



Manchester Police Department



GENERAL ORDER

CHAPTER 52 Internal Affairs
Section 1 Internal Affairs

EFFECTIVE DATE September 13, 2017
RESCINDS August 10, 2017

ISSUING AUTHORITY Chief Marc Montminy

CALEA Standard(s): 26.1.4a-c, 26.1.5, 26.1.6, 26.1.8, 52.1.1, 52.1.2, 52.1.4, 52.1.5, 52.2.1a-b, 52.2.2, 52.2.3, 52.2.4c, 52.2.5, 52.2.6

PURPOSE

The purpose of this policy is to provide a uniform policy to accept, process, investigate, take appropriate action upon and resolve complaints from a member of the public relating to alleged misconduct or malfeasance committed by personnel of the Manchester Police Department.

To maintain, and where possible increase, the integrity of the Manchester Police Department through the full, fair, and objective investigation of allegations of misconduct on the part of personnel of MPD.

DEFINITIONS

Complaint – An allegation of improper or inappropriate conduct by an employee. The standard to use to determine if a complaint exists is: if an investigation was conducted and the allegation was determined to be true and the likely resulting action would be counseling, training, or discipline, a complaint should be taken.

Complainant – Any person who files a complaint regarding misconduct or malfeasance on the part of an agency employee.

Counseling – A one-on-one discussion with personnel meant to correct a weakness, misunderstanding, misinterpretation or noncompliance with a rule, regulation, statute, General Order, or common practice. The intention of counseling is to allow supervisors to document the error but prevent the corrective action from becoming the first step of discipline under the code of conduct.

Discipline – A penalty ranging from a written reprimand to dismissal. Disciplinary procedures follow the format established in General Orders 25-1 Grievance Procedures 26-1 Code of Conduct, and 26-2 Disciplinary Procedures.

Employee – Any person employed by the agency, whether sworn or non-sworn.

IA Number – A unique numerical or alphanumeric code used to identify and track citizen complain investigations.

Internal Affairs Division – a designated Lieutenant responsible for conducting investigations of administrative or Citizen Complaints of misconduct or malfeasance.

Malfeasance – Illegal or dishonest activity especially by a public official.

Misconduct – Any act or omission by an employee that is illegal or which violates established policy.

Supervisor – Includes those holding the rank of Sergeant or higher.

Training – An alternative to counseling, with the intent of preventing the error from becoming the first step of the disciplinary process. Training may be developed by the Supervisor or can be provided by the Training Unit.

POLICY – The agency shall respond to allegations of misconduct or malfeasance against its employees consistent with this General Order and fairly and impartially investigate all complaints or allegations of such conduct to determine their validity. The Department shall impose any disciplinary or non-disciplinary corrective actions that may be warranted in a timely manner. The Department shall accept and document all complaints against any employee regardless of whether the filed complaint is in writing, verbal, in person, by mail, by telephone (or TDD), by facsimile, electronic, or anonymous.

1. There shall be no retaliation in any form by any member of this agency directed at any individual who makes a complaint.
 2. During the complaint intake process, no questions shall be asked of a complainant regarding their immigration status.
 3. Officers who withhold information, fail to cooperate with department investigations or who fail to report alleged misconduct or malfeasance of employees to a supervisor shall be subject to disciplinary action.
- A. This General Order provides a system to receive, process, and investigate citizen complaints alleging abuse of authority, corruption, criminality, poor or slow police service and other complaints made by any source against any employee of MPD.
 - B. Effective July 1, 2015, all complaints will be documented on MPD-25, which is the standardized form adopted by POST-C.
 - C. This General Order will be available to the public in the lobby of the Manchester Police Department, the Customer Service section of the Town Hall, and on the MPD website.
 - D. All complaints against MPD and its employees will be received, investigated and appropriate action will be taken. Anonymous and third party complaints will be accepted.
 - E. Complaints may be made by any person in writing, by telephone or in person, at any time of the day or night to any employee of MPD.
 - F. All personnel receiving complaints shall be courteous, responsive, helpful, and will adhere strictly to this General Order.
 - G. The Chief of Police has primary oversight and authority over investigation of complaints made against employees. Upon receipt of a complaint, the Chief of Police will assure that the complaint is assigned to the Office of Internal Affairs.

