employee's rights to prepare a defense to a complaint filed against them.
    - Advising a complainant who is not satisfied that they have the option to pursue their complaint with the Police and Fire Commission (PFC). A PFC complaint form is available, via the City's Clerks Office, to assist them with that process.
  - Minor Complaints
    - The in-taking supervisor should attempt to resolve the matter immediately with the complainant.
    - If further investigation is necessary, the in-taking supervisor will forward the information to the employee's direct supervisor for disposition with the complainant and employee.
  - Non-minor Complaints
    - Supervisors receiving "non-minor" complaints will obtain the nature of the complaint, a description of the events in question, the names of any witnesses, and how the complainant/witnesses can be re-contacted.
    - A written record of the complaint will be forwarded to the division Lieutenant as soon as practical. The division Lieutenant will assign a supervisor to investigate the complaint.

- The division Lieutenant will notify the Assistant Chief of the complaint.

## 5. COMPLAINT DISPOSITION

### ○ **Minor:**

- Upon completion of an investigation, the investigating supervisor will accomplish the following:
  - a. When necessary, take appropriate corrective action with the employee (generally, first-time minor offenses will result in counseling, training, and/or verbal reprimand by the employee's supervisor).
  - b. Notations of these non-disciplinary actions will be made in the employee's planning file according to [Policy A-06 Employee Records](#).
  - c. Contact the complainant to inform them of the disposition.
  - d. Forward the completed *Supervisor Reporting of Officer Conduct (Minor Complaints) Form* to the division Lieutenant & Assistant Chief.

### ○ **Non-Minor:**

- Upon completion of an investigation, the investigating supervisor will make a recommendation for each allegation from among the following dispositions:
  - a. *Exonerated*: The alleged incident occurred, but was lawful and in accordance with the Code of Conduct.
  - b. *Unfounded*: The evidence shows that the allegation was false.
  - c. *Not Sustained*: The allegation is not supported by a preponderance of evidence.
  - d. *Sustained*: A preponderance of evidence shows that the action of the employee was not consistent with the Code of Conduct.
  - e. *No Finding*: Circumstances dictate a disposition of no finding. These can include: a complaint received outside of the 90 day time limit; a complainant wishing to withdraw the complaint; a complainant no longer available or not cooperating with the investigation; a complaint received on a retired employee, or on a person not employed by the Sun Prairie Police Department.
- The recommendation will be forwarded through the division's chain of command for review and concurrence to the Assistant Chief.
- The Assistant Chief will ensure the investigation was conducted in a prompt, fair, and thorough manner in accordance with chapter 164 of the Wisconsin Statutes.
- The Assistant Chief will present the investigative packet to the Chief of Police to seek concurrence with the investigative findings. The Chief of Police will have final authority in determining the disposition.

## 6. ALLEGATIONS OF CRIMINAL ACTIVITY, SERIOUS MISCONDUCT AND CRITICAL INCIDENTS

- In all cases where criminal activity or other serious misconduct is alleged, the employee's division Lieutenant, Assistant Chief and Chief of Police will be contacted as soon as possible.
- When the investigating supervisor determines that there may be probable cause for a criminal violation the case shall be forwarded to the District Attorney's office for review. This does not preclude an immediate physical arrest if there is a threat to public safety.

## 7. NOTIFICATION OF DECISION: NON-MINOR COMPLAINTS

- Following completion of a complaint investigation, the employee(s) who are the subject of the complaint, and the complainant(s), shall be informed of the disposition by the Chief of Police or his/her designee. This notification should be made as soon as possible, but not

later than 10 days following completion of the investigation and command review procedure.

