

# Black River Falls Police Department General Order

## A-7: Citizen Complaints

**Effective Date:** 09/01/2015

**Reviewed:**

*Our purpose and why we exist is to build trust, reduce crime, and see justice is served, while being a valuable resource to our community. To defend citizens Constitutional Rights and protect people from harm.*

### **I. Purpose**

The purpose of this General Order is to establish the policy and procedures of the Black River Falls Police Department for addressing citizen complaints of misconduct.

### **II Policy**

It is the policy of this department to investigate all complaints made against the agency or its personnel, and to equitably determine whether the allegations are valid or invalid and to take appropriate action. Complaints against the Chief of Police shall be directed to the Mayor.

### **III. False Complaint Notification**

Wisconsin State Statute 66.312(3) requires police agencies to inform citizens making complaints under this process that State Statute 946.66 provides that whoever knowingly makes a false complaint regarding the conduct of a law enforcement officer under the citizen complaint process is subject to a Class A forfeiture. The penalty for such an offense is a forfeiture of up to \$10,000.

### **IV. Definitions**

- A. **Shift Commander:** The officer in charge of a shift. Generally, a shift commander is a patrol officer of a shift.
- B. **Supervisor:** For purposes of this policy a supervisor is an officer holding the rank of Sergeant or above.
- C. **Minor Violation:** A complaint that appears to be founded upon a misunderstanding or an allegation of minor misconduct such as rudeness, a traffic violation by an officer or other violations that could, if substantiated, result in disciplinary action ranging from corrective training to a limited suspension.
- D. **Major Violation:** A complaint based on allegations of serious misconduct such as criminal activity, excessive force, a violation of a constitutional right, repeated minor violations, or other conduct that could, if substantiated, result in disciplinary action that may include significant suspension, demotion, dismissal or criminal charges.

### **V. Procedures**

#### **A. Rights and Protection**

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1. Any person, including a member of the department, has the right to file a citizen complaint.
2. Complaints may be given in person, over the telephone, or in writing.
3. Anonymous complaints, or complaints from citizens who wish their names to be held in confidence, shall be accepted for investigation.
4. A formal complaint must specifically state the nature of the event and facts in support of the allegation. If a complaint does not contain sufficient facts to support an allegation, and cannot be substantiated by an investigation, it shall be dismissed as unfounded, and that action will be reported to both the complainant and the employee.
5. All investigations arising from citizen complaints will be conducted in a fair and open manner consistent with the rights of all concerned and aimed at determining the truth.
6. Employees accused in citizen complaints shall be presumed innocent unless the charges are sustained. The mere filing of a complaint does not substantiate its allegations.
7. No disciplinary, personnel or discriminatory action adverse to an employee may be taken unless there is a finding that the allegations were sustained.
8. Both the complainant and the employee being complained about have the right to appeal. Unless there is an appeal to the Police and Fire Commission or a court of law, the decision of the Chief of Police will be final.
9. If it becomes apparent at any stage of the complaint process that criminal activity occurred or that criminal activity may be involved in the misuse of authority, the District Attorney will be informed.
10. All persons who file complaints shall be informed of the final dispositions of their complaints.

### **B. Acceptance of Complaints.**

1. All citizen complaints pertaining to department policies or procedures or that allege officer misconduct shall be documented and investigated by the department.
2. All members of the department are charged with the responsibility of courteously receiving any citizen complaint and directing such complaint to the shift commander. Some circumstances, such as a complaint about the shift commander, may require that a complaint be referred to another ranking officer.
3. The shift commander shall interview the complainant and document the complaint in writing on the Citizen Complaint Form. If the shift commander resolves the complaint through the informal complaint process, this activity should be documented on the form or an attachment.
4. The shift commander shall forward the completed Citizen Complaint Form and attached documentation to the Chief of Police (via the Chain of Command).

### **C. Complaint Processes**

1. Informal Complaint Process
  - a. In the case of minor violations or when a complaint appears to be founded merely upon a misunderstanding, it will be referred to the shift commander or superior officer on duty who will attempt to informally mediate the dispute.

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- b. If the dispute does not appear to be susceptible to shift commander resolution; or the complainant is not satisfied with the mediation; or the shift commander determines that an investigation is warranted, the complaint will be handled under the formal complaint process.
- c. Shift commanders shall document the acceptance and resolution of complaints handled under the informal complaint process on the Citizen Complaint Form and forward the completed form to the Chief of Police (via the Chain of Command).

