

**CITY OF OCONOMOWOC POLICE DEPARTMENT
POLICIES & PROCEDURES**

DATE: December 8, 2020

HISTORY: September 7, 2020
October 15, 1999

SUBJECT: Internal Investigation

POLICY NUMBER: 99-058

I. INTRODUCTION

Internal investigations are an essential aspect of police administration. The proper conduct of such investigations not only preserves public confidence in the police, but also ensures that the rights of members of the department are protected throughout this process. This policy is intended to augment applicable federal and state law as well as current labor agreements covering members who are the subject of investigations. Conflicts between this policy and any of the above requirements or court interpretations of those requirements shall be resolved in favor of prevailing law.

II. POLICY

- A. This department will conduct an internal investigation of incidents or complaints involving information from internal or external sources alleging serious misfeasance, malfeasance and nonfeasance by department employees.
- B. Internal investigations shall ensure the integrity of the department through a process where objectivity, fairness, and justice are assured through intensive, impartial investigations and review. The maintenance of public trust and confidence is dependent upon the ability of the agency to investigate and properly adjudicate complaints against its employees.
- C. While conducting such investigations, proper care shall be taken by those responsible for adhering to established Federal Laws, State Statutes and mandates set forth in any labor agreements entered into by department members and the municipality and the requirements of this policy. Confidentiality shall govern the activity of all personnel, civilian and sworn, involved in the investigation.

III. RESPONSIBILITY

- A. The Chief of Police is responsible for:
 - 1. Determining whether an internal investigation should be initiated.
 - 2. Assigning, supervising and controlling the investigation of alleged or suspected misconduct within the department.
 - 3. Maintaining the confidentiality of the internal affairs investigations and records.
- B. Employees will be notified when they have become the subject of an internal investigation by the officer assigned to conduct the investigation. The department will issue the employee a written statement of the allegations and the employee's rights and responsibilities relative to the investigation.

- C. The individual assigned to the investigation is designated as the department's liaison with the District Attorney or City Attorney's Office in any investigations involving alleged criminal conduct on the part of an employee.
- D. Records pertaining to internal investigations will be maintained in a secure area by the individual assigned to conduct the investigation. Upon completion of the investigation, all records will be turned over to the Chief of Police.

IV. ADMINISTRATIVE REASSIGNMENT OR SUSPENSION

- A. When the nature of allegations against a member of the department is of such a nature as to meet at least one of the following conditions as determined by the Chief of Police, that member shall be either suspended with pay or reassigned to duties which remove concerns posed by these conditions:
 - 1. The member would be unable to effectively perform that member's normal duties.
 - 2. That if true, the allegations strongly suggest the likelihood of danger to the public or other officers.
 - 3. That if the member continues in the member's regular assignment, a current investigation or the department's general efficiency or integrity would be compromised.
- B. An action under this section should not be construed as being the result of any investigative finding or part of department discipline.
- C. If, upon conclusion of the internal investigation, no charges are filed or other disciplinary action taken, the member shall be returned to the same status and assignment as existed before this action.

V. INVESTIGATIONS

- A. When deemed appropriate, the Chief may designate a qualified person or agency outside the department to conduct such investigation.
- B. In the absence of extenuating circumstances, internal investigations will be completed within 30 days from the date the complaint was received by the department.
- C. Records from medical or laboratory examinations administered in conducting internal investigations will be handled in a manner consistent with any/all other records that are part of the investigation.
- D. An employee's participation in any line-up, polygraph testing or the submission of financial disclosure statements will be governed by existing legal requirements, case law, and voluntary agreements.
- E. Photographs of employees may be utilized in conducting internal affairs investigations.

VI. EMPLOYEE RIGHTS AND OBLIGATIONS

- A. Employees who are the subject of an internal investigation are entitled to all the legal rights and privileges guaranteed by the laws and constitution of this state and the Constitution of the United States, including the right not to be compelled to give incriminating statements except as provided under paragraph B of this section.
- B. Employees refusing to testify or answer questions specifically directed and narrowly related to the performance of official duties or fitness for duty will be subject to departmental charges involving

insubordination, which could result in dismissal from the police department. If the employee does answer questions under threat of disciplinary action, neither the statements nor any information or evidence which is gained by reason of such statements can be used against the employee in any subsequent criminal proceeding. However, these statements may be used against the employee in relation to subsequent departmental charges. Refer to the attached advisement form (attachment I).

- C. An employee who has been relieved of duty pending the outcome of an internal investigation will report to the department when requested to do so, and will make him/herself available upon reasonable notice to the investigator at all reasonable times.
- D. Interviews and interrogations shall be conducted at reasonable times and for reasonable duration. Employees may consult with legal counsel or union representatives prior to making a verbal or written statement, but all statements required under this investigation must be made by the employee.
- E. An employee who has been the subject of an internal investigation will be advised of the outcome and any recommendations concerning the allegations upon completion of the investigation.

VII. REVIEW OF OTHER INVESTIGATIONS

- A. In some instances, the nature of allegations against a member of the department will be of a sufficiently minor nature to permit an investigation by the member's immediate supervisor. These investigations shall not be considered internal investigations, but are subject to review by the Chief of Police or ranking officer designated for that purpose. This review shall be for the purpose of determining the need for further investigation under the provisions of this order.

VIII. EXCEPTIONS TO THIS POLICY MAY BE AUTHORIZED ONLY BY THE CHIEF OF POLICE

This policy is effective immediately
and will supersede any directives or understandings in conflict

See also department policies: 96-007 Citizen Complaints
99-021 Discipline

**CITY OF OCONOMOWOC POLICE DEPARTMENT
ATTACHMENT I**

**Advisement to Members Prior to Questioning
During Administrative Investigation**

I wish to advise you that you are being questioned as part of an official investigation of this department. You will be asked questions specifically directed and narrowly related to the performance of your official duties or fitness for the position which you hold. You are entitled to all the rights and privileges guaranteed by the laws and constitution of this state and the Constitution of the United States, including the right not to be compelled to incriminate yourself. I further wish to advise you that if you refuse to testify or to answer questions relating to the performance of your official duties or fitness for duty, you will be subject to departmental charges which could result in your dismissal from the police department. If you do answer, neither your statements nor any information or evidence which is gained by reason of such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in relation to subsequent departmental charges.

Certification

I certify that I have read the above advisement to

_____ on _____
Member Date

at _____ (AM/PM) at _____
Time Location

Signed _____
Investigating Officer

Acknowledgment

I have been given the above advisement by

_____ on _____
Investigating Officer Date

_____ at _____
Time Location

Signed _____
Member

Witness

I/we have witnessed the above advisement

Signed _____
Witness

Signed _____
Witness