

WATERTOWN POLICE DEPARTMENT GENERAL ORDER



**JOANNA W. VITEK
CHIEF OF POLICE**

Effective Date: January 12, 2009	Rescinds: August 2003 A-151 Amends:	Number: A-151
Subject: Internal Complaints and Investigative Procedures		Re-evaluation Date: January 2012
Distribution: ALL PERSONNEL	Related CALEA Standards:	

This order consists of the following numbered sections:

1. Purpose
2. Policy
3. Definitions
4. Complaints
5. Relief from Duty
6. Internal Investigation Procedure
7. Reports of Investigations
8. Appeals
9. Document Records

1. PURPOSE

The purpose of this General Order is to establish guidelines for the reception, assignment, and investigation of complaints that involve the general public and any Watertown Police Department or any Police Department personnel.

2. POLICY

As the caretaker of the public safety, it is the policy of the Police Department to properly investigate all complaints against the Department or its personnel; to equitably determine whether the allegations are valid or invalid; and to initiate appropriate closure and /or corrective action as deemed necessary.

3. DEFINITIONS

- A. **CIVILIAN COMPLAINT REPORT** ó a form utilized to properly document any allegation(s) of misconduct involving the agency or its personnel when the complaint is made by citizen.
- B. **COMPLAINT TRACKING FORM** ó a form utilized to properly document and track any allegation(s) of misconduct involving the agency or its personnel.
- C. **COMPETENT AUTHORITY** - Those employees within the Police Department whose supervisory responsibility is the direction of other personnel.
- D. **COMPLAINT**-Any allegation of misconduct, violation of law, or violation of agency policy, procedure or regulation.
- E. **FINDINGS OR CONCLUSION**- an opinion rendered by an investigator, supervisor, or other competent authority to summarize an investigation or inquiry.
 1. **EXONERATED** - That specific acts did occur, but were justified, lawful, and/or proper.
 2. **UNFOUNDED** - That the specific act(s) complained of did not occur, or failed to involve Police Department personnel.
 3. **NOT SUSTAINED** - Failure to discover sufficient evidence to clearly prove the allegation(s) made in a complaint.
 4. **SUSTAINED** - The investigation disclosed sufficient evidence to clearly establish the allegation(s) made in the complaint.
 5. **POLICY FAILURE** - The allegation(s) is/are true, however, the employee was acting in a manner consistent with Police Department policy. This finding must clearly detail how any particular policy is incorrect and may necessitate further review and/or revision of the specific policy.
- F. **INQUIRY** - The preliminary review and evaluation of information related to any suspected violation of agency policy or procedure to determine whether a reasonable belief exists to warrant a more formal investigation. An inquiry by competent authority may be necessary before a formal investigation is undertaken.

- G. INTERNAL INVESTIGATION - An official review and evaluation of information relative to any suspected violation of agency policy or procedure where sufficient information exists to reasonably believe that the employee(s) may have committed the violation. The findings of an investigation could lead to disciplinary action.
- H. RECORDING - Any type of electronic device that retains record of any audible proceeding (i.e., Dictaphones, tape recorders, video cameras, etc.). Recordings may also be any written statements by witnesses or written admissions by the accused in any investigation.
- I. REPRESENTATIVE - An individual who appears with the employee during a formal interview/interview providing support and advice to the employee. This individual may or may not be a member of the agency. This individual is prohibited from participating directly during the interview/interview process; he/she may consult with the employee, or otherwise provide support and advice to the employee that does not obstruct or interfere with the interviewer.
- J. PROFESSIONAL STANDARDS - The Assistant Chief of Police is responsible for monitoring all complaints and/or allegations of misconduct against the Police Department or its personnel.

4. COMPLAINTS

Complaints against the Police Department or its personnel may be made by any person. Initial complaints may be made in person, by telephone, by email, or in writing. Any employee who receives a complaint will report the complaint immediately to the on-duty supervisor. The on-duty supervisor receiving the complaint will talk with the complainant, if possible. The on-duty supervisor will initiate a Complaint Tracking Form.

