

EVANSVILLE POLICE DEPARTMENT

**CITIZEN COMPLAINTS; GRIEVANCE PROCEDURES;  
DISCIPLINARY PROCEDURES**

1. Personal Investigations-General Policy
2. Formal Investigations
3. Informal Investigations
4. Citizen Complaints
5. Inquiry
6. Administrative Leave or Change of Duties
7. Grievance Procedures
8. Disciplinary Procedures
9. Officers; Duties and Rights During an Investigation
10. Dispositional Findings; Closure

**Sec. 1 Personal Investigations-General Policy**

**Policy:**

- (a) It is the policy of this Department to thoroughly investigate every complaint received in a timely manner, pursuant to the terms set forth herein.
- (b) The five (5) primary objectives of a personnel investigation are:
  - (1) Protection of the public.
  - (2) Protection of the Department.
  - (3) Protection of the employee.
  - (4) Correction of procedural problems.
  - (5) Removal of unfit personnel.
- (c) It is essential that the public confidence be maintained in the ability of the Department to investigate and properly adjudicate complaints against its employees. The Department should endeavor to preserve the rights of the employee as well as those of the public, and any investigation or hearing arising from the complaint should be conducted in an open and fair manner with the truth as its primary objective. The Department accepts complaints against its members and fully investigates all such complaints to the appropriate disposition.
- (d) False complaints of police misconduct.
  - (1) In this section:
    - (a) "Complaint" means a complaint that is filed as part of a procedure established under s. 66.0511 (3).

- (b) "Law enforcement officer" has the meaning given in s. 165.85 (2)
- (c).

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

**Procedures:**

- (a) The personnel complaint form is utilized to record an allegation of employee misconduct, inquiries concerning Evansville Police Department policy, procedure or tactics.
- (b) Allegations of employee misconduct are recorded on the personnel complaint form with specific information relative to an allegation of misconduct against any employee of this Department received from any source outside or inside the Department.
- (c) The information recorded is that which is necessary to begin an investigation into the events surrounding the allegation.
- (d) The personnel complaint form concerning alleged misconduct is completed whether the allegation is received in person at the Department, by telephone, or at some other location, or by some other means and forwarded to the Chief of Police.
- (e) Based upon the allegation received, allegations of employee misconduct are investigated by the Department as a "formal investigation", "informal investigation" or as an "inquiry".
- (f) If a supervisor is confronted with a significant allegation of misconduct requiring immediate investigation, the Chief of Police should be notified as soon as practicable.
- (g)
  - (1) All employees are required to cooperate with the investigation of personnel misconduct.
  - (2) Failure to do so will result in disciplinary action for failure to obey orders.

## **Sec. 2 Formal Investigations.**

### **Policy:**

- (a) A formal investigation is conducted on serious allegations of misconduct where an investigator is assigned to obtain formal interview statements from the employees involved.
- (b) A personnel investigation is determined to be formal by the Chief of Police, primarily based upon the nature and complexity of the allegation.
- (c) Examples of personnel investigations that may be determined as formal include, but are not limited to:
  - (1) Allegations of violation of the law.
  - (2) Allegations regarding morals.
  - (3) Allegations of brutality.

## **Sec. 3 Informal Investigations.**

### **Policy:**

- (a) The primary difference between the formal investigation and the informal investigation is the manner in which the investigation is conducted.
- (b) An informal investigation is conducted on less serious allegations of misconduct where the investigation consists of obtaining memorandums from concerned employees regarding the allegations. Generally formal interviews or statements are not used. Instead, information is obtained via memorandums and existing records.
- (c) A personnel investigation is determined to be informal by the Chief of Police primarily based upon the nature and complexity of the allegation.
- (d) Examples of personnel investigations that may be classified as informal include, but are not limited to:
  - (1) Complaints of slow response.
  - (2) Alleged failure to take proper police action.
  - (3) Alleged poor attitude displayed by Department employees.

## **Sec. 4 Citizen Complaints.**

### **Policy:**

Citizen complaints against the Police Department, its policies or individual members must be filed in a timely fashion, and shall be filed with the Chief of Police or his designee.

### **Procedures:**

#### **(a) Receipt and Processing.**

- (1) Persons desiring to file a complaint shall complete a written complaint on the Citizen Complaint Form. If an employee receives a complaint either by person, phone, or mail, the employee should record all information such as name, address and phone number. The complainant should be notified that the complaint must be filed with the Chief of Police. The employee will then contact the Chief of Police as soon as practicable with the above information.
- (2) Anonymous written complaints shall be handled with the same degree of accord as those where the identity of the complainant is known: however, the identity of the complainant will be kept confidential by the Chief of Police until such time as revealing the identity becomes necessary. The complainant will be notified and given the option to withdraw the complaint.
- (3) Complaints should be referred to the Chief of Police as soon as practicable.
- (4) When possible, written, signed complaints should be witnessed by the receiver and one (1) copy given to the complainant.
- (5) Complaints against the Chief of Police shall be referred to the City Administrator directly.

