


<p><b>FALL RIVER POLICE DEPARTMENT</b></p> <p><b>Administration Manual</b></p>		
<p><b>Internal Investigations</b></p>		<p><b>POLICY</b></p> <p>SOP-ADM.05.8</p>
<p>Issued Date: 01-09-2006</p>	<p>Effective Date: 01-19-2006</p>	<p>Issuing Authority</p> <hr/> <p>Albert F. Dupere Chief of Police</p>
<p>Review Date: 12-31-2019</p>	<p>Last Revision Date: 05-29-2015</p>	
<p><b>Massachusetts Police Accreditation Commission (MPAC)</b> Standards Referenced:</p> <p><b>1.3.8 52.1.1 (b) 52.1.2 52.1.3 52.1.4 52.1.5 52.2.1 (a-b) 52.2.2 52.2.3 52.2.4 (a-c) 52.2.5 52.2.6 (a-e) 52.2.7 52.2.8 82.2.2 (b)</b></p>		
<p><b>Commission on Law Enforcement Accreditation (CALEA)</b> Standards Referenced:</p> <p><b>26.2.1 26.2.2 26.2.3 26.2.4 26.2.5 26.3.1 (a-b) 26.3.2 26.3.3 26.3.4 (a-c) 26.3.5 26.3.6 (a-f) 26.3.7 26.3.8 82.2.2(b)</b></p>		
<p><b>Massachusetts General Laws Reference:</b></p> <p><b>C149 s19b</b></p>		

## TABLE OF CONTENTS

<b>SUBJECT</b>	<b>PAGE</b>
Annual Report	20
Categories of Complaints Investigations	11
Complaint By Arrestees	10
Complaint Control Form	6 - 7
Complaint From Other Governmental Agencies	10
Complaint Procedure	6
Complaints Received By Mail	9
Conclusion	20
Conducting Internal Administrative Investigations	15 - 16
Confidentiality Of Professional Standards	19 - 20
Criminal Proceedings	14
Departmental Complaints	9
Departmental Disciplinary Action	14 - 15
Discharge of Firearms	12
Exonerated	19
Financial Disclosure	17
Identification	16
Immediate Resolution of a Complaint	12
In Person Complaints	8 - 9
Investigation of Complaints	12 - 14
Investigative Files	20
Investigative Procedures	11
Liaison With District Attorney	21
Massachusetts General Law Chapter 149 s19B	17
Outside Complaints To Patrol Officers	10
Receiving and Recording Complaints	8
Recording Interviews	17
Report Of Investigation	18
Searches	16
Sustained-Not Sustained	18
Telephone Complaints	9
Verification of Receipt	10 - 11
Withdrawn Complaints	17

**INTERNAL INVESTIGATIONS**

**ANNUAL REVIEW:**

1. As of February 2019 an annual review has been concluded on the following Standard Operating Procedure. There have been no changes made to the original document issued May 29, 2015.

**2019 REVIEW PERSONNEL:** Sergeant James T. Hoar

**CALEA REFERENCES:**

52.1.1	52.1.1 (b)	52.1.2	52.1.3
52.1.4	52.1.5	52.2.1 (a-b)	52.2.2
52.2.3	52.2.4 (a-b)	52.2.5	52.2.6 (a-e)
52.2.7	52.2.8	1.3.8	82.2.2 (b)

**PURPOSE:**

1. Historically, police departments have been an instrument to maintain law and order. To be fully effective, the police need to have and maintain public trust and confidence and have their cooperation. Trust and confidence can exist only if; the public recognizes that their police department uses its enforcement procedures with integrity and according to law. By not adhering to a policy that assures public trust and confidence, barriers will develop between the police and the public. Hence, effective law enforcement within the community will become increasingly difficult.
2. To maintain the highest quality of police services we must have an effective and meaningful complaint procedure. With such a policy in place, citizen confidence in the integrity of police actions will increase and assure their support, cooperation and confidence in their police department. The element of police-public cooperation is vital to the department's ability to achieve its goals.