### **2. Formal Complaint Process**

- a. The formal complaint process shall be used for complaints of major violations; or when the informal complaint process has failed; or when the shift commander determines that an investigation is warranted.
- b. The shift commander or other ranking officer shall make a request for a statement of facts from the complainant and the complaint shall be reduced to writing on the Citizen Complaint Form. If the complainant appears in person, the complainant should be asked to sign the Citizen Complaint Form. Complaints received by phone or other means should be so noted by the shift commander.
- c. Complainants should be notified of the false complaint prohibition as specified in ss 66.312(3) referencing ss 946.66. Notification is printed on the Citizen Complaint form.
- d. Shift commanders shall forward the complaint to the Chief of Police (via the Chain of Command).

### **D. Shift Commander Duties**

- 1. Interview the complainant. Record the name, address, and telephone number of the complainant along with the details of the complaint.
- 2. Investigate the complaint to the extent possible to determine the nature of the complaint, whether the formal or informal process is appropriate, and what other immediate action is required. When appropriate, attempt to informally mediate the dispute as described above under Informal Complaint Process.
- 3. In the case of serious allegations concerning a major violation or in cases where the shift commander is uncertain how to proceed, notify the Chief or Sergeant.
- 4. Forward the completed Citizen Complaint Form and attached documentation to the Chief of Police (via the Chain of Command).

### **E. Chief of Police**

- 1. In the case of informal complaints the Chief of Police shall:
  - a. Log the receipt of the complaint.
  - b. Review the Citizen Complaint Form and any supporting documents to verify the complaint was appropriately handled by the informal process.
  - c. If it is determined that the complaint is inappropriate for the informal process, assign the complaint for investigation under the formal complaint process.

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2. In the case of formal complaints the Chief of Police shall:
  - a. Log the receipt of the complaint.
  - b. Ensure the sufficiency of the complaint (Section V, A, 4).
  - c. Assign the complaint for investigation.
  - d. Upon completion of the investigation, review the investigative report, recommendation, and supporting documents to ensure that a complete and appropriate investigation was conducted.
  - e. Make a determination of the disposition of the complaint as follows:
    - 1) Sustained - Evidence sufficient to prove allegations of rule violation(s).
    - 2) Not sustained - Insufficient evidence to either prove or disprove allegations.
    - 3) Exonerated - Incident occurred but was lawful and proper.
    - 4) Unfounded - Allegation is false or not factual.
    - 5) Policy failure - Flaw in policy caused incident.
  - f. Determine what course of action to take based upon the disposition of the case.
  - g. Ensure that the complainant and affected officers are informed of the disposition of the complaint and their right to appeal.

### **F. Investigating Supervisor**

1. When investigations are conducted by members of this department, the investigating officer will be a supervisory officer. It is the duty of the investigating supervisor to ensure that the integrity of the department is maintained through a system of intensive, impartial internal investigation and review where objectivity and fairness are assured for all parties concerned.
2. A complainant who wishes to file a complaint against the Chief of Police shall file the complaint with the Mayor of the City of Black River Falls.
3. The specific duties and authority of the assigned investigating supervisor are as follows:
  - a. Conduct a comprehensive investigation of the assigned matter.
  - b. The investigating supervisor, under the direct authority of the Chief of Police, may interview any member of the department and review any record or report of the department relative to their assigned investigation. This shall include the authority to request a detailed written report from an employee.
  - c. In cases of formal complaints, the investigating supervisor shall mail the complainant verification of receipt of the complaint which shall contain notification of the initiation of investigation.
  - d. The investigating supervisor shall keep the Chief of Police informed as to the progress of the investigation and, when appropriate, submit preliminary or interim reports. The supervisor will treat information relating to the assigned investigation as confidential.

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- e. If the investigation and resolution of a complaint will take more than two weeks, the investigating supervisor shall notify the complainant of the status of the complaint at the end of each two week period.
- f. Upon completion of the investigation, the investigating supervisor shall make a written finding of facts. All reports and other documents connected with the case shall be presented to the Chief of Police. The investigating supervisor shall orally brief the Chief on the findings and make a recommendation of action to be taken.
- g. At the discretion of the Chief of Police, the investigating supervisor may be assigned the additional duty of informing the complainant of the results of the investigation.

### **G. Police and Fire Commission**

- 1. In cases where a citizen complaint originate with the Police and Fire Commission, and the Commission delivers the complaint to the Chief of Police for investigation, the complaint shall be handled through the formal complaint process.
- 2. When the investigation is completed, the Chief of Police shall deliver to the President of the Commission a written report of the investigation and any action taken as a result of the investigation.
- 3. If a hearing is required, it shall be held in accordance with procedures established by the Police and Fire Commission.

