



MEDFIELD POLICE DEPARTMENT

POLICY NO. 4.01

INTERNAL AFFAIRS

MASSACHUSETTS POLICE ACCREDITATION STANDARDS

REFERENCED: **52.1.1, 52.1.2, 52.1.3, 52.1.4,
52.2.1, 52.2.2, 52.2.3, 52.2.4, 52.2.5, 52.2.6,
52.2.7, 52.2.8**

DATE OF ISSUE:

06/18/2023

EFFECTIVE DATE:

06/18/2023

REVISION DATE:

11/07/2025

ISSUING AUTHORITY:

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Chief of Police

BACKGROUND:

A relationship of trust and confidence between the employees of the Medfield Police Department and the citizens of the community is essential. 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.

The internal affairs function is important for the maintenance of this profession. The integrity of the Department depends on the personal integrity and discipline of each employee. To a large degree, the public image of this Department is determined by how well it responds to allegations of misconduct against the Department or its officers.

Allegations of misconduct, even when unfounded, stigmatize the officer individually. Unfortunately, vindictive individuals know this and may file frivolous complaints to get back at officers whom they dislike. If not appropriately addressed, they may adversely

affect the officer's career, his family and his ability to function effectively as a member of the Department. The Department's community policing efforts may likewise be jeopardized.

The objectives of an internal affairs investigation are the protection of the public, the protection of the employee, the protection of the Department, the removal of unfit personnel, and the correction of procedural problems.

POLICY:

It is the policy of the Medfield Police Department to investigate all complaints against the Department or a member of the Department. All complaints, regardless of the source of such complaints, to include those which are anonymous, will be investigated through a regulated, fair, and impartial internal affairs program. This program will determine whether or not such complaints are valid and take appropriate action based on that determination. **[52.1.1]**

PROCEDURES:

The responsibility for supervising, conducting, coordinating, and maintaining the internal affairs function of the Department lies with the Deputy Chief, who will report directly to the Chief of Police. The Department has established guidelines regarding categories of complaints to determine which will be handled and investigated as an internal affairs function under the direction of Deputy Chief, and which will be handled by the Shift Commander as a part of routine discipline. Any Division Commander may replace the Shift Commander in this process at their discretion. **[52.1.3]**

1. The criteria for determining the categories of complaints to be investigated under the direction of the Deputy Chief include, but are not limited to, allegations of corruption, brutality, use of excessive force, violation of civil rights, criminal misconduct, complaints against the Department, violations of policies and procedures, violations of rules and regulations, and any other matter as directed by the Chief of Police. **[52.2.1(b)]**
2. Criteria for the assignment of an investigation to a Shift Commander may include, but are not limited to, such offenses as alleged rudeness, tardiness, and minor cases of insubordination. This shall not preclude the Chief of Police from assigning a higher ranking officer to investigate such offenses at his discretion. **[52.2.1(a)]**

Initial Complaint Receipt and Notification

The Shift Commander shall be responsible for the efficient receiving, investigation, and complete recording of any complaint against Department personnel involving routine discipline, as outlined above. The complaint and investigation shall be documented in the form of a memorandum by the Shift Commander and forwarded to the Chief of Police. The memorandum should include any statements provided by the complainant and a written statement about the incident by the officer involved. Based on the outcome of the

investigation, the receiving supervisor may engage the involved officer in a counseling session or recommend training. **[52.2.2]** When a complaint is received the Shift Commander should ask the complainant to fill out an internal affairs complaint form. The Shift Commander shall give the complainant a copy of the form that shall act as an acknowledgment to the complainant that the complaint has been received for processing. **[52.2.4 a]**

If the complaint involves a complaint about the Department or a serious allegation such as corruption, brutality, use of excessive force, violation of civil rights, or criminal misconduct, the case will be forwarded to the Deputy Chief for investigation. A brief initial complaint summary should be taken by the Shift Commander and documented in a memorandum. The complainant should be asked to fill out an Internal Affairs Complaint Form (IACF) and sign it. If the complainant refuses this should be noted. (A citizen's refusal to submit the IACF will not deter the Department from investigating misconduct.) The form should then be attached to the supervisor's memorandum and forwarded to the Chief of Police and the Deputy Chief. **[52.2.2]**

The utmost courtesy and cooperation should be extended to all citizens registering complaints or otherwise inquiring about complaint procedures, as the complainant is often tense, angry, emotional or upset, and the potential for hostility is great. No person should be denied an opportunity to register a complaint, nor should any such person be directed to return or call back later.