3. At all times, employees of the Fall River Police Department, sworn, and civilian are expected to conduct themselves in a manner that will reflect favorably on the department and the City of Fall River. By maintaining high standards, we will be able to ensure an atmosphere of trust and cooperation between the citizens and the department. Increased cooperation will enhance our ability to achieve the articulated goals of the department.
4. The Professional Standards Unit's function is vital for the maintenance of professional conduct within the Fall River Police Department. The integrity and professionalism of the department is in direct proportion to the integrity and discipline of each of its members. The public image of the department is largely determined by the quality of the Professional Standards Unit's function in responding to allegations of misconduct by the department or its members.
5. The Fall River Police Department must provide citizens with a fair and effective avenue for redress of legitimate complaints against its officers. The Professional Standards Unit also protects the members of the department by investigating and dismissing false and unfounded allegations of misconduct. The Professional Standards Unit also assures that each officer receives every protection they are entitled to under both the state and Federal Constitutions.
6. The Fall River Police Department will not hesitate to impose disciplinary sanctions upon guilty members, including the removal and termination of any employee proven unfit for service within the department.
7. The Professional Standards investigator will be responsible for recording, maintaining, registering and supervising the investigation of complaints against the department or department employees and the agency. The Professional Standards investigator shall also be charged with maintaining the confidentiality of the internal affairs investigations and records. (52.1.2)

8. The Professional Standards investigators will ensure that the integrity of the department is maintained by conducting intensive and impartial investigations, and reviews in an objective, fair and judicious manner. All findings will be prepared in writing and submitted to the Chief of Police who will impose the disposition and sanction(s).
9. Because Professional Standards investigations involve allegations against a member of the department, it is imperative that the process be lawful and confidential. Accordingly, strict confidentiality and full adherence to procedures will be maintained.
10. Employees of the Fall River Police Department will be held to the highest standards of professional conduct. Employees who do not adhere to the standards of conduct, either through deliberate action or negligence will be subject to disciplinary action that shall be applied in a prompt and specific manner.
11. The objectives of a Professional Standards investigation are:
  - a. Protection of the public.
  - b. Protection of the employee.
  - c. Protection of the department.
  - d. Correction of procedural problems.
  - e. Impose discipline if warranted.
12. All alleged or suspected violations of laws, ordinances, department rules, regulations, policies, procedures and orders (whether verbal or written) must be investigated according to the procedures outlined. These include, but are not limited to:
  - a. Alleged violations reported to superior officers by other members of the department, either orally or in writing.

- b. Alleged violations observed or suspected by all department employees.
- c. Citizen complaints of alleged misconduct by members of the department that are made in person, in writing, by telephone or anonymously. (26.2.1)
- d. Complaints or allegations made by prisoners.

## **POLICY:**

- 1. It is the policy of the Fall River Police Department to accept and investigate all complaints of misconduct or wrongdoing against the department or department employees, regardless of the source of such complaint, by conducting a regulated, thorough and impartial examination of all available factual information. (26.2.1)
- 2. Any employee involved in an incident which results in death or serious bodily injury shall be placed on Administrative duty pending investigation. (1.3.8)
- 3. Any officer may inform a citizen of the method to file a complaint when asked.

## **COMPLAINT PROCEDURE: (82.2.2) (b)**

## **COMPLAINT CONTROL FORM (PD252) (82.2.2) (b)**

- 1. A standard complaint report form shall be used to record all complaints of misconduct, mistreatment or unethical practices against department personnel, whether registered by a citizen, or forwarded by another governmental agency. This Complaint Control Form (PD252 Appendix 1) shall be located in the Uniform Division. (82.2.2) (b)

