


NORTHAMPTON POLICE DEPARTMENT Administration & Operations Manual		
Policy: Citizen Complaints & Internal Investigations		AOM: P-251
Massachusetts Police Accreditation Standards Referenced: [52.1.2], [52.1.1], [52.2.1], [52.2.4.c], [52.2.4.a], [52.2.1.b], [52.2.3], [52.2.4.b], [52.2.2], [52.1.3], [52.2.6.a], [52.2.6.b&c], [52.2.6.d], [52.2.6.e], [52.2.8], [52.2.7]		Issuing Authority <hr/> Jody Kasper Chief of Police
Dissemination Date: 9/10/2002 Effective Date: 9/11/2002	Amended: 2/08, 9/08, 12/08, 8/13, 11/15, 7/21, 5/22 Reviewed: 2/05, 2/08, 9/08, 12/08, 10/09, 3/11, 8/11, 8/13, 8/15, 11/15, 8/17, 6/20*, 11/23	

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I. Introductory Discussion

- A. A relationship of trust and confidence between the employees of this police Department and the residents of the community is essential to the successful accomplishment of law enforcement objectives. All police employees are expected to conduct themselves, whether on or off duty, in such a manner as to reflect favorably upon themselves and the Department. The consistently high quality of this standard of conduct establishes and maintains the reputation of the Department and encourages the support of the community for police purposes and goals.

- B. The Internal Affairs function is important for the maintenance of professional conduct in a law enforcement agency. The integrity of the Northampton Police Department depends on the personal integrity and discipline of each employee. To a large degree, the public image of this Department is determined by the quality of the Internal Affairs Section in responding to allegations of misconduct against the Department or its officers.
- C. The primary responsibility of the Internal Affairs function is to respond to allegations of misconduct against the police department and its employees. Internal Affairs will be responsible for recording, registering, and controlling the investigation of complaints against employees; supervising and controlling the investigation of alleged misconduct within the Department; maintaining the confidentiality of internal affairs investigations and records to the extent required by law; and ensuring that timely and required reporting of Internal Affairs Complaints and Investigations are made to the Massachusetts Peace Officers Standards and Training (POST) Commission pursuant to Chapter 253 of the Acts of 2020. Internal Affairs will ensure that the integrity of the Department is maintained through an internal system where objectivity, fairness, and justice are assured by proper and impartial investigation and review.
- D. The responsibility for supervising, conducting, coordinating, and maintaining the Internal Affairs function of the Department lies with the Operations Division Commander (ODC). However, the Chief of Police shall be closely involved in all decisions regarding findings and dispositions, except where the Internal Affairs Complaint or Investigation involves complaints regarding the Chief of Police.
- E. Since an Internal Affairs investigation involves allegations against the police department and its employees, it is essential that the process not only be lawful, but that it is done with integrity and fairness to all involved including the complainant(s), witness(es), alleged victim(s), and alleged responsible party(ies). This necessitates confidentiality as required by law and full adherence to procedure. [52.1.2]

The objectives of an Internal Affairs investigation are:

- 1. Protection of the public's right to a fair process that promotes trust in the work of the Department;
- 2. Protection of the employee(s)' due process and contractual rights;
- 3. Protection of the integrity of the Department;
- 4. Corrective action, including but not limited to discipline and/or removal of unfit personnel;
- 5. Detection of policing issues in the Department so that procedural issues can be corrected, mistakes can be addressed, and the Department can solve problems in an effort to better serve its community safety focus.

All alleged or suspected violations of laws, ordinances, department rules, regulations, policies & procedures, and orders (verbal or written), must be investigated according to the procedures outlined for each. These include: [52.1.1]

1. Alleged violations reported to the Department's superior officers by other members of the Department, either orally or in writing;
2. Alleged violations observed or suspected by Department superior officers; and
3. Community member complaints of alleged police misconduct which are made in person, by letter, by telephone, or anonymously (includes prisoner complaints).

