

GENERAL ORDER

JANESVILLE POLICE DEPARTMENT

SUBJECT: **INTERNAL AFFAIRS**
ADMINISTRATION & OPERATIONS

SCOPE: All Police Personnel
DISTRIBUTION: General Orders Manual

REFERENCE: WI State Statute 66.0511(3)

NUMBER: 15.1

ISSUED: 2/11/11

EFFECTIVE: 3/3/00

RESCINDS

AMENDS

WILEAG STANDARDS: 1.9.1,
1.9.2, 1.9.3, 1.9.4, 1.9.5

INDEX AS: Administration and Operations of Internal Affairs
Citizen Complaints of Service
Complaints against Police
Internal Investigations
Internal Affairs Administration and Operations

PURPOSE: The purpose of this Order is to promote the integrity of the Janesville Police Department by establishing procedures that will assure the prompt and thorough investigation of alleged or suspected employee misconduct. Such procedures will document circumstances on the date of the initial report, clear the innocent, establish responsibility and accountability, and facilitate prompt and just disciplinary action if appropriate.

This Order consists of the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. RESPONSIBILITIES OF DEPARTMENT PERSONNEL
- IV. CITIZEN COMPLAINT REPORT
- V. COMPLAINT INVESTIGATION
- VI. INVESTIGATIVE TOOLS AND RESOURCES
- VII. RIGHTS OF EMPLOYEES UNDER INVESTIGATION
- VIII. STATUS OF EMPLOYEES UNDER INVESTIGATION
- IX. COMPLAINT ADJUDICATION

I. POLICY

- A. It is the policy of the Janesville Police Department that all incidents of alleged or suspected violations of law, ordinances or department rules, regulations or orders must be investigated and reported in writing. The incidents include those reported to any officer by:
 - 1. Members of the department, either orally or in writing,
 - 2. Citizens (including prisoners) in person, by telephone, by correspondence, either signed or anonymous, and
 - 3. Those violations observed or suspected by officers
- B. The department encourages citizens to bring forward any legitimate grievance regarding misconduct by employees. It also recognizes that false accusations are occasionally made against the agency or its employees. Nevertheless, all accusations must be investigated to protect the integrity of the agency and its employees and to instill public confidence in the agency. In some cases, the extent of the investigation may be limited to substantiating the falsity of the accusation.

II. DEFINITIONS

- A. **CRIMINAL INVESTIGATION:** The process of investigation into alleged acts of misconduct that, if sustained, may be the basis for filing criminal charges.
- B. **INFORMAL INQUIRY:** A meeting between supervisory personnel and an employee who has become the subject of a procedural or misconduct complaint for the purpose of mediating the complaint or discussing the facts to determine whether a formal investigation should be initiated.
- C. **INTERNAL AFFAIRS COORDINATOR:** The Police Chief's designee as internal affairs coordinator has the authority and responsibility of coordinating the internal affairs function. This position will report directly to the Chief of Police for all matters regarding internal affairs. If the internal affairs investigation involves the Internal Affairs Coordinator the Chief of Police shall designate an outside agency to conduct the investigation.
- D. **INTERNAL INVESTIGATION:** The process of investigation into alleged acts of misconduct that, if sustained, may be the basis for filing administrative charges.
- E. **MINOR MISCONDUCT COMPLAINT:** A complaint based on allegations of minor misconduct by employees of the department. Examples of minor misconduct include rudeness or verbal abuse by an officer, traffic infractions by an officer, minor rules and regulations violations, etc. Another determinant of minor misconduct is that the alleged action, if sustained, could result in disciplinary action ranging from a counseling session to a written reprimand.

- F. PROCEDURAL COMPLAINT: A complaint based on actions that, if performed properly, are acceptable according to legal guidelines and department policy; e.g., complaints over towing vehicles, parking, traffic enforcement, etc.
- G. SERIOUS MISCONDUCT COMPLAINT: A complaint based on allegations of serious misconduct by employees of the department. Examples of serious misconduct include, but are not limited to, corruption, brutality, misuse of force, breach of civil rights, criminal misconduct, or repeated acts of minor misconduct. Another determinant of serious misconduct is that the alleged action, if sustained, could result in disciplinary action to include suspension, dismissal, or criminal charges.