2. The following information shall be included on the complaint control form:
  - a. The date and time the complaint is reported.
  - b. The name, address and phone number of the complainant.
  - c. The name, address, and phone number of any witness to the reported incident.
  - d. The name, rank, badge number and/or the description of the employee against whom the complaint is made.
  - e. The date, time and location of the alleged incident.
  - f. The complainant's description of the events that resulted in the complaint.
  - g. Signature of the complainant.
  - h. Signature of parent or guardian if complainant is under eighteen years of age.
  - i. The name, rank and signature of the department employee receiving the complaint report
3. Any person requesting to make a complaint against an employee of the department shall, upon request, be given a copy of the Complaint Control Form (PD252 Appendix 1) this form is not allowed to leave the police station since they are all numbered. A complainant may write a separate narrative and attach it to the complaint form.
4. Every person making a complaint against a department employee shall receive a letter (Receipt of Notification Form PD393, Appendix 3) from the Office of Professional Standards to serve as a receipt verifying that such complaint has been received for processing. **(26.3.4) (a)**

**RECEIVING AND  
RECORDING  
COMPLAINTS:**

1. The Uniform Division Commander if working, if not the patrol supervisor at the time the complaint is made, shall be responsible for receiving and recording all complaints of employee misconduct, regardless of whether they are reported in person or by telephone.
2. The utmost courtesy and cooperation shall be given to all persons filing a complaint or inquiring about the complaint procedure. The initial contact between the complaining party and the police is the most important stage in the process. The complainant is often emotionally upset and the potential for hostility is great.
3. No person should be denied the opportunity to file a complaint. No person should be directed to return at a later time or to call back later.
4. No supervisor of the Fall River Police Department will encourage or coerce a person to sign off on a complaint form.
5. Each Complaint Control Form (PD252 Appendix 1) shall have an identifying number issued by the Professional Standards Unit.
6. If the substance of the employee misconduct warrants it, (i.e. reporting unfit for duty, insubordination, leaving assigned post, refusing to perform assigned duties etc.) the officer-in-charge may suspend the employee for the remainder of their shift pending notification of the Professional Standards Unit and the Chief of Police. The employee shall report to the Professional Standards office the following day or as directed.  
(26.3.7)

**IN PERSON  
COMPLAINTS:**

1. Reports that are made in person should be reduced to writing and the complainant should be requested to sign the complaint form. If the complainant is a minor, the signature of a parent or guardian should be



obtained. If the complainant refuses to sign, the officer accepting the report should make a notation that the complainant would not sign the report.

#### **TELEPHONE COMPLAINTS:**

1. When a complaint is received by telephone the complainant should be informed that a signed complaint is advisable. Telephone complaints should not be refused or rejected because the complainant does not wish to come in to sign a complaint form. Anonymous complaints should not be rejected. Care must be taken so that department employees are not subjected to unjust or malicious complaints.

#### **COMPLAINTS RECEIVED BY MAIL:**

1. If a complaint of employee misconduct is received by mail, the information contained shall be incorporated into the Complaint Control Form (PD252 Appendix 1) and the original communication shall be attached thereto.
2. If the information received is incomplete or insufficient, the Professional Standards Investigator shall contact the complainant, if possible, and obtain the necessary information.

#### **DEPARTMENTAL COMPLAINTS:**

1. A complaint initiated internally concerning an employees misconduct may be initiated by an Officer's Report (Appendix 2) or in serious cases, by the preparation of the Standard Fall River Police Department Complaint Control Form (PD252 Appendix 1).

**COMPLAINTS BY  
ARRESTEES:**

1. Any arrestee who alleges misconduct or mistreatment by any department employee shall be advised of their right to submit a complaint report form in the usual manner and such complaints should be investigated and processed in the same manner as other citizen complaints.

**COMPLAINTS FROM  
OTHER GOVERNMENTAL  
AGENCIES:**

1. When information is received or obtained from other governmental agencies alleging specific acts of misconduct against a department employee, this information shall be recorded on the standard Complaint Control Form (PD252 Appendix 1) and an investigation initiated in the usual manner.