II. Policy

- A. It is the policy of the Northampton Police Department to investigate all complaints against the Department and its employees, regardless of the source of such complaints, through a regulated, fair, and impartial internal affairs program. [52.1.1]
- B. A complaint shall be an allegation of misconduct, mistreatment, or unethical practices.

III. Complaint Procedures

A. Recording of Complaints:

1. Complaints made by the public may be made in person, by phone, in writing by mail or by email. All contact information for filing a complaint will be kept up to date and maintained in a prominent location on the Department's website. Members of the public are asked to provide as much detail as possible in order to aide in the investigation. However, the failure to have items a-i, below, on a complaint form will not be grounds for refusing to process a complaint.

Employees shall aide individuals who express the desire to lodge complaints against the Department or any employee of the Department. This may include, but is not limited to:

- a. Calling a supervisor to the scene to document the complaint;
- b. Explaining the agency's complaint procedures;
- c. Providing referrals to individuals and/or locations where such complaints can be made in person; or
- d. Explaining alternative means for lodging complaints, such as by phone, mail, and electronically.

The Department is committed to ensuring that this complaint procedure is accessible to all in the community. Individuals that may need assistance filing a complaint due to disability, language barriers, or other reasons may contact Internal Affairs regarding accommodations.

2. The Officer-in-Charge (OIC) of the station at the time the complaint shall be responsible for the efficient and complete recording of any complaint made by a community member in person or received by Telephone. If an OIC receives a written complaint by mail or by email, it shall be forwarded to the ODC.

- a. This initial contact between a complaining community member and police authorities is an important stage in the complaint process as the complainant may be tense, angry, and emotionally upset, and the potential for hostility is great.
 - b. The utmost courtesy, patience, and cooperation should be extended to all community members registering complaints or otherwise inquiring about complaint procedures.
 - c. No person should be denied an opportunity to register a complaint, nor should any such person be directed to return or call back later. Whenever possible the complainant should be spoken with in private, although a complainant shall not be denied the right to have their attorney assist them in filing a complaint or attending an investigative interview.
3. ***AOM P251.a Internal Affairs Complaint Report*** will be used to record all complaints of misconduct, mistreatment, or unethical practices whether registered by a community member, initiated from within the police department, or forwarded by another governmental agency.
- a. The following information should be included on the complaint report form:
 - 1) Date and time of complaint report;
 - 2) Name, address, and telephone number of the complainant;
 - 3) Name, address, and telephone numbers of any witnesses to the reported incident;
 - 4) Name, rank, badge number (or description) of the employee against whom the complaint is made;
 - 5) Date, time, and location of the reported incident;
 - 6) Complainant's description of the incident which resulted in the complaint;
 - 7) Signature of complainant (if obtainable);
 - 8) Signature of parent or guardian, if the complainant is under eighteen (18) years of age;
 - 9) Name, rank, and signature of department employee receiving complaint report. Complaint reports should be received by a supervisor in all cases, if possible.

B. Receipt of Complaints: [52.2.1]

1. When a complaint is made in person, the complainant shall be requested to complete ***AOM P251.a Internal Affairs Complaint Report***. The supervisor receiving the complaint will ensure that the complainant receives a photocopy of their complaint to serve as a written verification that the complaint has been received. The supervisor shall ensure that their own name, rank, and signature are on the form prior to submitting a copy to the complainant. [52.2.4,a]

- a. Community members making complaints in person should be requested to read over their completed report to make any necessary corrections or additions and to sign their complaint.
 - b. If a complainant refuses to sign a complaint, notation to that effect should be made on the complaint form.
 - c. If an officer on the street is approached by a community member regarding a complaint of alleged misconduct against an employee of the police department, the officer shall inform such person that their complaint should be directed to the OIC of the station.
2. When a complaint is received over the telephone, the OIC shall be responsible for obtaining all required information and recording such on ***AOM P251.a Internal Affairs Complaint Report***. They shall also be responsible for ensuring that the complainant is sent a copy of their own complaint to serve as a written verification that the complaint has been received. [52.2.4,c]

Community members making complaints by telephone should be informed that their signed complaint is requested; however, no telephone complaint should be refused or rejected because the complainant does not wish to sign a complaint form or because they do not wish to be identified.