- H. Nothing contained in this General Order precludes the Chief of Police from enacting a proactive internal investigation without a complaint if, in his opinion, such action is necessary.
- I. All investigations will normally be made by a Supervisor at least one rank higher than the employee under investigation.
- J. Unless otherwise authorized by the Office of Professional Standards Internal Affairs Unit; line supervisors shall only conduct preliminary investigations into allegations concerning conduct that may result in arrest, dismissal or long-term suspension. Such investigations may include allegations of corruption, brutality, violations of civil rights or criminal misconduct. Line supervisors may conduct investigations on all other types of conduct complaints.
- K. The following complaints shall be referred to the Internal Affairs Office after the preliminary investigation has concluded (this list includes, but is not limited to):
1. Corruption,
 2. Brutality,
 3. Misuse of force,
 4. Breach of civil rights,
 5. Criminal misconduct.
- L. The Command Duty Officer or Shift Supervisor may relieve an employee from duty, with pay, on a temporary basis if he/she feels that as a result of the investigation, the employee is psychologically or physically unfit to perform their assigned duties. **Any times an employee is relieved from duty for this reason, the employee's Division Commander and the Chief of Police will be notified.**
- M. Routing the Complaint – **Completed MPD-25 forms and any attached reports will be immediately forwarded to the Internal Affairs Unit. All MPD-25 forms will follow this chain of command.**
- N. Disposition
1. The Chief of Police shall determine the final disposition of all complaints and allegations.
 2. Within 7 days of determining the final disposition, the Chief of Police will notify the complainant, the subject employee, and the subject employee's Division Commander.
 3. Any employee who is found guilty of charges and is subjected to punitive measures or is discharged for just cause shall have the right as provided in the appropriate collective bargaining agreement to appeal such decision through the grievance procedure (the appeal may include arbitration).
- O. Employee Rights – Employees of MPD have the right to:
1. The presence of a union official whenever the employee is requested or required to give a statement that could result in disciplinary action and/or discharge. Unless the employee requests the presence of a union official, the employee will be deemed to have waived that right.
 2. The presence of an attorney in accordance with the Municipal Employees Relations Act and the Weingarten decision.

3. Prior to or during the interrogation, the employee may review any reports or statements the employee may have made on the subject of the interrogation.
4. Prior to the interrogation, the employee is entitled to review any civilian complaint made against the employee.
5. During the interrogation, the employee may consult with the union representative in the absence of the interrogator.
6. The employee may be interviewed about their off-duty behavior when their off-duty conduct involves action in their capacity as an employee of MPD and/or the conduct reflects on MPD.
7. Prior to or during the interrogation, the employee may invoke the Fifth Amendment; however, the Fifth Amendment cannot be used as a defense to discipline imposed upon the employee for refusing to answer pertinent questions strictly and narrowly confined to the performance of the employee's police duty.

P. Annual Statistical Summary of Internal Affairs Investigations

1. On an annual basis, the Office of Professional Standards, Internal Affairs, Unit, shall compile a statistical summary of all MPD internal affair investigations.
2. The Chief of Police or his/her designee will make the annual statistical summary available to the public and to MPD personnel.
3. The Office of Professional Standards will prepare suggested revisions of MPD General Orders where existing deficiencies have been a contributing factor to misconduct.

Q. No employee shall refuse to assist any person who wishes to file a citizen complaint or discourage, interfere with, hinder, delay or obstruct a person from making a citizen complaint.

PROCEDURE

A. Receiving Complaints from Persons Outside MPD

1. By Mail – All correspondence received containing complaints shall be forwarded to the Chief of Police, where they shall be officially received.
2. Walk-in or Telephone Complaints – All walk-in and telephone complaints will be referred to a Sergeant of the subject employee's respective Division. If that Supervisor is unavailable, a Uniformed Services Section Shift Supervisor will receive the complaint. A preliminary investigation will be initiated in all cases.
3. In the Field – Any MPD employee approached in the field by a complainant expressing allegations of misconduct shall direct the complainant to contact MPD in person or by telephone. The procedures outlined above and below will be followed:
 - a. The employee contacted will also notify his/her Supervisor of the complaint,
 - b. If a Supervisor is approached in the field, he/she will handle the complaint as if it were a walk-in complaint.