#### **(b) Investigation of Complaints.**

- (1) All citizen complaints shall be forwarded directly or through channels to the Chief of Police.
- (2) Complaints of such a nature as to require detailed investigation may be forwarded by the Chief of Police to a designated investigating officer. The investigating officer should be selected by the Chief of Police and should be senior in rank or seniority to the subject of the complaint, if possible. Generally, an investigation should be completed and forwarded to the Chief of Police within eight (8) weeks. In exceptional or complex cases, an interim report may be submitted after the first eight (8) week period and each four (4) weeks after.

- (3) If, at any time, a complaint appears to be more serious and complex than originally evaluated, the investigating officer should report to the Chief of Police for guidance.
- (4) At the discretion of the Chief of Police, those incidents involving multiple subjects, corruption or of a serious internal nature, or for any other reason as the Chief deems necessary and appropriate, may be referred to another agency for an impartial investigation.

(c) **Results of Investigation.**

- (1) Any and all complaints received from an identified complainant may be answered, to the complainant, within eight (8) weeks indicating the progress to date or the final disposition (the investigation has been completed or is still ongoing). Investigatory and/or disposition details will not be released or disclosed.
- (2) If the investigation is not completed within eight (8) weeks, the complainant may be advised that the matter is still under investigation. Interim reports may continue to be submitted until the investigation is closed.

(d) **Miscellaneous.**

- (1) Complaints received by members of the Common Council or other City officials must be referred to the Chief of Police for action or the complaints will not be deemed to be validly filed.
- (2) Incidents initiated by a civil suit or notice to file civil suit are not subject to this policy statement.

**Sec. 5 Inquiry.**

**Policy:**

- (a) An “inquiry” concerns a citizen contacting the Police Department with questions about a policy, procedure, or tactic used by the Department, without the filing of a written complaint as described above.
- (b) When a citizen questions the actions of a Department employee and it is determined by the receiving supervisor that the employee acted within prescribed Police Department policy, procedure or tactics, the matter is handled as an “inquiry”.
- (c) It is the responsibility of the supervisor or a designee assigned by the Chief of Police receiving the inquiry to review the employee’s actions.

**Procedures:**

- (a) The supervisor receiving the inquiry from the citizen should make every attempt to explain to the citizen the circumstances as to why a particular policy, procedure or tactic is sanctioned by the Department.
- (b) Information concerning the inquiry should be documented on the personnel complaint in the narrative section and the alleged violation area will be left blank, including the nature of the inquiry and the response to the citizen. Any related reports or documentation concerning the inquiry should be attached to the personnel report.
- (c) If the citizen does not appear to be satisfied by the explanation, the supervisor should advise the person to contact the appropriate senior supervisor in rank.
- (d) If the supervisor receiving the inquiry determines that the employee has not acted within prescribed Police Department policy, procedure or tactics, the supervisor may deem the inquiry to be insufficient and may require the filing of a written complaint with procedures to be followed as applicable to the written complaint process.
- (e) Examples of an “inquiry” include, but are not limited to:
  - (1) Why did an employee handcuff a prisoner?
  - (2) Why was a field interrogation conducted?
  - (3) Why was vehicle emergency equipment used?
  - (4) For what reason was a felony car stop made?

**Sec. 6 Administrative Leave or Change of Duties.**

**Policy:**

- (a) An employee complained against who is not probationary may be immediately placed on administrative leave by the Chief of Police or designee when such leave will assist in protecting the best interest of the community, the Department or the employee. A probationary employee may be immediately placed on administrative leave by the Chief of Police or designee. The imposition of administrative leave for non-probationary employees shall then be subject to the review procedures established in the disciplinary review procedure.
- (b) Administrative leave for non-probationary employees may be imposed:
  - (1) When there is reasonable suspicion to believe that an employee is suspected to be or has been in violation of any alcohol and drug use laws, rules or regulations of the Department while on duty.
  - (2) When there is reasonable suspicion to believe that an employee is in such a mental or physical state that he/she presents a danger or potential danger to himself/herself or others.

- (3) When there is reasonable suspicion to believe that the employee is charged with a criminal act within or outside the Department's jurisdiction.
- (4) When there is reasonable suspicion to believe that the employee's presence on duty could jeopardize impartiality of an internal investigation, or could jeopardize an investigation conducted by another jurisdiction at the request of the Chief of Police.
- (5) When an independent preliminary investigation by the Department of alleged criminal activity of the employee results in the finding that the employee engaged in a criminal act. This preliminary investigation may be conducted and concluded immediately upon discovery of the alleged criminal activity and is not subject to the restrictions applicable to formal internal investigations. Suspension under these circumstances may be instituted only after consideration of investigation conducted by the Department itself, and not on arrest information or records received from other law enforcement jurisdictions.
- (6) Other circumstances as deemed appropriate by the Chief of Police.