3. When a complaint is received in writing, by mail or email, the OIC shall ensure that the allegations are documented on ***AOM P251.a Internal Affairs Complaint Report*** and the original communication attached thereto. They shall also be responsible for ensuring that a copy of such complaint form is sent to the complainant to serve as written verification that the complaint has been received. [52.1.1] [52.2.4.a]

If the information received is insufficient or incomplete, the complainant shall be contacted, if possible, and informed of the Department's complaint procedure and any necessary additional information obtained.

4. Intra-Departmental Complaints of misconduct against another department employee shall be initiated by the preparation of ***AOM P251.a Internal Affairs Complaint Report***.

All intra-departmental complaints are to be submitted directly to the ODC or the Chief of Police, who will review such complaints and make a determination as to what action will be taken.

5. Detainee Complaints: Any detainee who alleges misconduct or mistreatment by a department employee shall be advised by the OIC of their right to submit a complaint report form in the usual manner. Such complaints should be investigated and processed in the same manner as other community member complaints.
6. The ODC shall provide written notice to the complainant verifying receipt of the complaint for processing. [52.2.4,a]

C. Reporting Complaints of Police Misconduct to the Commonwealth of Massachusetts.

In compliance with Chapter 253 of the Acts of 2020, the Department shall send any complaint received regarding officer misconduct to the POST Commission's Division of Police Standards within two (2) business days of receiving the complaint in the form determined by the POST Commission. In order to meet this deadline, the Chief of Police or their designee, shall be notified of any and all complaints against an officer within 24 hours of their receipt. At a minimum, the form and information reported to the State will include the following:

1. Name and commission certification identification number of the subject officer;
2. Date and location of the incident;
3. Description of circumstances of the conduct that is the subject of the complaint;
4. Whether the complaint alleges that the officer's conduct:
 - a. Was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level
 - b. Was unprofessional
 - c. Involved excessive, prohibited or deadly force
 - d. Resulted in serious bodily injury or death
5. A copy of the original complaint submitted directly to the agency.
6. Any other information required by the POST Commission.

In the event the POST Commission establishes a threshold and process for the reporting or handling of minor complaints that do not involve the use of force or allegations of biased behavior, that process for reporting to the POST Commission or its Divisions shall be followed.

D. Immediate Resolution of a Complaint:

1. In some cases a complaint may be immediately resolved to the complainant's satisfaction by the OIC, when taking an initial report. This should be reported in writing to the ODC who will review it and decide whether the immediate resolution is acceptable, and if possible, acknowledged in writing to the complainant. [52.2.1]
2. This immediate resolution can often be accomplished if the incident is clearly not of a serious nature or arises from a misunderstanding or lack of knowledge of the law, policy or procedures, or of the limitation of a police officer's authority.
3. Under no circumstances, however, will a justifiable complaint be refused, delayed, or otherwise rejected in this manner.
4. Complainants involving an immediate resolution must still be reported to the Division of Police Standards as required by the POST Commission and the Police Report Law.

E. Preliminary Investigation

1. All complaint reports shall be forwarded to the Operations Division Commander (ODC) for review.
2. No complaint should be rejected solely because it is anonymous, as anonymous complaints can often be a valuable source of information and should be considered on their individual merits.
3. Care must be taken, however, that Department employees are not subjected to unjust, frivolous or capricious complaints.
4. When complaints are received by the ODC or the Chief, a brief preliminary investigation may be completed prior to the initiation of a full internal affairs investigation. Preliminary investigations do not require assigned IA case numbers. In some cases, it may be quickly determined that the matter is frivolous, or does not involve a violation of policy or law, and an investigation is unnecessary. If the matter is disposed of at the conclusion of a preliminary investigation, a memo detailing the findings should be completed and attached to the complaint.
5. Complaints of incidents that occurred more than six (6) months prior to the complaint being made may be dismissed if they involve only allegations of possible workplace policy violations and do not involve allegations of possible: (A) discrimination, harassment, bullying or biased policing on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level, or any other lawfully protected status; (B) unprofessional conduct or untruthfulness; (C) excessive, prohibited or deadly force; or (D) bodily injury, including serious bodily injury or death. Any reports that allege serious policy violations such as those identified in (A)-(D), immediately above, or that contain allegations of criminal activity, regardless of how much time has passed, shall be investigated. The Chief of Police or, the Mayor's Office in the case of a complaint against the Chief, shall determine if allegations involving policy violations that are more than six (6) months old will be investigated.
6. Any complaints that allege violations committed by the Chief of Police shall be forwarded to the Mayor's Office or their designee. OIC's who receive any complaints against the Chief of Police shall send the complaint directly to the Mayor's Office or their designee or to a Captain who will then forward the complaint to the Mayor's Office or their designee.