4. Complainant shall be notified in writing with five (5) business days of receipt that;
 - a. Their complaint has been received by the agency and is currently pending;
 - b. That a complaint number has been assigned (including the assigned number);
 - c. That they will be informed in writing of the outcome of the complaint promptly following conclusion of the investigation, and
 - d. That they may contact the Office of Professional Standards at any time for further information while the investigation is pending
5. All employees will assist those who express a desire to lodge complaints against any member of the agency. This includes:
 - a. Calling a Supervisor to the scene to conduct a preliminary inquiry and document the complaint.
 - b. Explaining the Department's complaint procedures.
 - c. Providing complaint form(s) and/or complaint filing information and/or giving instructions to where the complaint forms may be obtained.
 - d. Ensuring that the complainants who are unable to read, write or understand the English language with sufficient proficiency to fill out the complaint form, or to be interviewed regarding their knowledge of the incident complained of, receive adequate language assistance to permit them to file their complaint and assist, as needed, in the investigation thereof. The name and identifying information of any person providing such language assistance to a complainant shall be recorded on the complaint form or in the body of the report.
6. The complaint form (MPD 25) must be signed by the complainant and the employee accepting the form. Their signature will serve as a sworn statement to their complaint.
7. Lawsuits and Civil Rights Complaints – As soon as MPD receives notification of intent to sue, a civil rights violation, or other similar legal action, the Chief of Police may initiate an internal affairs investigation.
8. Sworn and civilian employees who receive a complaint about their own conduct shall immediately refer the complaint to a Supervisor.
9. Validity and Timeliness of Complaints:
 - a. Complaints by persons Under the Influence of Alcohol or Drugs: When a person who is noticeably intoxicated or impaired wishes to make a complaint, he or she shall be encouraged to wait until the earliest opportunity after he or she has regained sobriety to do so. When the Supervisor determines the circumstances require immediate action, preliminary details of a complaint should be taken by a Supervisor, when available, regardless of the person's sobriety. In that event, the Internal Affairs LT should re-interview the person after he or she has regained sobriety.
 - b. Delayed or Untimely Complaints: Complaints of misconduct or malfeasance shall be accepted regardless of when the alleged misconduct or malfeasance is alleged to have occurred. However, the timing of a complaint is one of the circumstances that the agency may consider in determining

whether misconduct or malfeasance can be reliably substantiated and, if so, the nature and extent of discipline to be imposed. Where a delay in reporting alleged misconduct may call into question the veracity of the complainant, or has resulted in the loss or destruction of evidence or the inability to locate witnesses due to the passage of time, the facts and circumstances should be detailed in the report.

Although allegations of criminal behavior may be made past the expiration of the applicable statute of limitations and criminal prosecution may no longer be possible, a criminal violator may still be held accountable administratively.

B. Preliminary Investigation

1. The Supervisor who receives the complaint will in all cases gather enough information to complete MPD-25. A copy of MPD-25 will be given to the complainant as a receipt.
 - a. The Supervisor will gather enough information to determine the course of the investigation (i.e., can the incident be resolved at this level or is a follow-up investigation necessary).
 - b. Information may include statements, evidence, or photographs.
 - c. Supervisors may ask a subordinate to explain his or her actions and may require that a supplement be generated in relation to the incident to help clarify the issues and help in the guidance of the investigation.
2. In some cases, what may initially appear to be a complaint may be a lack of understanding. The Supervisor shall listen and provide an explanation/clarification of the incident in question. As a result, the concerns of the citizen or employee may be resolved.
3. Nothing in this order is intended to prevent complaints from being resolved at the initial supervisory level.
 - a. In many instances, minor complaints can be resolved quickly and to the satisfaction of both the complainant and the Supervisor through contact with the employee(s) involved and following up with the complainant with an explanation. In such instances, MPD-25 will document the investigatory steps taken and all other important aspects of the complaint.
 - b. Supervisors shall keep in mind that employees should be interviewed while on duty. If there is some urgency requiring an immediate interview while the officer is off-duty, employees called in to MPD will be paid overtime as outlined in the Manchester Police Union contract.
4. When a Supervisor becomes aware of a situation or information that constitutes a complaint, the fact that a citizen does not wish to lodge a complaint does not resolve the matter. In such instances, the Supervisor must consider such factors as the seriousness of the circumstances of the incident. If the factors warrant an investigation, the Supervisor shall initiate a complaint and pursue the information received as outlined above.