**OUTSIDE  
COMPLAINTS  
TO PATROL  
OFFICERS:**

1. If a patrol officer is approached by a citizen regarding a complaint of alleged misconduct against an employee of the department, the officer shall inform such person that their complaint should be directed to the patrol supervisor or superior officer.
2. Persons making an allegation or complaint of racial profiling shall also be advised of the state's complaint line (1-866-6-RACIAL).

**VERIFICATION  
OF RECEIPT:**

(26.3.4) (a)

1. Every person making a complaint against a department employee shall receive a letter (Receipt of Notification Form PD 393, Appendix 3) from the Office of Professional Standards to serve as a receipt verifying that such complaint has been received.  
(26.3.4) (a)

2. Every person making a complaint shall receive periodic updates. (26.3.4) (b)

## INVESTIGATIVE PROCEDURES:

### CATEGORIES OF COMPLAINTS

#### INVESTIGATIONS: (26.3.1) (b)

1. The department has established guidelines regarding which categories of complaints will be handled and investigated by the Professional Standards Unit and which by subject employee's commanding officer-in-charge (OIC) as a part of routine discipline. The criteria for determining the categories of complaints to be investigated by the Professional Standards Unit include, but are not limited to, allegations of:  
(26.3.1) (b)
  - a. Corruption (26.3.1) (b)
  - b. Brutality (26.3.1) (b)
  - c. Use of excessive force (26.3.1) (b)
  - d. Violation of civil rights including racial profiling and/or gender profiling (26.3.1) (b)
  - e. Criminal misconduct (26.3.1) (b)
  - f. Any other matter as directed by the Chief of Police. (26.3.1) (b)
2. Criteria for the assignment of an investigation to the employee's commanding officer may include violations of departmental rules and regulations. (26.3.1) (a)
3. Reports of investigations performed by Unit commanders shall be forwarded and reviewed by the Professional Standards Unit. (26.3.1) (a)

**Discharge of  
Firearms:  
(26.3.1) (b)**

1. The manner in which police officers use firearms is an extremely critical issue to the department, one in which the community and the courts allow little margin for error. Pursuant to departmental policy pertaining to Use of Force SOP-ADM.04.1, in order to insure that proper control in this area is maintained, ALL reported discharges of firearms by officers of this department, whether on or off duty, will be thoroughly investigated by the Professional Standards Unit for the purpose of determining the extent to which officers comply with departmental policy. **(26.3.1) (b)**

**Immediate  
Resolution  
of a Complaint:**

1. In some cases a complaint can be resolved to the complainant's satisfaction at the time by the superior officer receiving complaint, in which case this fact should be reported in writing by the officer-in-charge and, if possible, acknowledged in writing by the complainant on the Departmental Complaint Control Form. (PD252 Appendix 1).
  - a. This immediate resolution can often be accomplished if the incident is clearly not of a serious nature. If the complaint arises from a misunderstanding, lack of knowledge of the law or the employee's limitation of authority in a given circumstance, then the superior officer should seek the easiest resolution to the problem. **(26.3.1) (b)**
  - b. Under no circumstances, however, will a justifiable complaint be refused, delayed, or otherwise rejected in this manner. **(26.3.1) (b)**

**INVESTIGATION OF  
COMPLAINTS:  
(26.2.3)**

1. The officer's assigned to the Professional Standards Unit shall be responsible for conducting Professional Standards investigations. They shall report directly to

the Chief of Police on any sensitive matter which impacts on the direction and control of the department. (26.2.3)

- a. The affected employee shall be provided a written statement of the allegations against them when they are ordered to answer questions or are ordered to write a report, unless the Chief of Police determines that disclosure might jeopardize an investigation.