F. Processing Complaints:

1. When it is determined that an Internal Affairs investigation shall be completed, the ODC will assign an identifying number to every complaint report so that the processing of complaints can be carefully monitored.
2. Inform the Officer: Any employee who is subject of an Internal Affairs investigation shall be provided with a written statement of the allegations via ***AOM P251.b Notification of Charges/Allegations***. Further, the employee shall

be directed to this policy for a statement of their rights and responsibilities relative to the investigation. [52.1.6]

IV. Investigative Procedures

A. Complaints to be Investigated by a Supervisor [52.1.1] [52.2.1]

1. Complaints to be investigated by a Supervisor may include such offenses as:

- a. Alleged rudeness;
- b. Tardiness; and
- c. Insubordination.

If, during the course of a Supervisor investigation, facts are alleged or come to light that may implicate a complaint type identified in Part IV, B, 1. below, the ODC should be immediately notified and the matter transferred to Internal Affairs for further processing.

2. At the completion of the investigation, the Supervisor shall submit a full written report to the ODC regarding the findings. [52.1.1,c]

B. Complaints Investigated by Internal Affairs [52.1.1] [52.2.1]

- 1. The criteria for determining the categories of complaints to be investigated by Internal Affairs include, but are not limited to: [52.1.1,b]
 - a. Complaints involving allegations of criminal conduct on the part of the employee;
 - b. Complaints that allege possible discrimination, harassment, bullying against any person(s) or biased policing on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level, or any other lawfully protected status;
 - c. Complaints alleging unprofessional conduct or untruthfulness
 - d. Complaints alleging excessive, prohibited or deadly force;
 - e. Complaints alleging bodily injury, including serious bodily injury or death.
 - f. Complaints involving allegations of civil rights infractions on the part of the employee;
 - g. Complaints involving a second or subsequent documented violation of a departmental rule, regulation, or policy;
 - h. Complaints that, if substantiated, would rise to disciplinary action more severe than a verbal reprimand to the employee;
 - i. Complaints involving investigations that would require the employee to participate in a line-up, submit to a medical or laboratory examination, submit financial disclosure statements, provide photographs for a photographic line-up, or submit to a polygraph examination; or
 - j. Complaints that would require extensive follow-up or extensive investigative activity.

2. A supervisor will be assigned to an internal affairs investigation by, and under the supervision of, the ODC. Whenever an internal affairs investigation is assigned to a Supervisor, they shall submit to the ODC, a completed **AOM P251.i Internal Affairs Investigator's Report** regarding the findings of such investigation. [52.1.1]
3. Certain complaints may benefit from the use of an outside agency to conduct the Internal Affairs investigation. This outside agency may include a law enforcement agency or outside investigator that specializes in internal workplace investigations. The Chief of Police, or the Mayor's Office, in the case of workplace complaint(s) against the Chief, may determine that the use of an outside investigator is in the best interest of the department.

