


INTERNAL AFFAIRS

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PURPOSE

The integrity of the Haverhill Police Department depends on the personal integrity and discipline of each employee. To a large degree, our public image is determined by the quality and professionalism of our response to allegations of misconduct and malfeasance by our own members. The purpose of this policy is to inform all employees of departmental procedures for addressing complaints of misconduct and/or violations of the department's rules, regulations, policies, and procedures.

POLICY

The policy of the Haverhill Police Department will be to investigate all complaints of alleged officer misconduct or alleged misconduct of a civilian employee to equitably determine whether the allegations are valid or invalid and to take appropriate action.

I. DEFINITIONS

DEPARTMENT: Department is defined as the Haverhill Police Department.

OFFICER: Any member of the police department who is a graduate of a certified police academy and who is a sworn law enforcement officer. This is to include both full-time and reserve police officers.

CIVILIAN EMPLOYEE: Any member of the police department that is not a sworn law enforcement officer, including but not limited to clerical, animal control, and maintenance.

COMPLAINT: A citizen complaint is defined as that action taken by a citizen to bring to the attention of the Department any police action or inaction that the citizen considers to be contrary to law, proper procedure, good order, or in some other manner prejudicial to the citizen, the police department, or to the community as a whole.

MISCONDUCT: An act or omission by an employee, which if proven true would normally result in some form of discipline, sanction or remediation. These would include:

1. Commission of a criminal act.
2. Neglect of duty.
3. Violation of an agency policy, procedure, rule or regulation.
4. Conduct that may tend to reflect unfavorably upon the employee, and/or agency.

PROFESSIONAL STANDARDS: The internal administrative investigative entity of the Department.

EXTERNAL COMPLAINT: Allegations of misconduct by a Department employee made from a source outside of the department.

INTERNAL COMPLAINT: Allegations of misconduct by a Department employee made from a source within the police department. Normally, a supervisor initiates an internal complaint when he/she identifies misconduct by a subordinate.

ADMINISTRATIVE INVESTIGATION: An investigation of a Department employee alleged to have committed a breach of department rule, regulation, policy or procedure, which would not amount to a formal charge being brought against the employee in a criminal court.

CRIMINAL INVESTIGATION: An investigation of a Department employee alleged to have committed a violation of law, which could result in the employee being formally charged in a criminal court.

SUPERVISOR: A sworn officer in the rank of sergeant or above.

INITIAL INVESTIGATION: Consists of the steps taken by a supervisor to determine whether a complaint alleges misconduct, i.e., whether the allegation(s), if true, would be a violation of department rules, regulations, policies, procedures, or orders.

PRELIMINARY INVESTIGATION: Consists of the steps taken by a supervisor immediately after it is determined that a complaint has alleged misconduct by a department member.

FORMAL INVESTIGATION: Consists of the steps taken by the Professional Standards investigator or supervisor assigned to investigate the personnel complaint and prepare the final investigative report. The formal investigation takes place after the initial and preliminary investigations are complete.

II. PROCEDURES

- A. The department shall emphasize the prevention of misconduct as the primary means of reducing and controlling it. The Haverhill Police Department shall make every effort to eliminate the organizational conditions, which may foster, permit or encourage improper behavior by its employees.
- B. All legitimate complaints against an officer or an employee shall be thoroughly investigated as a means of ensuring accountability to the public. However, the department recognizes that false and malicious allegations against police officers are possible and shall strictly enforce criminal sanctions against those individuals who are determined to have made false official statements against officers. A proper and thorough investigation shall be conducted whenever a complaint is filed against an officer/employee. The investigation may:

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1. Exonerate an innocent officer, thereby maintaining agency integrity.
 2. Identify organizational conditions that may contribute to misconduct.
 3. Identify an officer/employee who requires corrective actions according to the degree of the misconduct.
 4. Identify policy, procedure, rule, or regulation guidelines, which may have contributed to the misconduct.
- C. Persons assigned to positions of command have full responsibility for the performance of all persons and units placed under their command.
- D. In the event that an aggrieved person believes that he/she has been mistreated, their complaint must be heard and they must be treated with respect. Their complaint must be accepted and investigated in an objective, impartial manner.
1. All persons making a complaint against a member of the Department shall be allowed to file a formal Standardized Complaint Form (SCF), which shall be properly and thoroughly investigated.
- E. Everything possible shall be done to bring the investigation(s) into alleged acts of misconduct to a speedy and definite conclusion. In most instances, Investigations will be completed within ninety (90) days. The Chief must be advised and approve circumstances requiring an extension of time. **52.1.4**

III. EXAMINATIONS

Upon orders of the Chief or designee, a member may be required to submit to a medical or laboratory examination, at the Department's expense. This examination must be specifically directed and narrowly related to a particular internal affairs investigation being conducted by the Department. **(52.1.7(a))**

A member may also be required to be photographed, to participate in a lineup, and/or to submit a financial disclosure statement when the actions are material to a particular internal affairs investigation. Such submissions shall only be conducted in a manner which is consistent with applicable federal, state, case law and administrative decisions. **(52.1.7 (b,c,d))**

Detection of Deception

When instruments for the detection of deception are used in any internal affairs investigation, these instruments will be used only by trained and certified personnel in accordance with all applicable federal, state, case law and administrative decisions. **(52.1.7 (e))**

IV. COMPLAINTS

- A. All complaints received by the Department shall be documented on "Standardized Complaint Forms (SCF)", which are located in the Officer-in-Charge's Office.
1. (A disagreement over the validity of a traffic citation, parking violation or simply the fact a person was arrested, is not grounds for the initiation of a personnel complaint. The complaining person should be advised that this is a matter for adjudication by the proper court system).

- B. No complaint should be eliminated or refused due to some arbitrary criteria. A complaint can be an indication of a potential problem or misunderstanding. The openness of the agency to the acceptance of a complaint is a principal element of police professionalism and community responsiveness.
- C. A complaint or notice of an allegation of misconduct that meets the criteria in the definition section of this policy should be accepted from any of the following sources:
1. Individual aggrieved person.
 2. Third-Party Complaint.
 - a. May often come from parents concerning children. This scenario provides an opportunity to explain agency's policies, often satisfying this type of complaint.
 - b. If the complaint meets the elements of this policy, a complaint should be taken.
 - c. Concerned citizen, who may have witnessed misconduct, may notify/file a complaint. Follow the definition section of this policy to determine if the elements of misconduct occurred and whether a complaint should be taken.
 - d. Shall be investigated to extent possible with the factual information available and without violating employee's rights.
 3. Governmental agency or court proceeding.
 4. Anonymous Complaint.
 - a. May be accepted and pursued to whatever reasonable conclusion the information allows.
 - b. These types of complaints are controlled by the nature of the allegation.
 - c. Shall be investigated to extent possible with the factual information available and without violating employee's rights.
 5. Agency or agency employee.
 - a. Any supervisor relative to a breach of rules, regulations, policy, procedure or orders.
 - b. Employee involved in criminal conduct, i.e. domestic violence, etc. within the city or occurring in another jurisdiction.
 - c. Any employee of the Department who observes or is aware of any act of misconduct by another employee shall immediately report the incident to the first available supervisor.
- D. A personnel complaint may be presented to the Department in person, by telephone, or by letter. No employee shall attempt to discourage, interfere or delay an individual from making a complaint. Every effort shall be made to facilitate the making of the complaint by ensuring that the process is convenient, courteous and prompt.