Immediate Notifications

If the substance of a complaint against an employee or the Department is of a grave nature, or is an accusation of a criminal offense, and immediate action is deemed necessary, the Chief of Police and the Deputy Chief, shall be verbally notified forthwith by the Shift Commander, or higher ranking officer in charge. **[52.2.2]**

Street Complaints

If an officer on the street is approached by a citizen regarding a complaint of alleged misconduct against an employee of the Department, the officer shall inform such person that his/her complaint should be directed to the Shift Commander. The officer shall summon the Shift Commander to the scene to interview the individual as to the nature of the complaint. If the Shift Commander is unable to respond, the complainant shall be informed on the procedure for filing a complaint and offered an opportunity to respond to the Station immediately.

Anonymous Complaints

In the event that a member of the Department receives an anonymous complaint, it shall be reported to the Shift Commander. The Shift Commander will attempt to determine if there is any merit to the complaint based on the information

received. The procedures set forth in this policy shall only apply if the Shift Commander is able to find merit in the complaint.

Immediate Resolution of a Complaint

In some cases a complaint can be resolved to the complainant's satisfaction at the time by the Shift Commander. 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 or of the limitation of a police officer's authority. The procedures set forth in this policy shall not apply if the complainant is satisfied after speaking with the Shift Commander. Under no circumstances, however, will a justifiable complaint be refused, delayed, or otherwise rejected if a citizen wishes to file a complaint.

Relief from Duty

The Shift Commander may relieve those under his command from duty for the balance of the shift if he determines that any person under his command is engaged in serious misconduct or not properly able to carry out his duties. Misconduct may include, but is not limited to, insubordination, refusal to perform duties, criminal offenses, or falsifying statements. In all such cases, the Chief or designee shall be notified as soon as possible and no later than the employee's next tour of duty. A written report shall be submitted to the Chief concerning such action. **[52.2.7]**

Internal Affairs Investigations

The Deputy Chief will review all investigations completed by the Shift Commander and complaints forwarded as part of the internal affairs function. Any investigation that is determined to be unfounded, or where counseling/training has addressed the complaint, shall be filed in the officer's disciplinary file with no further action. In addition, the Deputy Chief may cause a written reprimand to be issued and placed in the officer's disciplinary file.

If the Deputy Chief determines that an investigation completed by the Shift Commander, or a complaint forwarded as part of the internal affairs function, could result in disciplinary action as defined in the policy on **Authority and Discipline**, he shall oversee a further investigation. Personnel of any rank or assignment may be called upon to assist in carrying out this function as determined by the Deputy Chief using the following procedures: **[52.2.2]**

1. The person conducting the internal affairs investigation shall provide the Deputy Chief with status reports on the progress of the investigation every seven (7) days.
2. When an employee is officially notified that they have become the subject of an internal affairs investigation they will be issued a written statement of the allegations and the employee's rights and responsibilities relative to the investigation. **[52.2.5]**
3. The investigating officer should note in their report any instances where witnesses refused or were reluctant to speak with them unless they were assured that their statements would be kept confidential, at least to the extent legally allowed.

Commencement and Completion

Any internal affairs investigation must be commenced immediately upon receipt of the complaint by the Deputy Chief and must be completed within thirty (30) days. **[52.2.3]**

If extenuating circumstances preclude completion within thirty (30) days, the Deputy Chief shall request an extension from the Chief of Police in writing, and provide written notification to the employee, if previously notified of the complaint and investigation, complainant of the delay.

If the investigation is not completed within thirty days, the complainant shall be provided a progress report at appropriate intervals until the completion of the investigation. **[52.2.4(b)]**

Investigative Scope

An internal 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 has the potential to reflect discredit on the Department.

Criminal Investigation

If it is determined, generally 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.