- A. The receiving on-duty supervisor may determine via inquiry that the complaint **does not** involve improper conduct on behalf of the agency or any employee. In this case, supervisors are authorized to resolve the situation to the satisfaction of the complainant, if possible. To reconcile such a complaint, the receiving supervisor may:
 - 1. Resolve any misunderstanding or miscommunication that may have led to the complaint;
 - 2. Correct a problem or situation to the satisfaction of the complainant; and/or,
 - 3. Counsel the involved employee(s) as to the reason(s) for the complaint while finding no fault on the part of the Police Department or the employee, with no further action necessary.
 - 4. With early resolution of such complaints, supervisory authority will ensure notice is provided to the complaining party(s), and will forward documentation of the resolved complaint to the Assistant Chief of Police (via chain of command) for file retention.
- B. The receiving on-duty supervisor may determine via inquiry that the complaint **does** involve improper conduct on behalf of the agency or any employee. In this case, the receiving on-duty supervisor will begin the formal complaint process.
 - 1. A supervisor will inform the complaining party that their complaint will need to be reduced to writing.
 - 2. Utilizing the Civilian Complaint Report, the supervisor will provide the complaint form to the complaining party with instruction of process. If the complaining party does not wish to complete the Civilian Complaint Report immediately, the on-duty supervisor should give the complainant a Civilian Complaint Form and request that it be returned to the Assistant Chief of Police upon its completion.
 - 3. The lack of a written complaint or the refusal of a complainant to complete a citizen complaint form **will not** prevent the continued process of any complaint.
 - 4. The supervisor will initiate the Complaint Tracking Form and written documentation describing the nature and circumstances of the complaint, and will collect any documents, and/or secure any evidence that relates to the complaint, if possible.
 - 5. While conducting the inquiry, the supervisor **will not** interview the accused employee.
 - 6. The supervisor's record, to include the Complaint Tracking Form, the Citizen Complaint Report, and any other pertinent information, will be forwarded to the Assistant Chief of Police.
 - 7. The Assistant Chief of Police will assign a tracking number to the complaint.
 - 8. The Assistant Chief of Police will assess the allegation(s), and may provide notice to the Chief of Police to determine the appropriate investigative response.
 - 9. All complaints whether formal, non-formal and regardless of conclusion, will be forwarded to the Assistant Chief of Police for archiving.
 - 10. During official inquiry of any complaint by supervisory authority, if it becomes apparent that the issue involves a violation of law, or serious violation of Police Department regulation, the assigned supervisor shall notify the Chief of Police or the Assistant Chief of Police immediately.
- C. Complaints involving allegations of criminal misconduct will be referred to the Department of Criminal Investigations by the Chief of Police.

1. Assignment authority for all formal complaints will rest with the Chief of Police.
2. The Assistant Chief of Police will process the complaint by assignment of a control number for tracking purposes.
3. Upon receipt of any complaint for investigation, the assigned investigator has 30 days to complete the investigation. An extension may be granted by the Chief of Police or Assistant Chief of Police. The request for an extension must be in writing.

5. INTERNAL INVESTIGATIVE PROCEDURES

Formal internal investigations will always be conducted with an impartial and non-biased attitude.

- A. An employee is required to respond to all inquiries made during an interview. The employee has the obligation to answer all questions truthfully. Any refusal to answer questions is a violation of Police Department policy, and may render the employee subject to disciplinary action.
 1. Any statements taken from Police Department personnel who are the subject of misconduct allegations will be in accordance with the following procedures:
 - a. Interview shall be conducted at a reasonable hour, preferably at a time when the officer is on duty, unless the seriousness of the investigation is of such a degree that immediate action is required.
 - b. The interview shall take place at the Watertown Police Department or at a location designated by the investigating officer or agency and in such a manner as to minimize any negative attention being brought upon the officer subject to the investigation.
 - c. The employee under investigation shall be informed of the, name, rank, and command of the officer in charge of the investigation, the interrogating officer, and all persons present during the interview.
 - d. The employee under investigation shall be informed of the nature of the investigation prior to any interview, and he or she shall be informed of the name of all complainants.
 - e. The employee under investigation shall be given an appropriate administrative warning.
 - f. Interrogating sessions shall be for reasonable periods and shall be timed to allow for such personal necessities and rest periods as are reasonably necessary.
 - g. The employee under interview shall not be subjected to offensive language or be threatened with transfer, dismissal, or disciplinary action. No promise or reward shall be made as an inducement to answer any questions.
 - h. The formal interview of an employee, including all recess periods, shall be recorded on audio tape, or otherwise preserved in such a manner as to allow a transcript to be prepared, and there shall be no unrecorded questions or statements.
 - i. If the employee under interview is under arrest, or is likely to be placed under arrest as a result of the interview, he or she shall be completely informed of all his or her rights (Miranda Warning) prior to the commencement of the interview.
 - j. At their request, the employee under investigation shall have the right to be represented by counsel or any other union representative of his or her choice, who shall be present at all times during such interview whenever the interview relates to the officer's continued fitness for law enforcement duties.