C. Investigation of Complaints

1. Any complaint that rise to the level of an internal affairs investigation, must be commenced as soon as is reasonably possible upon receipt of the complaint. The Department strives to complete internal affairs investigations within twenty-one (21) days whenever possible. . Per Chapter 253 of the Acts of 2020, Agencies must complete all internal affairs investigations into complaints of officer misconduct within one (1) year of receiving the complaint or notice from the commission of the complaint being filed. The time to do so may be extended by the POST Commission upon a showing of good cause. [52.2.3]
 - a. If the substance of a complaint, if proven, would be of grave nature or is an accusation of a serious crime and immediate action is deemed necessary, the Chief of Police or the ODC designated by the Chief of Police, shall be notified forthwith in order that an investigation can be initiated without delay. The ODC will notify the Chief of Police and the Complainant of the accusation. This notification may be done verbally or in writing. [52.2.2]
 - b. If circumstances preclude completion of an internal departmental investigation within twenty-one (21) days, the ODC shall notify the the accused employee (s) and the Chief of Police in writing of those circumstances.
 - c. In addition, if circumstances preclude completion of an investigation within twenty-one (21) days **and** the complaint is made by a citizen, the ODC shall ensure that the community member is re-contacted concerning the status of the case within the 21 days. A **Periodic Status Report Form Letter** can be used for this purpose. In no case shall the complainant go longer than 21 days without being re-contacted. [52.2.4,b]
2. The ODC shall be responsible for providing the Chief of Police with status reports on the progress of the investigation. [52.2.2] [52.1.3]

The ODC shall be responsible for overseeing and conducting, if necessary, Internal Affairs investigations, and shall report directly to the Chief of Police. [52.2.2]

3. An internal affairs investigation may inquire into a department employee's on-duty or off-duty conduct if such inquiry is reasonably and directly related to the employee's performance of duty, if such conduct affects the employee's fitness or ability to continue in the police service, or if it reflects discredit on the Department.

4. Criminal Investigation

- a. If it is determined, after a preliminary investigation, that allegations against a department employee could result in a criminal prosecution, the accused employee must be granted all applicable constitutional and statutory rights. In such cases, the District Attorney's, Attorney General's office, or Federal Bureau of Investigations may be apprised of the case for the purpose of advising on legal issues and ultimate prosecution, if necessary. The criminal investigation may be conducted under the direct supervision of the Detective Bureau Commander (DBC) or the jurisdictional agency, as determined by the Chief of Police, in conjunction with the appropriate State or Federal office.

In certain cases, it may be determined that an internal affairs investigation runs parallel to a criminal investigation. Nothing in this policy prohibits such parallel investigation and/or the use of an outside investigator that specializes in internal workplace investigations by the Department for this purpose.

- b. Prior to being questioned regarding alleged personal involvement in criminal activity, a department employee who is under arrest, or who is the focus of a criminal investigation, shall be given the warnings and rights they are required to be provided by *Miranda v. State of Arizona*, 384 U.S. 436 (1966), *Garrity v. New Jersey*, 385 U.S. 493 (1967), and *Carney v. City of Springfield* 403 Mass. 604 (1988) decisions, including the right to have an attorney present during any such questioning.
- c. If this procedure is followed, any voluntary statements made thereafter could be admissible in a criminal proceeding, and may otherwise be used for departmental disciplinary purposes.
- d. A department employee who is questioned about alleged personal involvement in criminal activity which could result in a criminal prosecution, cannot be discharged or otherwise penalized solely for invoking the right to remain silent as guaranteed by the Fifth Amendment or for refusing to sign a waiver of immunity. However, as discussed below, such an employee in a separate or parallel administrative investigation may be compelled to answer questions narrowly drawn and related to their on or off duty conduct, and may be disciplined (including discharge) for failure to answer truthfully provided they have been provided their rights under *Garrity v. New Jersey*, 385 U.S. 493 (1967) and *Carney v. City of Springfield* 403 Mass. 604 (1988)

