


MELROSE POLICE DEPARTMENT		Department Manual: Policy 4.04
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I. PURPOSE:

Historically, police departments have been an instrument utilized to maintain law and order. To be fully effective, the police need to have and maintain the highest level of public trust and confidence in order to ensure the faith, allegiance and cooperation of the citizenry.

Note: Any mention of the word “citizen(s)” in this policy shall mean any individual, regardless of any official documentation status, that the Melrose Police have occasion to interact with.

Trust and confidence can exist only if the public recognizes that their police department always polices and uses its enforcement procedures in a fair and impartial manner with the utmost respect and integrity and according to statutory and constitutional law. By not adhering to a policy that assures public trust and confidence, barriers and obstacles will inevitably emerge causing unnecessary tension between the police and the public that they serve. Hence, effective law enforcement efforts within the community will become increasingly more difficult and even counterproductive.

To maintain the highest quality of police services it is imperative that every police department have an effective, efficient, streamlined and thorough civilian complaint procedure. With such a policy in place, community confidence in the integrity of all police conduct and actions will invariably increase and assure their collective support, cooperation and confidence in their police department.

At all times, the employees of the Melrose Police Department, sworn and civilian are expected to conduct themselves in a manner that will reflect favorably both on the Department and the City of Melrose. By maintaining high standards the members of the Department will be able to ensure an atmosphere of trust and spirit of cooperation between the community and the Department. Increased cooperation will also enhance the Department’s ability to achieve the mission as well as the articulated goals of the department.

Therefore, the internal affairs function is vital for the maintenance of professional conduct within the Melrose 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 response and quality of the internal affairs function in responding to any and all allegations of employee wrongdoing or misconduct by the Department or its members.

The Melrose Police Department must ensure all individuals have access to a fair and effective avenue for redress of legitimate complaints against its officers. The Internal Affairs Unit also protects the members of the department by investigating and dismissing any false and unfounded allegations of misconduct that may directed towards an employee. The Internal Affairs Unit also assures that each officer receives every protection and right, including due process that he/she is entitled, under both the State and Federal Constitutions.

The Chief of Police shall always adhere to his/her affirmative duty and responsibility to impose the reasonable disciplinary sanctions when appropriate, including training, counseling, reprimand, suspension and up to and including separation of employment for sustained misconduct based on a preponderance of the evidence after notice and a hearing.

The Internal Affairs Investigator will be responsible for recording, registering and supervising the investigation of all complaints against all employees. Because internal affairs investigations can be extremely complex, it is imperative that the process be not only lawful but completely confidential during the duration of the investigatory process. The Internal Affairs Investigator shall also be charged with maintaining the confidentiality of the internal affairs investigations and records while any case is active and ongoing. Once a case is closed, the application of the state's public records laws shall take precedence thereafter.

The Internal Affairs Investigator will ensure that the integrity of the Department is maintained by conducting investigations in a fair, impartial, objective, and judicious manner. All findings will be prepared in writing and submitted to the Chief of Police for his/her approval who will thereafter impose any and all additional training and/or disciplinary sanction(s) if applicable.

Employees of the Melrose Police Department will be held to the highest standards of professional conduct. Employees who do not adhere to the Department's standards of conduct, either through deliberate action or by way of negligence or neglect of duty, will be subject to disciplinary action such as corrective training, counseling, and/or disciplinary sanctions that shall be applied in a prompt and specific manner.

The objectives of the internal affairs investigation shall always be to:

1. Protect the public;
2. Protect employees from false allegations;
3. Protect the image and reputation of the Department;
4. Correct any and all procedural or training deficiencies; and
5. Removal of any officer that is deemed to be unfit for continued duty.

All alleged or suspected violations of laws, ordinances, department rules, regulations, policies, procedures and/or orders (whether verbal or written) shall be investigated according to the procedures outlined herein. These include, but are not limited to:

1. Alleged violations reported to superior officers by **other members** of the Department, either orally or in writing.
2. Alleged violations observed or suspected by **superior officers**.
3. **Civilian complaints** of alleged misconduct by members of the Department that are made in person, in writing, by phone, by email or anonymously.
52.1.1
4. Complaints or allegations made by those held in custody referred to as **detainees**.

II. POLICE REFORM LEGISLATION

On 12/31/20, Governor Charles Baker signed a comprehensive piece of legislation into law titled, *An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth*. This historic legislation established a new nine (9) member Commission known officially as the *Massachusetts Peace Officer Standards and Training Commission* (hereinafter "POST") which was granted with very broad investigatory, enforcement and

licensing powers pertaining to all sworn law enforcement officers and agencies in the Commonwealth. Of particular note, this legislation created a new statute, M.G.L. Chapter 6E, whereby certain Sections of this new law shall have a direct impact on law enforcement agencies across the state pertaining to information that is derived from the complaint investigation procedures of all police departments.