6. REPORTS OF INVESTIGATIONS

- A. Upon completion of an internal investigation, the investigator will prepare a comprehensive report that will include all related documentation, evidence, and recordings.
- B. The investigative report will issue a finding or conclusion as provided in the following ranges:
 1. **Not Sustained** - the investigation fails to disclose sufficient information to clearly prove or disprove the allegation.
 2. **Sustained** - the investigation discloses that the alleged act(s) did occur, and that they constitute misconduct.
 3. **Exonerated** - the investigation reveals that the alleged act(s) did occur, but that the employee's actions were justified, lawful, and proper.
 4. **Unfounded** - the investigation reveals conclusively that the alleged acts **did not** occur.
 5. **Other/Policy Failure** - the investigation reveals that the alleged act was not misconduct, however there exists administrative concerns related to policy failure that merits attention and/or further review.

7. CONCLUSION OF INVESTIGATION

- A. Upon concluding an assigned investigation, the completed report and all supporting recordings (i.e., statements, photographs, cassette tapes, etc.) should be forwarded to the Captain of the accused employee. The Captain will review the investigative file and make a recommendation of discipline and/or corrective action if applicable. The Captain will then forward the investigative file to include his/her recommendations of discipline to the Chief of Police.
 - B. Whenever an employee is subject to disciplinary action consisting of suspension with loss of pay, demotion, or dismissal, the employee shall be given the opportunity to address the findings and recommendation of discipline with the Chief of Police during a predetermination hearing prior to the imposition of the disciplinary action consisting of suspension with loss of pay, demotion, or dismissal.
 - C. No dismissal, demotion, transfer, reassignment, or other personnel action which might result in loss of pay or benefits or which might otherwise be considered a punitive measure shall be taken against any officer unless the officer is notified of the action and the reason or reasons therefore prior to the effective date of such action.
 - D. The contents of the complaint and investigation shall remain confidential.
 - E. No employee shall be discharged; disciplined; demoted; denied promotion, transfer, or reassignment; or otherwise discriminated against in regard to his or her employment or appointment, or be threatened with any such treatment, by reason of his or her exercise of the rights granted by this part.
 - F. Notice to the complainant and the employee(s) of the final disposition will be made by the Chief of Police, the Assistant Chief of Police, or the assigned investigator.
8. **RELIEF FROM DUTY**
- A. The Chief of Police with the approval of the Mayor may relieve an employee from duty pending determination of their physical or psychological fitness for duty; or pending disposition of an Internal Investigation. Relief from duty will conform to the procedures provided in the City of Watertown Personnel Policy, Article 9 Leaves of Absence— Full Time Employees, Section 9.06 Administrative Leave. As provided by the authority of the Chief of Police certain examinations, tests, and/or exemplars may be utilized by competent authority during an internal investigation.
 - 1. An employee may be required to submit financial disclosure statements if the investigation involves questions of a financial nature.
 - 2. An employee may be required to be photographed, or participate in a line-up if it is material to a particular offense or investigation.
 - 3. An employee may be required to submit to a breathalyzer, urinalysis, psychological examination, handwriting exemplars, or other tests/examinations that **specifically relate** to a particular offense or allegation.
 - 4. Investigations may also include requests for polygraph examinations and/or truth verification (C.V.S.A.) examinations. No employee will be compelled to submit to examinations of this scientific nature against their will, nor will any such refusal be a determinant in the finding of fact in the case.
 - 5. As a condition of employment, all Watertown Police Department facilities, work areas, furniture, filing cabinets, assigned/utilized Police Department vehicles, and issued equipment of any employee will be subject to search and/or inspection at any time.
9. **APPEALS**
- A. Employees desiring to appeal formal discipline or administrative sanctions enacted as the result of a sustained investigation will conform to the procedures provided in the collective bargaining agreement or civil service ordinance between the City of Watertown and its employees.
10. **DOCUMENT RECORDS**
- A. All files created in the process of a complaint or formal internal investigation will be securely maintained within the office of the Chief of Police.
 - B. All completed disciplinary actions will be forwarded to Finance Department/Human Resources and placed in the employee's personnel file.