Reasonable suspicion may be based on information obtained from citizens, Department employees or other law enforcement agencies or their citizens.

**Procedures:**

- (a) A temporary change of duties may be assigned an employee as an alternative to administrative leave at the discretion of the Chief of Police, according to the employee's capabilities.
- (b) A temporary change is made when the employee's presence in the original assignment may jeopardize, or appear to jeopardize, the impartiality of any investigation.
- (c) An immediate change of duties or administrative leave is not an act of discipline or a demotion regardless of the nature of the temporary change of duties.
- (d) An employee under administrative leave may be required to report to the police station on a daily basis for any change in status.

**Sec. 7 Grievance Procedures.**

**Policy:**

The following procedures are to be used by Department members with complaints regarding fellow officers/employees or Department policies, except that the grievance procedures for any members covered by a collective bargaining contract shall govern those employees. These procedures have been established to assure

each individual an opportunity for an impartial hearing. A “grievance” is defined in the current applicable collective bargaining agreements.

**Procedures:**

The grievance procedures to be followed shall be the process prescribed in the current applicable collective bargaining agreements.

**Sec. 8 Disciplinary Procedures.**

**Policy:**

- (a) The following disciplinary procedures are employed in disciplinary matters of the Police Department, unless these procedures are superseded by more specific procedures contained in a current collective bargaining contract, whenever rules and policies of the Department are broken or the officer performs unsatisfactorily. For purposes of this Section, the term “officer” shall mean any employee of the Department.
- (b) Prior to taking disciplinary action, the officials reviewing the matter should give full consideration to the following:
  - 1. Whether the subordinate could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct.
  - 2. Whether the rule or order that the subordinate allegedly violated is reasonable.
  - 3. Whether the Chief, before filing the charge against the subordinate, made a reasonable effort to discover whether the subordinate did in fact violate a rule or order.
  - 4. Whether the effort described under subd. 3. was fair and objective.
  - 5. Whether the Chief discovered substantial evidence that the subordinate violated the rule or order as described in the charges filed against the subordinate.
  - 6. Whether the Chief is applying the rule or order fairly and without discrimination against the subordinate.
  - 7. Whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the subordinate's record of service with the Chief's department.

- (c) Probationary employees can be discharged without recourse to these disciplinary procedures.

**Procedures:**

If, in the opinion of the Chief of Police and/or the designated reviewing authority, immediate discharge, suspension or written warning is not warranted by the seriousness of the violation, the following progressive disciplinary measures shall be followed:

- (a) **Verbal Warning.** After investigating the violation and discussing the matter with the officer, the officer may be given a verbal warning from the Chief of Police or his/her supervisor according to the list of sanctions in Sec. 1-2-3. The Chief of Police or the officer's supervisor, for purposes of letting the officer know that it is an official warning, shall state, "This is a verbal warning." A notation of this shall be placed in the officer's personnel file.
- (b) **Written Warning.** For violations requiring a written warning under the list of sanctions in Section 1-2-3, the officer will receive from the Chief of Police a written notice of the offense. A copy of said notice shall be placed in the officer's personnel file. In the case of subordinate officers of the Department, the Chief of Police's decision may be appealed pursuant to the Wisconsin Statutes or current collective bargaining agreement.
- (c) **Suspension.**
  - (1) As prescribed under the list of sanctions in Section 1-2-3, officers of the Department found to be in violation may be suspended without compensation. Within the time period required by state statute or pertinent collective bargaining agreement after the violation, the officer in question shall receive written notice from the authorized hearing authority or commission that the officer's violation will be reviewed by the reviewing authority or commission at a hearing, that the officer is encouraged to appear at the hearing and that suspension without pay is a possible disciplinary measure that may be imposed. The reviewing authority or commission may order suspension without pay after investigation and hearing. Policies and procedures set by Evansville Police Commission shall be followed/enforced when in conflict with this Section.
  - (2) The following personnel have the authority to impose emergency suspension until the next business day against any member or employee when it appears that such action is in the best interests of the Department:
    - a. Any Lieutenant/command officer.
    - b. Any Sergeant.
  - (3) An employee receiving an emergency suspension shall be required to report to the Chief of Police on the next business day by 9:00 a.m.

unless otherwise directed by competent authority. The command or supervisory officer imposing or recommending the suspension shall also report to the Chief of Police at the same time.

- (d) **Discharge.** As prescribed under the list of sanctions in Section 1-2-3, officers of the Department may be discharged pursuant to this Manual and the Wisconsin Statutes. The notice and hearing procedures used when considering suspensions shall be used when discharge of a Department member is being considered.
- (e) **State Law.** The requirements of the Wisconsin statutes shall supersede the provisions of this Section when in conflict.
- (f) **Police Commission.** As prescribed herein, adopted Evansville Police Commission policies and procedures shall control in disciplinary proceedings, if/when in conflict with this Section.