**NOTE: If the employee was not notified by order of the Chief of Police, they must receive written notification prior to any interrogation or administrative or criminal hearing.**

- b. The officer-in-charge of Professional Standards investigations shall be responsible for providing the Chief of Police with verbal reports on the progress of the investigation periodically. These reports shall contain all pertinent information relating to the progress of the investigation. (52.2.2)
- c. If the substance of a complaint, if proven, would be of grave nature or is an accusation of a serious crime and immediate action is deemed necessary, the Chief of Professional Standards (on-call supervisor) shall be notified immediately via telephone by either the supervisor taking the complaint or the watch commander. The Office of Professional standards shall then be responsible for notifying the Chief of Police or the superior officer designated by the Chief of Police verbally by telephone or in-person depending on the circumstances. (26.3.2)
- d. Before a department employee is questioned or directed to submit a report regarding a complaint, and unless the Chief of Police determines that disclosure might jeopardize the investigation, such employee shall be issued a written statement of the allegations and the employees rights and responsibilities relative to the investigation. (26.3.5)

2. Any Professional Standards investigation must be commenced immediately upon receipt of the complaint and should be completed within thirty (30) days. (26.3.3)
  - a. If extenuating circumstances preclude completion within thirty (30) days, the officer-in-charge of Professional Standards shall request an extension from the Chief of Police. (26.3.3)
3. An internal administrative 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 reflects discredit on the department.

### Criminal Proceedings:

1. 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.
  - a. Prior to being questioned regarding alleged personal involvement in criminal activity, a Department employee shall be given the **Miranda** warnings, including the right to have an attorney present during any such questioning, prior to custodial interrogation.
  - b. 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 their on or off duty conduct, and may be disciplined (including discharge) for failure to answer truthfully.

**Departmental  
Disciplinary Action:**

1. If it is determined as a result of a preliminary investigation, that allegations made against a department employee could result in departmental disciplinary action, the accused employee is entitled to a fair and objective investigation and resolution of the charges made.
  - a. All department employees, when questioned by the Chief of Police, or by a superior officer, must respond fully and truthfully to all questions regarding their performance of official duties or their 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 inquires may be punished by appropriate disciplinary action, including dismissal from the department.

**Double Jeopardy:**

1. 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*" rather than the criminal court standard of "*beyond a reasonable doubt.*"

**Conducting Internal  
Administrative  
Investigations:**

1. In conducting internal administrative investigations, in the absence of a requirement in a collective bargaining agreement, there is no legal obligation for the police department to provide department employees with an opportunity to consult with an attorney before being questioned on work-related matters; however, a request for an attorney or an employee representative to be present will be granted if the investigation is not thereby unduly delayed.

- a. Except in unusual situations, any interview or questioning should take place during the employee's regular duty hours.
  - b. 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.
  - c. A department employee shall not be improperly harassed or threatened during this period of questioning.
2. In conducting investigations of alleged employee misconduct, all appropriate investigative techniques and methods should be employed, consistent with legal requirements and all necessary concern for the individual rights of the accused employee.
    - a. An internal administrative investigation should be conducted with the same degree of professional competence as is devoted to a criminal investigation.
    - b. Upon orders of the Chief of Police or designee, an employee may be required to submit to a medical or laboratory examination, at the department's expense. **(26.3.6) (a)**

**Identification:**

1. A police officer may also be required to be photographed and can be compelled to stand in a lineup for identification in connection with an administrative 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 should not be used for an administrative investigation where criminal charges are contemplated. **(26.3.6) (b) (d)**



**Searches:**

1. Department property furnished to the officer, such as desks, lockers, or vehicles, in which it is clearly understood in advance that an officer has "no expectation of privacy", may be searched without a warrant.

**Financial Disclosure:**  
(26.3.6) (e)

1. A police officer 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.  
(26.3.6) (e)

**M.G.L.A. C149 s19B:**  
(26.3.6) (f)

1. Under the provisions of Massachusetts General Law, Chapter 149, Sec. 19B, police officers 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 criminal activity, and under such circumstances, officers may face disciplinary action for refusal. (26.3.6) (f)

**Recording Interviews:** (26.3.6) (c)

1. If possible, the complete interview with an employee in all internal administrative investigations should be recorded mechanically or by a qualified stenographer.  
(26.3.6) (c)

**Withdrawn Complaints:**

1. 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, and a signed statement to this effect should be obtained from the complainant.