JOANNA W. VITEK
 Chief of Police
 Watertown Police Department
 Watertown, South Dakota

WATERTOWN COMPLAINT TRACKING FORM

Use this form whenever handling a citizen's complaint, regardless of seriousness. This form does not replace any other existing form, and is not to be confused with the formal citizen's complaint form.

Complainant known Anonymous caller Walk-in complaint Complaint mailed Complaint e-mailed

Date reported	Date of incident	District
Caller's Name	Complainant Name (if different)	same
Address	Ph. No.	City/State/Zip
Employee Involved	Shift	Incident No.
Employee taking complaint	Division/Unit	Citation # (if available)

Complaint:

False Arrest Rudeness Poor Response Time Failure to take a report Unprofessional Behavior (On/Off Duty)
 Use of Force Speeding Status of Investigation Harassment Gratuity Criminal Allegation
(i.e., theft)

Other alleged policy violation

Enforcement Type Incident:

Traffic Drugs Prostitution Loitering Felony/Misdemeanor Disturbance
Arrest

Animal and/or Noise Emotionally Disturbed Person (Criminal, Civil)
 Other

Was the complaint resolved? YES NO Inquiry Stage Assigned to:

How was the complaint resolved?

Was a formal civilian complaint form initiated? YES NO

Does the complainant wish to formalize complaint? YES NO Was the employee disciplined? YES NO

Other: (If more space needed use other side)

Findings of Inquiry:

Exonerated Unfounded Not Sustained Sustained Policy Failure
 Pending Request an Internal Investigation

Comments:

EXONERATED - That specific acts did occur, but were justified, lawful, and/or proper.
 UNFOUNDED - That the specific act(s) complained of did not occur, or failed to involve Police Department personnel.
 NOT SUSTAINED - Failure to discover sufficient evidence to clearly prove the allegation(s) made in a complaint.
 SUSTAINED - The investigation disclosed sufficient evidence to clearly establish the allegation(s) made in the complaint.
 POLICY FAILURE - The allegation(s) is/are true, however, the employee was acting in a manner consistent with the Police Dept. policy. This finding must clearly detail how any particular policy is incorrect and may necessitate further review and/or revision of the specific policy.

WPD 240.1

NOTE: Upon receipt of complaint, forward copies to the Chief of Police and the Assistant Chief of Police.

Administrative Investigation Warning

WATERTOWN POLICE DEPARTMENT

I WISH TO ADVISE YOU, that you are being questioned as part of an official investigation of the Watertown Police Department. _____

YOU WILL BE ASKED, questions specifically directed and narrowly related to the performance of your official duties or fitness for duty. You are entitled to all the rights and privileges guaranteed by the Laws 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 Watertown Police Department. _____

IF YOU DO ANSWER, neither your statement(s) nor any information or evidence which is gained by reason of such statement(s) can be used against you in any subsequent criminal proceeding, except for perjury or obstruction of justice charges*. _____

HOWEVER, these statements may be used against you in relation to subsequent Departmental charges. _____

YOU ARE HEREBY ORDERED not to convey directly or indirectly any details of this interview or investigation to any person(s) in or outside this agency other than your representative. If so, you will be in violation of insubordination. Your actions could result in other disciplinary sanctions against you. _____

I have read and understand the above warning.

Signature of Employee

Witness

Date

Time

Case No. _____

WPD 242.1

*United States v. Veal, 153 F3d 1233 (11th C.A.-1998)

WATERTOWN POLICE DEPARTMENT
Notification of Investigation

Name of Employee

ID Number

Rank

Unit of Assignment

YOU ARE HEREBY ADVISED, that you are under administrative investigation for the following improper acts and or violations of the Watertown Police Department Rules and Regulations:

Section	Violation

You will be notified when this investigation is complete. Please be advised that this is not intended to imply or in any other manner suggest the allegations against you are true or will be substantiated; however, it is the policy of the Watertown Police Department that this matter be fully investigated.

I HEREBY acknowledge receipt of written Notification of Investigation.

Signature of Employee

Witness

Date

Time

Case No. _____