After Miranda warnings have been given, any voluntary statement made thereafter could be admissible in a criminal proceeding, and it may otherwise be used for Departmental disciplinary purposes.

A Department employee who is being 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, an employee may be compelled to answer questions narrowly drawn and related to his on or off duty conduct, and may be disciplined (including discharge) for failure to answer truthfully.

Departmental Disciplinary Action

If it is determined as a result of a preliminary investigation, that allegations made against a Department employee could result in a departmental disciplinary action, the accused employee is entitled to a fair and objective investigation and resolution of the charges made.

Subject to lawful protections and immunities (see below), all Department employees, when requested by a superior officer, must respond fully and truthfully to all questions regarding their performance of official duties or their on-duty or 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.

If the employee, or his counsel or representative, asks the superior officer conducting the interrogation the precise repercussions (i.e., suspension, discharge, or the exact form of discipline) that will result if the officer fails to respond, the superior officer must specify it.

Transactional Immunity

When a Department employee is ordered to submit a report or to answer questions under the threat of discipline regarding misconduct that is criminal in nature, and the employee invokes his constitutional right against self-incrimination, that employee may be granted transactional immunity from criminal prosecution for any offenses to which the compelled testimony relates.

The Supreme Judicial Court has held that Article 12 of the Massachusetts Declaration of Rights requires transactional immunity to supplant the privilege against self-incrimination when a public employee is being compelled to answer questions concerning possible criminal activities connected with his employment. Transactional immunity grants immunity from prosecution for offenses to which compelled testimony relates.

If the questions specifically, directly, and narrowly relate to the employee's performance of official duties or his off-duty conduct which affects his fitness or ability to remain in the police service, and if such employee is granted transactional immunity from criminal prosecution, he must answer or face

disciplinary action, including dismissal from the Department, for refusing to answer such questions.

If an employee insists on a written grant of transactional immunity, the Department will seek to secure such grant in accordance with the current law. An employee may decline to answer questions in an internal affairs investigation into misconduct that is criminal in nature until such documentation is received

Double Jeopardy

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 disciplinary hearing, as the Department charges are administrative in nature and can be sustained by a preponderance of the evidence.

Questioning

In conducting internal administrative investigations, the officer being questioned will have the right to request a union representative be present during an investigatory interview, if the officer reasonably believes the investigation may result in disciplinary action. The officer may request a specific union representative, including a union attorney, be present and said request will be honored if the investigation is not thereby unduly delayed. The following guidelines pertain to employee questioning:

1. Except in unusual situations, any interview or questioning should take place during the employee's regular duty hours.
2. Any interview or questioning should not be prolonged without reasonable rest periods and the opportunity for meals and such other personal necessities as are reasonably required.
3. A Department employee shall not be harassed or threatened during this period of questioning.

Investigative Techniques

In conducting investigations of alleged employee misconduct, all appropriate investigative techniques and methods should be employed, consistent with legal requirements for the individual rights of the accused employee. The following principles shall guide such investigations:

1. An internal administrative investigation should be conducted with the same degree of professional competence as is devoted to a criminal investigation.
2. Upon orders of the Chief of Police, an employee may be required to submit to a narrowly-tailored medical or laboratory examination which is

directly related to the underlying investigation, at the Department's expense. **[52.2.6(a)]**

- a.) An employee may be ordered to undergo a fitness for duty examination when the Chief of Police believes that an officer may not be fit for duty.
- b.) The Chief of Police may order an employee to submit to drug or alcohol testing based on a reasonable suspicion of the use of drugs or alcohol in violation of law or in a manner that would interfere with the officer's duties.
3. An employee may be required to be photographed so long as the photographs are reasonable in scope and frequency, and directly related to an investigation of misconduct.
4. An employee may be compelled to stand in a lineup for identification in connection with an 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 be unfairly suggestive, and may not be used for an administrative investigation where criminal charges are contemplated. **[52.2.6(b)(c)]**
5. A police officer's personal property, including his home, car and other property, is protected from unreasonable search and seizure under the Massachusetts and Federal Constitutions, and it is possible that any evidence illegally obtained may not be used as evidence in an administrative proceeding.
6. Officers should not have any expectation of privacy in Department-owned property furnished to the officer, including but not limited to desks, lockers, duty bags, or vehicles. As such, these items may be subject to search at any time without a warrant.
7. 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, and otherwise in accordance with applicable law. **[52.2.6(d)]**
8. Under the provisions of G.L. c. 149, s. 19B, an employee may be required to submit to a polygraph or lie detector test in connection with an internal administrative investigation if such test is conducted by a law enforcement agency in the course of a departmental investigation of conduct which would be criminal if proven, even if criminal prosecution is not possible. If granted transactional immunity, an officer may face disciplinary action for refusal. **[52.2.6(e)]**