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- E. When an employee who is not a supervisor, (sergeant and above) receives a complaint from a citizen or otherwise becomes aware of possible misconduct on the part of another member of the Department, the employee shall immediately notify a supervisor. All sources of complaint shall be reported.
 - F. No employee shall be subjected to any criticism, retaliation, or reprisal for accepting or initiating a complaint, for being a witness against another Department member, or for in any way participating in the complaint and Internal Affairs Process.
 - G. Withdrawal of complaints will not be promoted. A person's request to withdraw a complaint shall not be refused. However, it is the policy of the Haverhill Police Department to continue the investigation as far as possible without the assistance of the complainant. **Cooperation of the complainant is important and desired, but it is not mandatory.**

V. SUPERVISOR'S RESPONSIBILITIES 52.1.1

- A. A supervisor who becomes aware of alleged act or omission on the part of an employee, which may amount to misconduct, shall:
 - 1. Take action to prevent aggravation of the incident;
 - 2. Conduct initial investigation;
 - 3. Determine whether the allegation amounts to misconduct;
 - 4. Notify the accused employee's on-duty Officer-in Charge.
- B. When the allegation does not amount to misconduct, the supervisor shall explain the related department policy or procedure to the complainant and attempt to resolve the matter to the complainant's satisfaction.
 - 1. If the complainant is not satisfied or the supervisor feels additional investigation is necessary, the concerned supervisor shall report the results of the initial investigation on a Standardized Complaint Form (SCF), and forward the original to the Chief of Police no later than the completion of that work day.
- C. Whenever a person indicates that he/she desires to make a complaint, which meets the criteria as outlined in the definition section of this policy, they shall immediately be referred to a supervisor.
 - 1. Discipline is a responsibility of supervision and supervisors shall be actively involved in the Internal complaint process.
 - a. No supervisor shall circumvent accepting a complaint that meets the criteria in this policy.
 - b. The initial investigation is not complete until an informal interview of the complainant has been conducted to determine whether a complaint alleges misconduct.
 - 2. Persons contacting field units or the communications center indicating their desire to make a complaint shall be referred to a supervisor, i.e. shift sergeant or lieutenant.

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- a. A supervisor can be dispatched to the location in the field if necessary.
 - b. The preliminary investigation of complaints is mandatory and essential. It can validate or refute allegations of misconduct and the line supervisor is in a position to get things done at the initial stage of the incident.
- D. Every effort will be made to have a supervisor interview a person desiring to make a complaint about an employee and determining whether it meets the criteria as outlined in the definition section of this policy. The complainant shall not be required to:
1. Appear in person.
 2. Respond to another part of the City.
 3. Respond to Internal Affairs at a different time and day.
 4. Wait an unreasonable amount of time to speak with a supervisor.
- E. Any supervisor aware of a person's desire to make a complaint or having taken a complaint from a person shall notify the Officer-in-Charge of the division or shift where the employee works immediately upon completing the complaint form.
- F. The supervisor taking the complaint shall, at the discretion of the Officer-in-Charge, conduct a preliminary investigation into the complaint when it is determined to be of a less serious, complex matter involving a violation of department rules, regulations, policy, or procedure. The Internal Affairs Division shall conduct more serious or complicated Administrative and sometimes Criminal Investigations.
1. The Standardized Complaint Form (SCF) shall always be prepared at the time the complaint is made when an allegation of misconduct meets the criteria in this policy.
 2. Preliminary Investigations of administrative complaints shall include, but not be limited to, the following:
 - a. Interview the complainant and any available witnesses.
 1. Obtain the names, addresses, home and work telephone numbers, driver's license numbers, and social security numbers, if available, of all witnesses to the misconduct.
 - b. Identify or eliminate all involved police employees, if possible.
 - c. Make a written report concerning the substance of interviews.
 - d. Collect, seize and preserve any physical evidence, i.e. documents, tapes, etc. Documents may include the aggrieved employees financial disclosure statements.
 - e. Photograph (color photograph) of all persons alleging physical assault or excessive force complaints. A member may also be required to be photographed and/or to participate in a lineup, when the action are material to a particular internal affairs investigation. Such

submissions shall only be conducted in a manner which is consistent with applicable federal, state case law and administrative decisions.

1. **This includes photos of persons displaying identifiable injuries as well as persons alleging physical abuse for which there are no identifiable injuries.**

f. Obtain medical release from all parties whose medical condition or injuries are a factor in the alleged complaint, in the event that medical attention was required.