5. The Supervisor who completes the MPD-25 Form, and additional reports, must include his/her recommendation as part of the investigatory narrative.
 - a. If the Supervisor believes he/she has resolved the incident with the complainant and no further action is necessary, he/she will make that recommendation and support it with a narrative. The narrative must include how the complaint was resolved.
 - b. If the Supervisor believes that he/she has gathered as much information as possible, and feels more information is needed, a follow-up investigation will be initiated.
6. Complainant Who Fears Retaliation Associated with filing a Complaint – If a complainant expresses fears of retaliation as a result of filing a complaint, they must be assured that those fears will be taken seriously. Complainants should be asked to provide the basis for their concerns, if possible, and the information provided should be noted in the complaint. This will allow the Internal Affairs Division to be aware of these fears and develop reasonable strategies to assist the complainant in dispelling those fears.

C. Routing the Complaint

1. The Supervisor receiving and/or investigating the complaint will forward all complete paperwork, including any follow-up investigation, to the Internal Affairs Office.
 - a. This report is to be received by the Internal Affairs Office no later than the business day after the complaint was received.
 - b. This holds true even if the receiving Supervisor will take longer than one day to investigate the complaint.
 - c. Paperwork **will not** follow the traditional chain of command.
 1. **Supervisors receiving/investigating internal affairs complaints are responsible to the Internal Affairs Unit only.**
 2. To protect the integrity of the Internal Affairs Unit, complaint receiving/investigating Supervisors will correspond directly with the Internal Affairs Unit rather than their immediate Supervisors.
2. The IA Lieutenant will brief the Chief of Police on the status of all active IA cases.
3. The IA Lieutenant will notify the Chief of Police of all complaints against the agency or its employees.
4. If the subject employee is off-duty, all attempts will be made to advise him/her of the complaint within 24 hours.

D. Storage and Disposal of Records

1. Copies of all internal complaints and connected reports, whether resolved at the lowest level or assigned for follow-up investigation shall be maintained in a locked filing cabinet located in the second floor Confidential Records Vault.

2. IA records shall be destroyed per the State of Connecticut Retention Schedule and applicable collective bargaining agreements between the Town of Manchester and labor unions represented within the police department.

E. Receiving Complaints from other Police Department Employees

1. Consistent with the philosophy of maintaining a professional law enforcement organization, it is the duty of any employee who becomes aware of misconduct on the part of another employee, to report the misconduct to their Supervisor.
2. Supervisors who become aware of misconduct on the part of a subordinate will utilize the procedures set forth in this General Order.

F. Internal Affairs Investigation

1. Upon receiving the MPD-25 and attached forms, the IA unit will meet with the Chief of Police to discuss and review the merits of the alleged incident. The Chief of Police will determine if an IA investigation shall be initiated on the matter.
2. If an IA investigation is initiated, the IA Lieutenant will:
 - a. Assign the case a chronological IA number (e.g. IA-year-case number),
 - b. Enter the number in the IA log,
 - c. Start an IA file,
 - d. Forward a copy of the MPD-25 to the employee's Division Commander,
 - e. Notify the employee's union president that an IA has been initiated against the employee
 - f. Conduct a thorough, fair and impartial investigation of every complaint received regardless of the method of receipt,
 - g. Investigate and determine the nature, facts and circumstances of every complaint,
3. Report to the Chief of Police the results of the investigation and any recommendations.
4. Identify and recommend appropriate investigation and prosecution criminal misconduct discovered on the part of any individual during the course of an internal affairs investigation.
5. If an IA investigation is not launched, the IA Lieutenant will launch an official inquiry. If after conducting the inquiry, it is determined that the matter is of a serious nature and requires further review, an IA may be launched and the protocol outlined above will be followed.
6. If the case is considered resolved at the time, the IA unit will notify the employee and the complainant of the resolution in writing within 7 days.
7. Should the Internal Affairs Unit decide a follow-up investigation is required, it will:

- a. Promptly generate and forward a letter to the complainant acknowledging that the complaint is under investigation and notifying the complainant of the name and rank of the individual assigned to conduct the investigation.
- b. The employee will be informed that an internal investigation is underway. This notification will include a written statement of the allegations and the subject employee's rights and responsibilities.