5. Administrative Investigations

- a. If it is determined as a result of a preliminary investigation, that allegations made against a department employee could result in departmental disciplinary action, the accused employee is entitled to a fair and objective investigation and resolution of the charges made.
- b. Where information is requested of an employee that does not involve possible self-incrimination, the Department employee, when requested by the Chief of Police, or by a superior officer or outside investigator designated by the Chief of Police, must respond fully and truthfully to all questions regarding their performance of official duties or their off-duty misconduct which affects their fitness or ability to remain in the police service, and any failure to answer completely and truthfully to such inquiries may be punished by appropriate disciplinary action, including dismissal from the Department.
- c. In Administrative Investigations that involve the possibility of criminal conduct by an employee, the Department may not compel an employee to provide potentially incriminating information unless the employee is granted transactional immunity as required by Article 12 of the Massachusetts Declaration of Rights. Where Article 12 immunity has been granted so no Article 12 violation would occur, then the Department may compel an employee to answer questions under the threat of discipline if they are "narrowly drawn and specifically related to [their] job performance" and the employee is informed of "the exact form of discipline" that will result from a refusal to respond if the employee or the employee's counsel or representative asks for this information.¹
- d. No double jeopardy exists when a department employee is found not guilty in court of criminal charges and is then found guilty of departmental charges after a disciplinary hearing, as the department charges are administrative in nature and can be sustained by a "preponderance of evidence" rather than the criminal court standard of "beyond a reasonable doubt."
- e. Weingarten Rights. In conducting internal administrative investigations, Departmental employees who are represented by a union that have reason to believe that the interview may result in disciplinary action have a right to representation and may elect to invoke their rights to representation at any time prior to or while being questioned on work-related matters. With respect to the exercise of Weingarten rights, union representation cannot unduly interfere with the legitimate needs of the Department. The employee may request a specific union representative (i.e., local union official or union attorney), provided said representative is not unavailable for an unreasonable period of time, and the local union official is limited to acting as an observer of the interview and may help clarify issues that may be confusing to the employee.
- f. If possible, for minor offenses, any interview or questioning should take place during the employee's regular duty hours;
- g. Any interview or questioning should not be prolonged without reasonable rest periods and the opportunity for meals and such other personal necessities as are reasonable required.

¹ *Carney vs. City of Springfield*, 403 MASS. 604 (1988) and *Garrity v. New Jersey*, 385 U.S. 493 (1967).

- h. A department employee shall not be harassed or threatened during questioning.
6. In conducting investigations of alleged employee misconduct, all appropriate investigative techniques and methods should be employed, consistent with legal requirements and all necessary concern for the individual rights of the accused employee.
- a. An internal administrative investigation should be conducted with the same degree of professional competence as is devoted to a criminal investigation.
 - b. Upon orders of the Chief of Police or designee, an employee may be required to submit to a medical, psychological, or laboratory examination at the Department's expense. This examination must be specifically directed and narrowly related to a particular internal affairs investigation being conducted by the Department. [52.2.6,a]
 - c. An employee may also be required to be photographed and can be compelled to stand in a lineup for identification in connection with an administrative investigation, and a refusal can be the basis for an additional disciplinary charge of refusal to obey a lawful order. Such a lineup should be fairly constructed and not unfairly suggestive and should not be used for an administrative investigation where criminal charges are contemplated. [52.2.6,b & c]
 - d. An employee's personal property, including their home, car, and other property, is protected from unreasonable search and seizure under the Massachusetts Constitution, and any evidence illegally obtained may not be used as evidence in an administrative proceeding (*Board of Selectmen of Framingham v. Municipal Ct. of City of Boston*, 373 Mass. 783, 369 N.E. 2d 1145). Employees should clearly understand that there is no expectation of privacy regarding Department property furnished or supplied to them, such as offices, desks, file cabinets, computers, lockers, or vehicles, and that these may be subject to administrative access or inspection at any time.
 - e. An employee may be compelled to submit a financial disclosure statement as part of an internal affairs investigation provided such statement is material to the investigation being conducted. [52.2.6,d]
 - f. Under the provisions of M.G.L. Ch. 149 §19B employees may be required to submit to a polygraph or lie detector test in connection with an internal administrative investigation if such test is conducted under the direction of a law enforcement agency in the course of a departmental investigation of criminal activity, and under such circumstances, officers may face disciplinary action for refusal. [52.2.6,f]
7. It is recommended that the complete interview with an employee in all internal administrative investigations should be audio recorded or documented by a qualified stenographer if the Department first obtains consent from the Employee being interviewed.