III. RESPONSIBILITIES OF DEPARTMENT PERSONNEL

- A. Employees shall courteously and promptly record a complaint against a member of the department. Employees shall complete a citizen complaint report and shall forward it to the appropriate person.
- B. Employees may attempt to resolve the complaint, but shall never attempt to dissuade a citizen from lodging a complaint against a member of the department.
- C. Each employee shall perform their duties and assume the obligations of their rank in the investigation of complaints or allegations of misconduct against any member of the department.
- D. When an investigation is being conducted, all employees shall fully cooperate with the person conducting the investigation. Members shall truthfully answer all questions specifically directed and related to the scope of employment and operations of the department which may be asked of them.
- E. Any employee who has, or is alleged to have, knowledge of circumstances surrounding an internal investigation or informal inquiry shall submit a written report on the matter upon request by the person conducting such an investigation.
- F. Responsibilities of Supervision
 - 1. 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 Order.
 - a) The supervisor shall also take any action that may be immediately required; e.g., take steps to prevent further misconduct from occurring.
 - 2. Each supervising officer shall assume the duties and obligations of their rank in the investigation of complaints against police personnel. They shall continually examine all areas of police action under their purview in an effort to discover misconduct at its earliest stages.

3. Supervisors shall not look to higher authority to initiate investigations when subjects complained of are within the scope of their own authority and responsibility, except when the complexity of the case justifies assistance from the office of the Chief of Police or the Chief's designee.
4. For any investigation that proceeds beyond an informal inquiry, the investigating supervisor shall notify the Internal Affairs Coordinator as soon as practical.
5. Supervisory personnel shall complete a thorough investigation when directed to do so by the Internal Affairs Coordinator.
6. Supervisory personnel shall complete a thorough investigation of procedural and minor misconduct complaints. Investigation results and/or recommendations for discipline shall be forwarded to the Internal Affairs Coordinator. The Chief of Police shall make the final determination of discipline.
7. Supervisors shall maintain the confidentiality and security of internal affairs investigations and records.
8. Upon completion of an investigation, the supervisor shall forward all records and reports to the Internal Affairs Coordinator, and shall make a recommendation regarding final disposition of the matter. The Internal Affairs Coordinator shall review the investigation and shall make a final recommendation to the Chief of Police as to the resolution of the investigation.

G. Responsibilities of the Internal Affairs Coordinator

1. The Internal Affairs Coordinator shall be responsible for the coordination of all investigations regarding allegations of serious misconduct by department employees, monitoring the investigation of procedural and minor misconduct complaints, and maintaining records of all complaints against the department and its employees.
2. The Internal Affairs Coordinator shall maintain the confidentiality and security of internal investigations and internal affairs records. These records shall be kept in a secure file in the Internal Affairs Coordinator's office. These records shall be kept separate from other department records, and access to them will be strictly limited to the Chief of Police and the Internal Affairs Coordinator.
3. The Internal Affairs Coordinator shall conduct investigations of alleged or suspected misconduct within the department, assign the investigation to another supervisor or request another law enforcement agency to conduct the investigation. When assigned to another supervisor/agency the Internal Affairs Coordinator shall supervise and control the investigation.

- a) The Internal Affairs Coordinator shall also consider whether the alleged misconduct should result in a criminal investigation. In the event a criminal investigation is deemed appropriate, an investigation shall be conducted by another investigator or with the approval of the Chief of Police, the assistance of an outside investigative agency will be utilized.
 - b) The Internal Affairs Coordinator shall ensure that liaison is maintained with the district attorney's office in investigations involving alleged criminal conduct on the part of an employee.
4. The Internal Affairs Coordinator shall apprise the Chief of Police of the existence, progress, and final outcome of each internal investigation.
 5. The Internal Affairs Coordinator shall conduct an annual review of all complaints to determine any patterns or tendencies that may need to be addressed.

H. Responsibilities Of The Chief Of Police

1. The Chief of Police shall review recommendations for disciplinary action and will take such action as deemed appropriate.
2. Nothing in this policy diminishes the authority of the Chief of Police to order suspensions, terminate temporary or probationary employees, or to file charges with the Police and Fire Commission irrespective of recommendations made by subordinates.