## **Sec. 9 Officers' Duties and Rights During an Investigation.**

### **Policy:**

The following policies and procedures should be employed in investigatory matters of the Evansville Police Department. In each instance, the actions taken, from the initial investigation to final disposition, are to be fair and just. Officers are expected to abide by these practices and/or procedures set forth herein. For purposes of this Section, the term "officer" means any employee of the Department.

### **Procedures:**

For purposes of this Section, the following procedures should apply regarding and officer's duties and rights during an investigation:

- (a) **Scope of Questioning During an Interview.**
  - (1) Prior to an internal interview concerning alleged criminal misconduct, the officer under investigation shall be read the *Miranda* rights. The provisions of *Miranda* shall be adhered to throughout the interview.
  - (2) Prior to an internal interview concerning allegations of administrative violations, the officer under investigation shall be advised as follows:
    - a. The officer can be required to answer all questions specifically, narrowly, and directly related to the performance of his/her official duties.
    - b. Refusal to comply with an order to answer such questions is a violation of Departmental rules and/or policies, which may subject the officer to further discipline up to and including dismissal.

- c. Any required self-incriminatory admission made during the interview may be used only in subsequent administrative proceedings, and shall not be used against the officer in subsequent criminal proceedings.

(b) **Counsel/Representative at Interview.**

- (1) Officers may be permitted to have an attorney, union representative, supervisor, or other personal representative with them in the room during any interview concerning allegations of misconduct by the employee (criminal or administrative).
- (2) The officer's representative is limited to acting as an observer of the interview, except where the interview focuses on, or leads to, evidence of potential criminal activity by the officer. In that case, an officer's legal representative may advise and confer with the officer during the interview.

(c) **Special Examinations.**

- (1) The Department may require an intoximeter, breath, blood, urine, psychological, polygraph or medical examination upon the direction of the designated Departmental official/investigator. The Chief of Police shall determine what additional test(s) will be administered on an individual basis, after consulting with the officer and investigator.
- (2) An on-duty supervisor should direct an officer to submit to a breath, blood or urine test when a level of inebriation/intoxication or drug usage is suspected as the factor directly related to duty performance or operating a Department vehicle.
- (3) If an identification lineup is solely for administrative purposes and criminal prosecution is not anticipated, an officer can be required to participate in a lineup.

(d) **Rights during an Internal Investigation.**

- (1) Prior to any interview or special examination, the officer under investigation will receive confidential written notification of the complaint. This notification will include a copy of the original complaint or a summary adequately listing the relevant facts.
- (2) All interviews should be conducted while the officer is on duty, unless the seriousness of the investigation is such that an immediate interview is required.
- (3) The complete interview may be recorded whenever conducted by the internal investigations authority.

- (4) Accused officers or their supervisor may contact the internal investigations authority to ascertain the status of the investigation of a complaint filed against them.
- (5) The accused officers will be given reasonable opportunity to explain their actions to the Chief of Police prior to the imposition of any disciplinary action.
- (6) For purposes of this Section, internal investigations authority and/or investigator may be one and the same.

## **Sec. 10 Dispositional Findings; Closure.**

### **Policy:**

Upon receipt of a supervisor's, internal investigations authority's or investigator's recommendations on a disciplinary matter or upon completion of an internal investigation, the internal investigations authority should submit recommendations to the Chief of Police as to whether a violation has been sustained according to the evidence. The Chief of Police shall have the authority to make the final determination as far as recommendations for discipline, as applicable.

### **Procedures:**

For purposes of this Section, the following procedures should apply:

- (a) **Police Chief's Actions Following Completion of Investigation.**
  - (1) The Chief of Police shall review the final report and supporting documents, and shall give final approval of the disposition of the case as follows:
    - a. Sustained: Evidence sufficient to prove allegation.
    - b. Not Sustained: Insufficient evidence to either prove or disprove allegations.
    - c. Exonerated: Incident occurred but was lawful or proper.
    - d. Unfounded: Allegation is false or not factual.
    - e. Policy Failure: Flaw in policy/procedure likely caused incident.
  - (2) Upon final approval and completion, the Chief of Police may return the disciplinary recommendation to the officer's supervisor for service and execution of the decision, or the Chief of Police may execute the discipline himself/herself.
  - (3) When recommended disciplinary action may result in suspension, dismissal or demotion, a formal statement of charges and specifications may be prepared, pursuant to the policies and procedures adopted by the Evansville Police Commission.

- (4) After careful consideration of all the facts, including the final disposition of the case, it shall be the Chief of Police's discretion whether or not to file the incident in the employee's personnel file.