D. Withdrawn Complaints

1. If during the progress of an internal investigation, the complainant indicates a desire to withdraw the complaint, every effort should be made to ensure that this decision is made voluntarily, and a signed statement to this effect should be obtained from the complainant.
2. When a complaint is withdrawn, the person assigned to investigate shall provide a full written report of the investigation to date to the ODC. The ODC shall then discuss the merits for the termination of the investigation with the Chief of Police or designee.
3. Any attempt, directly or indirectly, on the part of a department employee to obstruct any internal investigation, to influence or intimidate any witness, or to threaten or persuade any complainant to withdraw or abandon their complaint, is prohibited and will be treated most severely.
4. The Department retains the discretion to continue to investigate a complaint once it is made.

V. Report of Administrative Investigation

- A. At the conclusion of any administrative investigation, a full written report shall be prepared by the assigned investigator for submission to the ODC and forwarding to the Chief of Police. This report shall include the following: [52.2.2]
 1. The original complaint report;
 2. Any additional statements taken from the complainant or statements obtained from witnesses;
 3. Any statements made or reports submitted by the department employee under investigation;
 4. A summary statement of all evidence gathered;
 5. A statement of any mitigating circumstances;
 6. An evaluation of the complaint and a recommendation as to the appropriate adjudication and disposition;
 7. Any information required to be reported to the Division of Police Standards.
- B. Upon receipt of the written report of investigation, the Chief of Police should take appropriate action based upon findings in the particular case. The Chief of Police and the ODC shall together determine the appropriate adjudication and disposition based upon the finding(s) of fact. The adjudication shall be classified as one of the following: [52.2.8]
 1. Sustained – The allegation is supported by sufficient evidence to indicate that the allegation is true.
 2. Sustained in Part – Certain allegations were supported by sufficient evidence to indicate that they were true, while other allegations were found to be not sustained.
 3. Not Sustained – There is insufficient evidence to neither prove nor disprove the allegation.
 4. Exonerated – The incident occurred, but the department member acted lawfully and properly.
 5. Unfounded – The allegation is either false or not factual.

6. Filed – Placed on file and may be reopened if additional evidence or information is received.
 - C. The ODC or designee shall inform the employee(s), in writing, of the conclusion and disposition of the administrative investigation in a timely manner (Refer to *[AOM P251.d Investigation Classification Notification](#)*). [52.2.8]
 - D. The ODC shall notify the complainant(s) formally, in writing, of the conclusion and disposition of the investigation from one of the six previously described classifications (Refer to *[AOM P251.g Result of Investigation Notice to Complainant](#)*). [52.2.4.c]
- If a disciplinary hearing is deemed necessary, the complainant shall be notified that their testimony will be required at that time.
- E. If the department employee is cleared of the charges made, they shall be officially exonerated in writing (Refer to *[AOM P251.d Investigation Classification Notification](#)*).

VI. Relief from Duty [52.2.7]

In accordance with *[AOM P250 Development of Discipline](#)*, any supervisor or acting supervisor, may temporarily relieve from duty and place on temporary administrative leave, any member:

1. Who is in their opinion, physically or psychologically unfit for duty; or
2. Pending disposition of an internal investigation where it would be unwise or improper for the officer to continue on duty.
 - a. The Chief of Police and the Division Commanders shall be notified immediately when an employee is relieved from duty under any of the conditions described above. Decisions regarding continued administrative leave shall be made by the Chief of Police or designee.
 - b. Any supervisor, or acting supervisor will immediately remove from duty, any employee whose action(s) or use of force in an official capacity results in death or serious physical injury, pending disposition of an internal investigation. [1.3.8]

VII. Confidentiality of Internal Affairs

- A. In order to ensure that the individual rights of complainants and employees who are the subject of an Internal Affairs investigation are protected, all materials relevant to that investigation shall be confidential to the extent required by law and properly secured by the ODC.
- B. No media statement regarding an ongoing Internal Affairs investigation will be made or issued to the media by the Department -until the investigation is

completed and findings made. The Chief of Police is the only one to authorize the release of any statement.