G. The Standardized Complaint Form (SCF), once completed, shall be reviewed by the Officer-in-Charge and forwarded, along with any other evidence, to the Chief of Police. **52.1.3**

1. The Officer-in-Charge shall notify the Chief of Police by phone, regardless of the hour, when the incident is of sufficient gravity to warrant notification. If the Chief is unavailable, or does not answer, The Deputy Chief shall be notified in the same manner. **52.2.2**

2. The Officer-in-Charge shall notify the Commanding Officer of Internal Affairs, regardless of the hour, when the incident is of sufficient gravity to warrant notification.

VI. INTERNAL AFFAIRS DIVISION **52.1.2**

A. Shall be responsible for overseeing the acceptance, Investigation and adjudication of all complaints of employee performance. Persons assigned or working in this unit shall be responsible directly to the Chief of Police. (This position will be staffed by no less than a sergeant.)

1. The appropriate supervisor may investigate allegations of minor rules & violations.

2. A supervisor's investigation may be ordered terminated at any time by the Chief of Police and full investigative authority assumed by the Internal Affairs Division.

3. Allegations of misconduct that could result in discharge, suspension, and/or demotion will be investigated and/or prepared by the Internal Affairs Division or a designee of the Chief of Police.

4. Allegations of misconduct that could result in discharge, suspension, demotion, or criminal charges being sought will have the case investigated by two separate entities of the Department. This is done to ensure the protection of the conflicting rights afforded to the accused. **The accused employee must be granted all applicable constitutional and statutory rights according to the 5th Amendment to the United States Constitution.**

5. Before a department employee is questioned or directed to submit a report regarding a complaint, and unless the Chief determines that disclosure might jeopardize the investigation, such employee shall be issued a written statement of the allegations and in either case the employee will be advised of his/her rights and responsibilities relative to the investigation. **52.2.5**

a. **Criminal allegations:** will be investigated by the appropriate criminal investigative unit as assigned by the Chief of Police. The Internal Affairs Division will conduct the Administrative Investigation after the completion of any criminal investigation.

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- b. Prior to being questioned regarding alleged personal involvement in criminal activity, a department employee who is under arrest, or who is the target of a criminal investigation, shall be given the warnings and rights required by the Miranda decision, including the right to have an attorney present during such questioning.
 - c. If this procedure is followed, any voluntary statement made thereafter could be admissible in a criminal proceeding, and it may be used for departmental disciplinary purposes.
 - d. A department employee who wishes to invoke his right to remain silent as guaranteed by the 5th Amendment or refuses to sign a waiver of immunity cannot be discharged or otherwise penalized.
 - e. Criminal investigations occurring outside the jurisdiction of the Haverhill Police Department shall require the Internal Affairs Division to maintain liaison with the involved agency.
 - 1. An Administrative Investigation will be conducted the same as it would had the incident occurred within Haverhill once the criminal investigation is complete.
 - f. **Departmental Disciplinary Action 52.1.8:** all department employees, when requested by the Chief, or by a superior officer designated by the Chief, 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.
 - 1. The official conducting the interrogation must, at the time of the interrogation, specify to the employees being questioned the precise repercussions (i.e., suspension, discharge, or the exact form of discipline) that will result if the officer fails to respond.
 - g. **Transactional Immunity:** when a department employee is ordered to submit a report or to answer questions, that employee receives transactional immunity from criminal prosecution for any offenses to which the compelled testimony relates.
 - 1. The Supreme Judicial Court has held that Article 12 of the Massachusetts Declaration of Rights requires transactional immunity to supplant the privilege against self-incrimination when a public employee is being compelled to answer questions concerning possible criminal activities connected with his employment. Transactional immunity grants immunity from prosecution for offenses to which the compelled testimony relates.
 - 2. If the questions specifically, directly, and narrowly relate to the employee's performance of official duties or his/her off-duty conduct which affects his fitness or ability to remain in the police service, and if such employee is informed that he will receive transactional immunity from criminal prosecution,

he/she must answer or face disciplinary action, including dismissal from the department, for refusing to answer such questions.