Withdrawn Complaints

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.

Even though a complaint is withdrawn, a full report of the investigation to date should be prepared for the Chief and his approval obtained for the termination or continuation of the investigation. Even though a complainant withdraws a complaint the investigation of the complaint may still proceed.

Any attempt, directly or indirectly, on the part of a Department employee to obstruct any internal investigation, or to threaten or persuade any complainant to withdraw or abandon his/her complaint, is prohibited and will be treated most severely.

Report of Investigation [52.2.8]

At the conclusion of any internal affairs investigation, a full written report shall be prepared under the direction of the Deputy Chief, for submission to the Chief, which 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 Department employees;
4. A summary of all evidence gathered;
5. Any mitigating circumstances; and
6. An evaluation of the complaint and a definitive conclusion of fact as to whether each allegation made by the complainant was:
 - a. **Sustained:** The complaint was valid and supported by sufficient evidence;
 - b. **Not Sustained:** There was inadequate or insufficient evidence to prove or disprove the complaint;
 - c. **Unfounded:** The allegations were baseless and without foundation; or
 - d. **Exonerated:** The complaint was unjustified or unwarranted as the actions of the accused Department employee were in compliance with law or in accordance with Department policy and procedure.

7. In the event of a substantiated allegation, the Deputy Chief will document findings and determinations to reflect the specific Department policy and procedure or rule and regulation that were violated.

Notifications

After the final investigation report has been completed and submitted to the Chief, he should take further action as necessary based upon the findings, to include:

1. The subject of the investigation shall be promptly notified of the final results of the investigation. If the Department employee is cleared of the charges he shall be officially exonerated in writing.
2. Every person who has filed a complaint against an employee shall be notified promptly as to the final results of the investigation, personally if possible or otherwise by mail. **[52.2.4(c)]**
3. If a disciplinary hearing is deemed necessary, the complainant shall be notified that his testimony may be required at that time.

Confidentiality

In order to ensure that the individual rights of officers who are the subject of an internal affairs investigation are protected, all materials relevant to IA investigations shall be kept strictly confidential to the extent permitted by law and under lock and key in the Command Staff office suite. **[52.1.2]**

Liaison with District Attorney

If an internal affairs investigation results in a criminal charge being brought against a department employee, the Chief shall notify the Office of the Norfolk District Attorney, Attorney General, and/or United States Attorney.

POLICE REFORM

DIVISION OF POLICE STANDARDS

INVESTIGATE MISCONDUCT: There shall be within the Commission a Division of Police Standards. The purpose of the Division of Police Standards shall be to investigate officer misconduct and make disciplinary recommendations to the POST Commission.

The head of a law enforcement agency shall transmit any complaint received by said agency within two (2) business days to the Division of Police Standards, in a form to be determined by the POST Commission;

- provided, that the form shall include, but shall not be limited to:**

- the name and Commission certification identification number of the subject officer
- the date and location of the incident;
- a description of circumstances of the conduct that is the subject of the complaint;
- whether the complaint alleges that the officer's conduct:
 - 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;
 - was unprofessional;
 - involved excessive, prohibited or deadly force; or
 - resulted in serious bodily injury or death; and
- a copy of the original complaint submitted directly to the agency; provided; however, that the Commission may establish a minimum threshold and streamlined process for the reporting or handling of minor complaints that do not involve the use of force or allegations of biased behavior.

Upon completion of the internal investigation of a complaint, the head of each law enforcement agency shall immediately transmit to the Division of Police Standards an investigation report in a form to be determined by the POST Commission;

- provided, that the form shall include, but shall not be limited to:
- a description of the investigation and disposition of the complaint;
- any disciplinary action recommended by internal affairs or the supervising officer; and
- 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.