- C. A complete file of records on the investigation of all citizen and internal complaints against any agency employee or the agency, shall be kept in the office of the ODC. These files shall contain all documents pertaining to the investigation including supporting investigative information. These files shall be treated as internal confidential investigative records to the extent required by law.. However, Massachusetts public records laws require the disclosure of most internal affairs materials. While there are exemptions to the public records law, many internal affairs reports, including statements made by witnesses, are subject to public release. Personnel and medical files or information and any other materials or data relating to a specifically named individual that are maintained in an internal affairs report related to a law enforcement misconduct investigation shall not be treated as exempt public record under M.G.L. Chapter 4, Section 2, Clause 26(c). [52.1.2]

VIII. Liaison with District Attorney

The District Attorney's Office may be consulted for guidance on specific internal affairs investigations.

After an employee has exhausted all potential appeals, and in compliance with *Brady v. Maryland*, the Chief of Police or their designee will notify the District Attorney's Office of any Internal Affairs investigation that results in criminal charges or sustained findings of any of the following: untruthfulness, biased policing, racial profiling, malicious harassment, and other misconduct that suggests bias against a class of people.

IX. POST Reporting Compliance and Process

- A. The Department must transmit any complaint it receives to the Division of Police Standards, as outlined in Part III, Section C of this Policy.
- B. The Department is required to send an investigation report to the Division of Police Standards upon completion of an internal investigation of a complaint in a form to be determined by the POST Commission. At a minimum, the form will include the following:
 1. A description of the investigation and disposition of the complaint
 2. Any disciplinary action recommended by internal affairs or the supervising officer;
 3. If the recommended disciplinary action included retraining, suspension or termination, a recommendation by the head of the agency for disciplinary action by the commission including, retraining or suspension or revocation of the officer's certification; and

4. Any additional information that may be required by the POST Commission.
- C. The Department is required to send a final report to the Division of Police Standards upon final disposition of a complaint. At a minimum, the form will include the following:
1. Any disciplinary action initially recommended by internal affairs or the supervising office;
 2. The final discipline imposed and a description of the adjudicatory process;
 3. If the disciplinary action recommended or imposed included retraining, suspension or termination, a recommendation by the head of the agency for disciplinary action by the commission including, retraining or suspension or revocation of the officer's certification; and
 4. Any additional information that may be required by the POST Commission.
- D. The Department is required to send a report to the Division of Police Standards when an officer resigns prior to the conclusion of an agency investigation or prior to the imposition of agency discipline in a form to be determined by the POST. At a minimum, the form will include the following:
1. The officer's full employment history;
 2. A description of the events or complaints surrounding the resignation;
 3. A recommendation by the head of the agency for disciplinary action by the commission, including retraining or suspension or revocation of the officer's certification; and
 4. Any additional information that may be required by the POST Commission.
- E. Notwithstanding any general or special law or collective bargaining agreement to the contrary, nothing limits the Chief of Police or their designee from making a recommendation in their professional judgement to the POST Commission relative to the certification status of an officer, after having followed the agency's internal affairs procedure and any appeal therefrom.
- F. Division of Police Standards audits may be conducted. The Department is required to permit the Division of Police Standards to audit all records related to complaints, investigations and investigative reports, and personnel records pursuant to the rules and regulations to be promulgated by the POST.
- G. In the event of a POST Commission proceeding, no officer or employee of the commonwealth or of the City shall discharge an officer or employee, change their official rank, grade or compensation, deny a promotion or take any other adverse action against an officer or employee or threaten to take any such action for providing information to the commission or testifying in any commission proceeding.

X. Settlement of Internal Affairs Complaints

In the event that the City or Department enters into the settlement of matter involving an internal affairs complaint under this policy, the City or Department shall not include a nondisclosure, non-disparagement, or other similar clause in a settlement agreement with a complainant in order to settle a complaint of professional misconduct by a law enforcement officer unless the complainant requests such provision in writing.