IV. CITIZEN COMPLAINT REPORT

- A. Supervisors shall complete a citizen complaint report for each complaint against the department or its employees, and shall forward copies to the Internal Affairs Coordinator. Each report taken shall be assigned a control number.
- B. The Internal Affairs Coordinator shall use the citizen complaint report to determine further action regarding the complaint. In situations where the complaint can be immediately resolved through an informal inquiry, the report shall serve as the only record of the complaint.
- C. The citizen complaint report shall include the following:
 1. Name and contact information of the person making the complaint, if known.
 2. Name of the employee(s) involved, if known, or action/policy/procedure in question.
 3. Date/time/location of the incident and when the incident is being reported.
 4. Specific details of the complaint, including any related incident numbers.

5. Supervisor's actions taken, if any, upon receiving the complaint.
6. Receiving supervisor's recommendations on subsequent actions.
7. Final disposition (to be completed upon conclusion of the informal inquiry or internal investigation).

V. COMPLAINT INVESTIGATION

- A. All complaints against the department or its employees, including those received anonymously, will be courteously received and thoroughly investigated.
- B. During the preliminary investigation, the receiving supervisor shall determine whether the complaint is based on procedure, minor misconduct, or serious misconduct and whether the complaint would best be resolved through an informal inquiry, internal investigation, or criminal investigation.
- C. Procedural and minor misconduct complaints will generally be handled through the chain of command. If the supervisor demonstrates a need for having such a matter handled by someone outside the normal chain of command, they may request the assistance of the Internal Affairs Coordinator.
 1. These complaints may be addressed through either informal inquiry or internal investigating. The internal investigation option shall be pursued if it appears that the allegations, if sustained, could result in discipline greater than a letter of reprimand.
 2. Upon completion of the investigation, the supervisor shall forward a copy of the citizen complaint report containing the final recommendation to the Internal Affairs Coordinator. This report shall be included in the investigative reports.
- D. Serious misconduct complaints shall require notification of the Internal Affairs Coordinator as soon as such notification is practical. Upon reviewing the complaint, the Internal Affairs Coordinator shall either conduct the internal investigation or assign the investigation to another supervisor. When assigned to another supervisor the internal Affairs Coordinator shall supervise completion of the investigation.
- E. Absent exceptional circumstances; e.g., the investigation of ongoing acts of misconduct, internal investigations shall be completed in a timely manner, or as soon as practical from the receipt of the complaint.
- F. Upon conclusion of an investigation, the Internal Affairs Coordinator shall make a recommendation to the Chief of Police regarding final disposition of the matter.
- G. At the Internal Affairs Coordinator's discretion all investigated complaints shall be completed whether or not the complainant follows through with the investigation.

- H. Upon conclusion of the investigation, the Internal Affairs Coordinator shall ensure the complainant and employee are advised in writing of the final outcome of the internal investigation. For lengthy investigations, an effort shall be made to communicate the status of the investigation to the complainant on a periodic basis.

VI. INVESTIGATIVE TOOLS AND RESOURCES

A. Medical and Laboratory Examination

1. Any supervisor may, based on their observation, require a department employee to submit to a test for alcohol or drug use while on duty, in accordance with the City's personnel policies.
2. Alcohol tests shall not be given arbitrarily. The basis for the test is a suspected violation of a law, rule, procedure or Order.
3. When ordered by the Chief of Police, employees shall be required to submit to any additional medical and laboratory examinations that are specifically directed and narrowly related to an internal investigation.
4. If, at any time, the investigator determines the investigation is likely to result in criminal charges being preferred against the employee under investigation, the investigator shall confer with the police legal advisor before proceeding under this section.

B. Release of Medical Records

1. In all investigations where injury occurs, the supervisor shall obtain a release for the person's medical records.

C. Photograph and Lineup Identification Procedures

1. When ordered by the Chief of Police, an employee shall submit to being photographed for the purpose of creating a photograph line-up when such a lineup is needed to identify an employee accused of misconduct.
2. When ordered by the Chief of Police, an employee shall be required to stand in a line-up for the purpose of identifying an employee accused of misconduct.