G. Follow-up Investigation

1. AS with any investigation, timeliness is a critical factor. This is especially true for personnel complaints. *For the benefit of the employee involved, the complainant, and MPD, the investigation of complaints against personnel is to be considered a high priority item by assigned investigators.*
2. All investigative efforts will be documented on the "Internal Affairs Investigative Report" form or similar form. Entries should be made in a chronological manner listing the date of the inquiry.
3. Where the potential for significant discipline exists, two Supervisors may be present during any interview with citizens or employees.
4. If the receiving Supervisor believes that the complaint may be criminal in nature, the IA unit should be contacted immediately. In the absence of the IA Lieutenant, the Chief of Police, Division Commander and the Command Duty Officer will be contacted.
 - a. If there is any suspicion that a criminal investigation will take place, this investigation will be done prior to any administrative action.
 - b. If the complaint is criminal in nature or is suspected of being criminal in nature, the investigator will, prior to interviewing the employee upon whom the focus has centered, advise that employee that the matter is criminal and advise him/her of his/her rights under Miranda. This advisement will be acknowledged in writing.
 - c. If the complaint is not criminal in nature, the investigator will advise the employee of his/her rights under the Garrity decision using the Internal Investigation Warning form.
5. Employees must realize that the Fifth Amendment **does not** provide an employee the right to refuse to answer a question that is specifically, directly, and narrowly related to the performance of the employee's official duties. In this situation the employer may demand an answer on pain of dismissal even though the answer may tend to or does incriminate. *The employer may then fire an employee on the basis of his/her answers or for refusing to answer.*
6. Any statements given by the subject employee under Garrity *will not* be admissible in a criminal prosecution.
7. Accuracy in recording information received is extremely important.
 - a. Investigators must take good notes during interviews and as soon as possible thereafter complete their narrative report of the interview.
 - b. Written statements are encouraged from citizens as well as employees. The complainant may be placed under oath and requested to sign the complaint after reading or having it read to them the

warning for perjury or false statement. Employees or citizens may have a copy of any written statements they provide.

- c. If a citizen refuses to sign or complete a written statement the investigator will proceed with the investigation as best he can, however the refusal to sign or acknowledge shall be noted.
8. When the investigation is completed, the investigator will submit the investigation report to the Chief of Police. This report must include the investigator's conclusions and recommendations for disposition of each allegation.
9. As part of the follow-up investigation, employees may be requested to participate in any of the following:
 - a. Medical or laboratory examinations,
 - b. Photographing,
 - c. A line up,
 - d. The submission of financial disclosure statements.
 - e. Polygraph Exam
 1. Personnel of MPD shall not be asked nor be required to submit to a polygraph exam during an internal affairs investigation, unless initiated by the accused employee.
 2. Polygraphs may be utilized with non-MPD employee complainants or witnesses during an internal investigation.
10. Nothing in this General Order shall preclude the Chief of Police from calling in an outside agency (i.e., State's Attorney, CSP) to assist to conduct the investigation.

H. Time Constraints and Notifications

1. Form MPD-25 will be forwarded to the IA Unit no later than the business day following the complaint is received.
 - a. If the complaint is of a very serious nature or is criminal in nature, the receiving Supervisor should contact the Internal Affairs office immediately.
 - b. Even if the receiving employee requires more than 24 hours to complete the investigation, the MPD-25 will be forwarded to the IA Unit within one business day.
2. The subject employee will be advised of the complaint in writing within 24 hours after the IA Unit has been notified. This will include:
 - a. The identity of the complainant, if known,
 - b. The substance of the complaint,
 - c. The law or policy that is alleged to have been violated, and

- d. The date upon which the investigation is expected to be completed.
3. The only exception to the 24 hour time period is when the complaint is of a serious criminal nature and such notification would hinder the criminal investigation.
4. If the complaint is resolved at the first line/Supervisory level, the subject employee and the complainant will be notified in writing within 7 days.
5. If a follow-up investigation is required, the complainant will be promptly notified in writing. A copy of the notification will go to the subject employee as well.
6. *Unless an extension is granted by the Chief of Police*, IA investigations will be completed within 30 days. Status reports are due every 7 days.
7. Periodic status reports will be provided to the complainant during the course of the investigation. Status reports shall be made in writing (letter format).