- a. Even though a complaint is withdrawn, a full report of the investigation to date should be prepared for the Chief of Police and his/her approval obtained for the termination or continuation of the investigation.
- b. 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)**

1. At the conclusion of any administrative investigation, a full written report shall be prepared for submission to the Chief of Police, which shall include the following: (26.3.2)
  - a. A copy of the original complaint report. (26.3.2)
  - b. Copies of any additional statements taken from the complainant or statements obtained from witnesses. (26.3.2)
  - c. Copies of any statements made or reports submitted by the department employee under investigation. (26.3.2)
  - d. A summary of all evidence gathered. (26.3.2)
  - e. Any mitigating circumstances. (26.3.2)
  - f. An evaluation of the complaint and a definitive statement as to whether the charges made by the complainant were: (26.3.8)

**Sustained:  
(26.3.8)**

1. The allegation has been investigated and the facts show that the allegation is true and the action taken was not consistent with department policy. (26.3.8)

**Not Sustained:  
[Inconclusive]**  
(26.3.8)

1. The allegation has been investigated and there is insufficient proof to confirm or refute the allegation because of inadequate or insufficient evidence. (26.3.8)

**Unfounded:**  
(26.3.8)

1. The allegation has been investigated and either the allegation is demonstrably false or there is no credible evidence to support it. (26.3.8)

**Exonerated:**  
(26.3.8)

1. The allegation has been investigated and the facts indicate that the action taken was consistent with departmental policy. (26.3.8)
  - a. The Professional Standards Investigator shall see that all records and reports of such investigations are maintained in a secure area in order to ensure confidentiality is maintained. (26.3.8)
2. Upon receipt of the report of investigation, the Chief of Police should take further action as is necessary based upon findings in the particular case. (26.3.8)
  - a. Every person who has filed a complaint against an employee shall be notified promptly as to the final results of the investigation a form letter by mail. (26.3.4) (c) (26.3.8)
  - b. If a disciplinary hearing is deemed necessary, the complainant shall be notified that their testimony will be required at that time. (26.3.8)
  - c. The employee shall be notified in writing, as to the completion of the investigation and its findings. (26.3.8)

**CONFIDENTIALITY  
OF PROFESSIONAL  
STANDARDS: (26.2.2)**

1. In order to ensure that the individual rights of officers who are the subject of a Professional Standards investigation are protected, all materials relevant to that investigation shall be kept strictly confidential and under lock and key by the officer-in-charge of Professional Standards Unit. (26.2.2)
2. Professional Standards investigators should note in their reports 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. (26.2.2)
3. No one has access to files without permission of Chief of Police. (26.2.2)

**INVESTIGATIVE  
FILES: (26.2.2)**

1. A complete file of records on the investigation of all citizen and internal complaints shall be kept in the office of the officer-in-charge of Professional Standards. These files shall contain supporting investigative information, as well as notes taken during the investigation. These files shall be treated as confidential investigative files. (26.2.2)

**ANNUAL REPORT:  
(26.2.5)**

1. The Chief of Police will publish, in the department's Annual Report, a summary of complaint statistics (both citizen complaints and internal), indicating the number of complaints filed (by type of complaint), and the outcome of the investigations undertaken (by outcome classification). In addition, the Annual Report should outline the procedures the public may follow in filing a complaint. (26.2.4) (26.2.5)

2. The Fall River Police Department shall maintain on its web site procedures the public may follow in filing a complaint with the department's Professional Standards Unit. (26.2.4)

**CONCLUSION:**

1. A complaint against any member of the Fall River Police Department is to be considered a serious matter and of concern to every member of the department. All superior officers concerned or assigned to investigate such matters are directly responsible and accountable in the proper disposition of the procedures required. A proper and sound Professional Standards policy helps maintain department professionalism and citizen support.

**THIS PAGE INTENTIONALLY LEFT BLANK**