D. Financial Disclosure Statements

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

E. Physical Evidence

1. Proper chain of evidence control shall be maintained on all physical evidence collected during an internal investigation

VII. RIGHTS OF EMPLOYEES UNDER INVESTIGATION

- A. When an employee is notified that they have become the subject of an internal investigation, the employee shall be provided a written statement of the allegations and their rights and responsibilities related to the investigation.
- B. The rights of an employee under investigation shall be determined by the nature of the investigation. Rights associated with an administrative investigation shall differ from those associated with a criminal investigation. In a situation where the investigation may result in criminal charges being preferred against the employee under investigation, the employee shall be afforded rights consistent with a criminal investigation.
- C. During an internal investigation an employee may be compelled to answer questions directly related to their official duties. Answers received in such a manner may not be used in a criminal proceeding involving the employee. Prior to any questioning, the employee shall be read the Internal Investigations Rights/Warnings Statements.
- D. The following guidelines apply to an interview during an investigation for strictly administrative purposes.
 - 1. The purpose of the investigation is to obtain information to determine whether disciplinary action is warranted. The answers obtained may be used in disciplinary proceeding resulting in reprimand, demotion, suspension, or dismissal.
 - 2. 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.
 - 3. No Miranda rights are required.
 - 4. As determined by *Garrity v. New Jersey*, 385 U.S. 483, 87 S.Ct. 616 (1967), the employee has no Sixth Amendment right to counsel as the interview does not serve criminal prosecution.
- E. During a criminal investigation involving an employee, the investigator shall perform the following prior to the interview with the accused employee, when applicable,
 - 1. Advise the employee of Miranda rights, which includes a written waiver of those rights.
 - 2. Advise the employee that if they assert their right not to answer questions, no adverse administrative action will be taken based upon the refusal. *Gardner v. Broderick*, 392 U.S. 273, 88 S.Ct. 1913, 1916 (1968), indicates that a public employee may not be fired for asserting their Fifth Amendment right not to incriminate themselves.

- a) If the employee decides to answer questions at this point, the responses may be used in both criminal and administrative proceedings

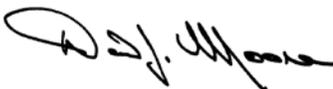
VIII. STATUS OF EMPLOYEES UNDER INVESTIGATION

- A. When the allegation is sustained or when the investigation is to be continued (not completed), the Chief of Police or the Chief's designee shall take one of the following actions in reference to the duty status of the accused employee:
 1. Continue the employee on duty in their usual assignment.
 2. Continue the officer on duty in some other assignment where the employee's presence will not be objectionable to citizens involved in the incident or where the employee may be kept under close supervision, such as station tasks.
 3. When the accused employee is under the influence of intoxicating liquor, they shall be relieved from duty until further notice.
 4. When the act complained of is a crime and the evidence is such that had the action been by a private person, it would have resulted in their arrest, the supervisory officer shall explain the circumstances to the Chief of Police and request a decision as to whether:
 - a) The accused employee should be arrested forthwith, or
 - b) A warrant for their arrest should be first obtained, or
 - c) Whether criminal action should be delayed pending further investigation.
 5. When the improper conduct of any personnel is of such a nature that immediate or emergency disciplinary action is required, and it appears to be in the best interest of the department, such person may be relieved from duty by a supervisor.

IX. COMPLAINT ADJUDICATION

- A. The Internal Affairs Coordinator will classify completed internal investigations using the following guidelines:
 1. Unfounded: Investigation indicates that the allegations are false.
 2. Not sustained: Insufficient evidence to either prove or disprove the allegations.

3. Sustained: The allegations are supported by sufficient evidence to conclude they are true.
 4. Exonerated: Investigation indicates that the incident occurred, but was justified, lawful, and proper under the circumstances.
 5. Policy failure: The investigation reveals that the allegations are true, however, the employee was acting in accordance with established department policy.
- B. All completed investigations will be maintained in the department's internal affairs files.



David J. Moore
Chief of Police

This Order cancels and supersedes any and all previous Orders and directives relative to the subject matter contained herein.

Initial	2/18/00
Reviewed	4/29/04
Reviewed	11/1/07
Amended	2/11/11