Upon final disposition of the complaint, the head of each agency shall immediately transmit to the Division of Police Standards a final report in a form to be determined by the Commission; provided, that the form shall include, but shall not be limited to:

- any disciplinary action initially recommended by internal affairs or the supervising officer;

- the final discipline imposed and a description of the adjudicatory process; and
- 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.

If an officer resigns during an agency investigation, prior to the conclusion of an agency investigation or prior to the imposition of agency discipline, up to and including termination, the head of said agency shall immediately transmit to the Division of Police Standards a report in a form to be determined by the Commission; provided, that the form shall include, but shall not be limited to:

- the officer's full employment history;
- a description of the events or complaints surrounding the resignation; and
- 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.

Notwithstanding any general or special law or collective bargaining agreement to the contrary, nothing shall limit the ability of the head of an agency to make a recommendation in their professional judgment to the Commission relative to the certification status of an officer, after having followed the agency's internal affairs procedure and any appeal therefrom.

Mandatory Inquiry

The Division of Police Standards shall initiate a preliminary inquiry into the conduct of a law enforcement officer if the Commission receives a complaint, report or other credible evidence that is deemed sufficient by the Commission that the law enforcement officer:

- was involved in an officer-involved injury or death;
- committed a felony or a misdemeanor,
 - whether or not the officer has been arrested, indicted, charged or convicted;
 - engaged in conduct prohibited pursuant to section 14

- Excessive Use of Force

- engaged in conduct prohibited pursuant to section 15 {Failed to Intervene/Report}; or
- the Commission receives an affirmative recommendation by the head of an appointing agency for disciplinary action by the Commission, including retraining or suspension or revocation of the officer's certification.

- Discretionary Inquiry

- The Division of Police standards may initiate a preliminary inquiry into the conduct of a law enforcement officer upon receipt of a complaint, report or other credible evidence that is deemed sufficient by the Commission that the law enforcement officer may have engaged in prohibited conduct.
- All proceedings and records relating to a preliminary inquiry or initial staff review used to determine whether to initiate an inquiry shall be confidential, except that the POST Executive Director may turn over to the Attorney General, the United States Attorney or a District Attorney of competent jurisdiction evidence which may be used in a criminal proceeding.

- 30 Day Notification

- The Division of Police standards shall notify:
 - any law enforcement officer who is the subject of the preliminary inquiry,
 - the head of their collective bargaining unit, and
 - the head of their appointing agency of the existence of such inquiry and the general nature of the alleged violation within 30 days of the commencement of the inquiry.

- May Audit

- The Division of Police standards may audit ALL records related to the complaints, investigations and investigative reports of any agency related to complaints of officer misconduct or

unprofessionalism, including, but not limited to, personnel records.

- The Commission shall promulgate rules and regulations establishing an audit procedure; provided, however, that said rules and regulations shall not limit the ability of the Division of Police Standards to initiate an audit at any time and for any reason.
- The Division of Police standards shall create and maintain a database containing information related to an officer's:
 - receipt of complaints and related information, including, but not limited to: the officer's appointing agency, date, a description of circumstances of the conduct that is the subject of the complaint and whether the complaint alleges that the officer's conduct:
 - 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;
 - was unprofessional;
 - involved excessive, prohibited or deadly force; or
 - resulted in serious bodily injury or death;
 - allegations of untruthfulness;
 - failure to follow Commission training requirements;
 - decertification by the Commission;
 - agency-imposed discipline;
 - termination for cause; and
 - any other information the Commission deems necessary or relevant.

- The Division of Police Standards shall actively monitor the database to identify patterns of unprofessional Police conduct. Upon identification of a pattern of unprofessional Police conduct, the Division of Police Standards may recommend the evidence in its possession for review in a preliminary inquiry.
- The Division of Police standards shall be a law enforcement agency and its employees shall have such law enforcement powers as necessary to effectuate the purposes of this chapter, including the power to receive

intelligence on an applicant for certification or an officer certified under this chapter and to investigate any suspected violations of law.