## **D. ADMINISTRATION OF SANCTIONS/DISCIPLINE**

### **1. OVERVIEW**

- Some of the primary tasks of supervisors are encouraging, counseling and, if necessary, disciplining or correcting the behavior of employees. The purpose of this is to direct individual effort into effective and productive action.
- The exercise of corrective action requires foresight and planning rather than mere reaction. It involves an evaluation of the human factor, which when combined with proper motivation and recognition of individual and group effort, results in self-discipline. Methods of correcting inappropriate behavior may range from counseling, where the immediate effect is on the individual, to corrective sanctions, or termination of employment, where the positive effect is in the reassurance to other employees and the community that unacceptable conduct will not be tolerated. In each case, care must be exercised to obtain a desired and just result and the uniform application of corrective action, including discipline, department-wide.
- The department recognizes that problems in the work place may be related to alcoholism, other drug dependency, emotional disorders, or other personal problems. In order to address problems such as these, the City has an Employee Assistance Program. Employees and supervisors are encouraged to use the program as a prevention measure, as well as a parallel system to the disciplinary process.

### **2. PRE-DETERMINATION HEARING**

- Should the Chief of Police determine that an allegation is preliminarily sustained and the conduct if proven true would result in a letter of reprimand or greater discipline, the Assistant Chief will schedule a pre-determination hearing. Generally, the employee's direct supervisor, division Lieutenant, and Assistant Chief will participate in the pre-determination hearing.
- The pre-determination hearing is the employee's opportunity to dispute any factual conclusions made in the investigation, to provide any mitigating circumstances explaining their conduct, or to provide any other information that they would like considered. The employee's appearance at the pre-determination hearing is optional as the employee may elect to submit a written response in lieu of appearing. However, they may both appear and provide a written response.

### **3. SANCTIONS**

- Employees found to have committed sustained policy violations may be subject to sanctions including, but not limited to: counseling, a written reprimand, suspension, demotion, or termination. Such employees may also be required to attend remedial training, alcohol/drug assessment, psychiatric evaluation or any other training, treatment or evaluation reasonably deemed necessary by the Chief of Police or his/her designee.
- Disciplinary actions against civilian employees will be in accordance with City Policy and Ordinances for non-represented employees

### **4. REVIEW**

- Prior to the imposition of disciplinary action and after the pre-determination hearing, and any subsequent investigation, the Assistant Chief will ensure the 7 Standards of just cause have been met.
- The employee's direct supervisor, division Lieutenant, Assistant Chief and Chief of Police will identify an appropriate disciplinary course of action commensurate to the nature and

circumstances of the complaint, the seriousness of the employee's misconduct, as well as taking into account the employee's complaint and work history.

- The Chief of Police will have final authority on imposition of discipline.

#### **5. NOTIFICATION/DOCUMENTATION**

- After the imposition of a sanction or discipline (letter of reprimand or greater), the Assistant Chief will direct a memorandum to the employee, co-signed by the employee's immediate supervisor, division Lieutenant and Chief of Police, indicating the Code of Conduct violation and the type of sanction or discipline imposed. A copy of this memorandum will be placed in the employee's personnel file.
- Should an employee be suspended without pay, the order shall be issued by the Chief of Police. Disciplinary actions against commissioned personnel requesting demotion or dismissal will be filed by the Chief of Police with the Police and Fire Commission, pursuant to Wisconsin Statute 62.13.

### **E. MANAGEMENT PREROGATIVE**

1. Nothing in this policy shall be construed to limit the management prerogative of the Chief of Police, nor any other supervisory officer, to take corrective action whenever appropriate. The Chief of Police may file formal charges against an employee, with the appropriate authorities, irrespective of a citizen or internal complaint.

### **F. PROFESSIONAL STANDARDS RECORDS**

1. The Assistant Chief's office will maintain records of all received complaints, including dispositions.
  - A record of dispositions of investigations where a sustained violation of the Code of Conduct results in a letter of reprimand or greater sanction, will be maintained in the employee's personnel file.
  - Records of complaints resulting in the dispositions of unfounded, exonerated, or not sustained will not be maintained in an employee's personnel file.
2. The Assistant Chief will provide the Chief of Police with an annual summary of complaints, to include risk assessments and recommendations for changes in policy, training or other resources.

*Replaces: A-1001 Internal Investigations, G-132 Disciplinary System, & G-133 Supervisory & Command Staff*