### **H. Complaint Records**

- 1. The Chief of Police shall maintain a complaint log of all citizen complaints received.
- 2. On at least an annual basis, the Chief shall conduct an audit of complaints to determine the need for changes in training or policy or to identify any other steps that could be taken to improve police service to the community and reduce the number of citizen complaints received.
- 3. The Chief of Police shall maintain a confidential file for complaints in a secure area which shall be separate from personnel records. Record retention is governed by State Statute 19.21(4)(b).

### **I. Review and Appeal**

- 1. Upon the completion of the department investigation of a citizen complaint, the complainant shall be advised of the result of the investigation and informed that they may appeal their complaint to the Police and Fire Commission if they so desire.
- 2. Affected officers shall be advised of the results of the investigation. Members of the department have review and appeal procedures when disciplinary actions are taken against them.

Scot A. Eisenhauer  
Chief of Police

**BLACK RIVER FALLS POLICE DEPARTMENT  
CITIZEN COMPLAINT FORM**

Complainant: \_\_\_\_\_ Incident Date: \_\_\_\_\_  
 Address: \_\_\_\_\_ Citizen Complaint #: \_\_\_\_\_  
 Home Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_ Resolved Informally? Yes / No

**False Complaint Notification per Wis. SS 66.0511(3)**

Wisconsin State Statute 946.66 provides that whoever knowingly makes a false complaint regarding the conduct of a law enforcement officer under the citizen complaint process is subject to a Class A forfeiture. The penalty for such an offense is a forfeiture of up to \$10,000.

**Type of Complaint**

|  |   |
|--|---|
| <input type="checkbox"/> Violation of Constitutional Right (A3)    | <input type="checkbox"/> Mishandling Property/Evidence (A32)          |
| <input type="checkbox"/> Violation of the Law (A4)                 | <input type="checkbox"/> Improper Performance of Duty (B3)            |
| <input type="checkbox"/> Untruthfulness (A6)                       | <input type="checkbox"/> Discrimination (B4)                          |
| <input type="checkbox"/> Unbecoming/Unprofessional Conduct (A10)   | <input type="checkbox"/> Neglect of Duty (B5)                         |
| <input type="checkbox"/> Failure to Identify when Requested (A13)  | <input type="checkbox"/> Discourtesy, Rudeness, Disrespect (B7)       |
| <input type="checkbox"/> Unwarranted Interference/Harassment (A14) | <input type="checkbox"/> Misuse of Position for Gain (C1)             |
| <input type="checkbox"/> Abuse of Authority (A15)                  | <input type="checkbox"/> Soliciting/Accepting Bribe (C2)              |
| <input type="checkbox"/> Unsafe Vehicle Operation (A17)            | <input type="checkbox"/> Conflict of Interest/Family Involvement (C3) |
| <input type="checkbox"/> Careless Use of Weapon (A27)              | <input type="checkbox"/> Political Activity While on Duty (C6)        |
| <input type="checkbox"/> Improper/Excessive Use of Force (A28)     | <input type="checkbox"/> Use of Alcohol on Duty (D3)                  |
| <input type="checkbox"/> Mistreatment of Person in Custody (A29)   | <input type="checkbox"/> Use of Drugs (D5)                            |
| <input type="checkbox"/> Improper Arrest, Search or Seizure (A30)  | <input type="checkbox"/> Improper Dissemination of Information (E3)   |
| <input type="checkbox"/> Other Complaint: _____                    |   |

Involved Department Member(s): \_\_\_\_\_

Facts supporting alleged misconduct: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

If necessary, continue on reverse

\_\_\_\_\_  
 Complainant's Signature (if present)

\_\_\_\_\_  
 Date and Time Complaint Made

\_\_\_\_\_  
 Shift Commander Receiving Complaint

\_\_\_\_\_  
 Date Received by Chief of Police

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**Informal Resolution**

Shift Commander Comments if Resolved Informally: \_\_\_\_\_

\_\_\_\_\_

Chief of Police Concurrence: \_\_\_\_\_ Date: \_\_\_\_\_

**Complaint Investigation**

Supervisor Assigned: \_\_\_\_\_ Date: \_\_\_\_\_

Date Verification of Complaint Receipt Mailed to Complainant: \_\_\_\_\_

Date Investigation Completed: \_\_\_\_\_

**Disposition**

Sustained     Not Sustained     Exonerated     Unfounded     Policy Failure

Action Taken: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date Complainant Notified: \_\_\_\_\_

\_\_\_\_\_  
Signature of Chief of Police