- B. When an allegation of misconduct does amount to potential employee misconduct, Internal Affairs Officer(s) shall:
1. Assign the complaint an Internal Affairs case number.
 2. Prepare correspondence to complainant(s) acknowledging receipt of the complaint.
 3. Conduct a briefing with Chief of Police informing him/her of allegations against employee(s).
- C. The Internal Affairs Division will have the following responsibilities: **52.1.10; 52.1.11**
1. Maintenance of an active complaint log numbering by year and complaint number.
 2. Maintenance of a central file for complaints, kept in conformity with State law and maintained in a secured area.
 3. Conducting a regular audit of complaints to ascertain the need for changed in training or policy.
 4. Maintenance of Use of Force Reports to establish statistical data for yearly review.
 5. Disciplinary histories of employees.
 6. Computer/electronic files containing any of the above information.

VII. ADJUDICATION CLASSIFICATIONS

- A. Administrative investigations shall be classified accordingly. Each separate allegation must be classified individually. The standard of care in administrative investigations is a “preponderance of the evidence” which has been described as a “tipping of the scales of justice” or “more than 50 percent.” The following are the disposition classifications to be used in the adjudication report:
1. **UNFOUNDED:** The allegation concerned an act by an employee that did not occur.
 2. **EXONERATED:** The allegation in fact did occur but the actions of the employee were legal, justified, proper and in conformance with the law and department policies and procedures.
 3. **NOT SUSTAINED:** The investigation failed to produce a “preponderance of evidence” to either prove or disprove the allegation.
 4. **SUSTAINED:** The investigation produced a “preponderance of evidence” to prove the allegation of an act which was determined to be misconduct.
 5. **POLICY FAILURE:** A flaw in the contents of a policy or something omitted from the policy caused the officer to act or react in such a way, which is deemed to be the cause of the incident.
 6. **MISCONDUCT NOT BASED ON ORIGINAL COMPLAINT:** The investigation revealed the acts of misconduct that occurred were not contained or alleged in the original complaint.

- B. An employee that has an allegation sustained shall receive a formal written complaint in which the “**charge**” (particular rule, regulation and/or policy) is identified. A “**specification**” will be included and will describe the particular action(s) that resulted in the finding of misconduct. **52.1.6**

Example – Charge: (Rule 106) **Neglect of Duty**

Specification: Officer John Doe failed to respond in a timely manner to a call for service, to wit; a reported vandalism and failed to prepare a police report documenting the said vandalism.

- C. All investigations, which have been adjudicated as sustained, shall be submitted to the Chief of Police for determination of action.
1. Recommendations for corrective action will not be included in the investigators report. The officer assigned to conduct an internal administrative investigation will be considered a fact finder **only** and will not be required to forward a recommendation with their findings. The report submitted to the Chief of Police should include:
 - a. Review of past performance, discipline and complaint history.
 - b. Any recommendation for corrective action should include the rationale or administrative insight for corrective action.
 1. Immediate supervisors and/or Commanding officer may be requested to review an investigative report and submit input (verbal response) as to significant factors concerning the recommended action.

VIII. CORRECTIVE MEASURES 52.1.9

- A. The Haverhill Police Department understands that very few acts of misconduct are exactly the same and the specific needs of the involved employee are never the same. Recommendations for corrective action following a sustained allegation of misconduct must be tailored to the specific act of misconduct and the individual involved. The Department provides a wide range of options for the commanding officer to satisfy this mission.
1. Corrective action will be personalized to the individual employee involved. It is intended to fit the misconduct committed and correct the personal performance or behavior deficiencies that will hopefully eliminate or minimize the potential of future misconduct, but is also designed to be consistent with the needs of the department.
- B. Discipline is the process of imposing formal sanctions, which will help train and develop an officer. Discipline in the department involves reward (commendations) of officers, training, counseling, and as last resort, and punitive action.
- C. The Department shall impose disciplinary action fairly and impartially and to offer adequate appeal procedures to ensure the rights of the employees are protected.
- D. Issues which shall be addressed in the administrative consideration for imposing discipline:

1. Past knowledge of the employee and his/her performance standards and reputation.
 2. Past misconduct and complaint history.
 3. Commendations and personnel evaluations.
 4. Supervisory recommendations.
 5. The results of discussions with the involved employee.
 6. Training, assignment and/or partner changes which might help the involved employee.
 7. Any mitigating factors such as training, equipment, supervisory or policy/procedure implications.
 8. Contractual obligations cited in the collective bargaining agreement.
- E. Commanding officers or supervisors must ensure when recommending corrective disciplinary action he/she addresses the following issues:
1. The specific acts of misconduct sustained.
 2. The relationship of this corrective discipline action recommendation to prior instances within the agency for similar acts of misconduct and similar performance backgrounds and why this incident might warrant a different recommendation.
 3. Any mitigating circumstances discovered by the Investigation or advanced successfully by the accused employee.
 4. Issues that demonstrate that this recommendation is part of a pattern of progressive correction action or that this act of misconduct warrants a departure from the normal pattern of progressive corrective action and why.
- F. When making corrective action recommendations, the commanding officer will do so for each act of sustained misconduct. This should be done as if there were no other charges involved. The final disciplinary authority (Chief of Police) will consider the entire incident and make a decision based on the totality of the acts of misconduct.

IX. POSITIVE DISCIPLINE

- A. Positive discipline is oriented towards seeking voluntary compliance with established rules, regulations, policies, procedures, and orders. Methods of positive discipline include:
1. Recognition of excellent performance.
 2. Department awards for outstanding actions.
 3. Supervisory counseling and reinforcing methods demonstrated.
 4. Training

X. NEGATIVE DISCIPLINE 52.1.8

- A. Imposition of some sanction(s) may be required when the allegation sustained is of a misconduct more serious than a minor infraction of rules, regulations, policy, procedures, or orders. Pursuant to Massachusetts General Laws Chapter 149 Section 52C, whenever written documentation of discipline is noted, the accused officer must be provided with a written copy of whatever is to be placed in any files

by the Department. The following sanctions may be imposed against any member or employee of the Department as disciplinary action:

1. Oral (verbal) Reprimand
 - a. May be issued by any supervisor from a Sergeant to the Chief of Police. While informal, requires documentation with the employee's acknowledgement that the shift supervisor will keep such record on file for one year.
2. Written Reprimand
 - a. The Chief of Police issues letter of Reprimand. It cautions the officer about poor behavior and becomes part of the employee's personnel file.
 - b. Said letter of reprimand may be placed in an employee's personnel folder for a seven years following closure or three years following termination of employment, whichever is later; retain with personnel file. This would be at the request and direction of the Chief of Police.
3. Professional Counseling
 - a. Ordered by the Chief of Police in cases where a specific personnel problem is identified. The goal is to provide an opportunity for an employee to identify and correct a behavior problem.
4. Fitness for Duty Evaluation
 - a. Ordered by the Chief of Police in cases where a sustained misconduct by an employee raises questions of suitability both physically and emotionally to perform as an employee of the police division.
5. Reassignment from a position
6. Suspension with pay.
(pursuant to Massachusetts General Law Chapter 31 Section 41)
7. Suspension without pay.
(pursuant to Massachusetts General Law Chapter 31 Section 41)
8. Demotion in Rank.
(pursuant to Massachusetts General Law Chapter 31 Section 41).
9. Discharge (termination) from employment.
(pursuant to Massachusetts General Law Chapter 31 Section 41).
10. Criminal Prosecution.

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- F. Appeals of any corrective disciplinary action taken by the department shall be in accordance with Massachusetts General Law Chapter 31 Section 41 and/or specific collective bargaining agreements, which cover the individual employee.