I. Disposition

1. At the conclusion of an IA investigation, the IA Lieutenant shall prepare and present the Chief of Police with a conclusion of fact.
2. The Chief of Police shall review the investigation to determine the thoroughness, completeness, accuracy and objectivity of the investigation.
3. The Chief of Police will determine if disciplinary action is warranted and, if so, the nature of the discipline.
4. The determination to impose disciplinary action may be based partially on the recommendations of the investigating employee.
5. If the decision to impose formal discipline action per General Order 26-2 (Discipline) is not appropriate, yet the complaint was sustained or misconduct was noted, other alternatives to improving employee performance are to be considered.
 - a. Further training may be determined to be appropriate for the employee. In such case the Chief will direct the appropriate Division Commander to coordinate a training plan with the Training Coordinator.
 - b. Records of this retraining will go in the IA file, in the employee's training file, and the employee's personnel file.
 - c. Counseling may be a viable alternative.
6. Dispositions for each allegation will be selected from the following:
 - a. **Exonerated** – The investigation determined by a preponderance of the evidence that misconduct or malfeasance was committed, but not by the subject of the investigation.
 - b. **Unfounded** – The investigation determined by a preponderance of the evidence that the misconduct or malfeasance complained of did not occur.

- c. **Not sustained** – The investigation was unable to determine by a preponderance of the evidence whether or not the misconduct or malfeasance complained of occurred, or whether or not it was committed by the subject of the investigation.
- d. **Sustained** – The investigation determined by a preponderance of the evidence that the misconduct or malfeasance complained of occurred and that it was committed by the subject of the investigation.
- e. **Misconduct Not Based on Original Complaint** – The investigation determined by a preponderance of the evidence that other misconduct or malfeasance which was not the basis for the original investigation occurred, was discovered during the course of the original investigation, and was committed by the subject of the investigation.
- f. **Withdrawn** – At some point prior to the completion of the investigation, the complainant notified the agency that he/she wished the investigation to be discontinued and concurrence for this action was obtained from the Chief of Police.
- g. **Summary Action** – Disciplinary action in the form of an oral reprimand, or counseling documented in writing, was taken by an employee's supervisor or commander for minor violations of department rules, policies or procedures as defined by this agency. Summary actions are the lowest level of disciplinary action or remediation.
- h. **Reconciled** – At the discretion of the Chief of Police, the process of reconciliation may be encouraged in lieu of any of the above dispositions. When authorized by the Chief of Police, supervisors receiving complaints shall to the extent possible, bring together the complainant and the officer or employee involved in minor violations and attempt reconciliation. This may be used where the complaint is from a misunderstanding on the part of the affected officer, employee or the complainant. Reconciliation may be employed for complaints of a minor nature that do not reflect:
 - 1. Discredit upon the agency,
 - 2. Discredit upon the involved employee,
 - 3. Commission of a criminal offense; or
 - 4. Allegations of racism bigotry or prejudice against any race, religion, creed, national origin, sexual orientation, or circumstances beyond the individual's control.

Reconciliation must be documented through the chain of command to the Chief of Police or his/her designee. Reconciliation does not preclude further corrective action on the part of the agency.

- 7. Upon determining the final disposition of the IA complaint, the Chief of Police shall notify the complainant in writing within 7 days as to the result and conclusion of the IA investigation.
- 8. The findings of the completed investigations and disciplinary recommendations, if any, shall be promptly conveyed, in writing, to the employee.

- J. Training – All supervisory personnel will be required to attend training on the department's Complaint Policy and the responsibilities of supervisors conducting internal investigations upon the implementation of this policy.

All supervisory personnel will be required to attend periodic refresher training, as determined by the department, regarding the policies and procedures contained herein and professionally accepted practices related to conducting internal investigations.

K. Public Information and Access

1. The General Order and complaint forms will be made available at the following locations:

- a. Manchester Town Hall,
- b. MPD lobby, and
- c. MPD website.

2. This information includes:

- a. The phone number for Manchester Police Department,
- b. The address, and email address where complaints can be made, and
- c. Information explaining the complaint process in English and in Spanish.