III. POLICY:

It is the policy of the Melrose 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, fair and impartial investigation which shall include an examination of all available factual information and evidence. **52.1.1**

IV. COMPLAINT PROCEDURE: **82.2.2 b**

A. Complaint Control Form:

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 member of the public, initiated from within the Department or forwarded by another governmental agency. This **Citizen Complaint Form** shall be located at the Front Desk of Police Headquarters as well as on the shared Police Forms folder on the M: drive.
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 (unless it is an anonymous complaint);
 - 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 complainants 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 (<18) 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 Form so that they may complete it on their own. When Complaint Forms are given out in this manner the complainant should be instructed to return them, as soon as possible, to the Police Department then to the Professional Standards Division.

4. Any person completing a Complaint Form shall, upon request, be given a copy of the completed form. This may act as their receipt to verify that the complaint was received.

B. RECEIVING AND RECORDING EMPLOYEE MISCONDUCT OR COMPLAINTS OF CRIME:

1. The Officer-in-Charge (OIC) at the time the complaint is made shall be responsible for receiving and recording the complaints, specifically against the department or employee misconduct, or a specific crime regardless of whether they are reported in person, by phone, mail or by email. In some cases a complaint can be resolved to the complainant's satisfaction at the time by the Officer-in-Charge, in which case this fact, and the details of the incident, shall be reported in writing by the Officer-in-Charge, within a reasonable period of time, to the Internal Affairs Supervisor, the Patrol Commander, and the Chief of Police. [52.1.1](#); [52.2.1 a](#); [52.2.2](#)
2. Unresolved complaints shall be entered by the OIC into the dispatch log under the dispatch call reason "Citizen Complaint – IA." The complainant's name, D.O.B., address, and phone number(s) shall be entered when available, if available and unless anonymous.
3. The utmost respect and courtesy shall be afforded to all persons filing a complaint or inquiring about the civilian 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 at its greatest.
4. No person should be denied the opportunity to file a civilian complaint or to report a crime. **No person should ever be directed to return at a later time or to call back later.**
5. The Internal Affairs Supervisor shall review each Complaint Form, and upon determining that an official report or investigation be conducted, shall assign an identifying number to the complaint (e.g., last two digits of the year – complaint number for that year in sequential order, IA, for example **21-01-IA**)
6. If the substance of the employee misconduct warrants it, the Officer-in-Charge may immediately notify the Internal Affairs Supervisor, who will determine if an investigation should be immediately undertaken. If the substance of a complaint against the agency or its employees, if proven, would be of a grave nature or is an accusation of a serious crime, the Chief of Police shall be notified forthwith.
7. If the substance of the employee misconduct warrants it, the Officer-in-Charge may immediately place the employee on administrative leave for the remainder of his/her assigned shift pending notification of the Internal Affairs Supervisor or the Chief of Police. The employee shall only be relieved from duty at the

direction of the Chief of Police in accordance with applicable statutory and collective bargaining provisions. [52.1.2 b](#), [52.2.2](#), [52.2.7](#)

C. IN PERSON COMPLAINTS OF MISCONDUCT:

Reports of employee misconduct 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 and cite reasoning if appropriate.

D. PHONE COMPLAINTS OF CRIME OR MISCONDUCT:

When an employee misconduct complaint is received by phone the complainant should be informed that a signed complaint is recommended. Phone complaints about a crime or employee misconduct should not be refused or rejected because the complainant does not wish to come into Police Headquarters to report the crime or sign a complaint form. **Anonymous complaints should not be rejected** whether against a specific employee or against the department as an agency. If the complaint is anonymous, the OIC receiving the complaint shall complete and sign the complaint form and submit same to the IA Unit. All complaints should be considered on their individual merits. Although appropriate caution must be taken so that Department employees are not subjected to unjust or malicious complaints, all complaints must be taken very seriously and vetted based on the evidence or leads that are available and/or may be pursued based on the willingness of the complainant to assist in the investigation. [52.1.1](#), [82.2.5](#)

E. COMPLAINTS OF CRIME OR MISCONDUCT RECEIVED BY U. S. MAIL OR INTERNET EMAIL: [82.2.5](#)

1. If a complaint of a crime or employee misconduct is received by U.S. Mail or email, the information contained shall be incorporated into an incident report for follow-up or Complaint Form for investigation and the original communication shall be attached thereto. [52.1.4](#), [84.2.14](#)
2. If the information about employee misconduct is incomplete or insufficient, the Internal Affairs Investigator shall contact the complainant, if possible, and obtain the necessary information. Information about a crime in progress should be forwarded to the on duty OIC for immediate on scene response and shall be documented. [82.2.5](#)

F. DEPARTMENTAL COMPLAINTS:

A formal complaint of employee misconduct shall be initiated by the preparation of the standard Melrose Police Department **Citizen Complaint Form**.

G. COMPLAINTS BY PRISONERS and DETAINEES:

Any prisoner or detainee who alleges any misconduct or mistreatment by a department employee, including but not limited to an excessive force allegation in violation of M.G.L. Chapter 6E Section 14, shall be advised by the Officer-in-Charge of the applicable Shift of his/her 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 civilian complaints.

H. COMPLAINTS FROM OTHER GOVERNMENTAL AGENCIES:

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 **Citizen Complaint Form** and an investigation initiated in the usual manner.

I. OUTSIDE COMPLAINTS TO PATROL OFFICERS:

1. If a patrol officer is approached by a member of the public regarding a complaint of alleged misconduct against an employee of the police department, the officer shall inform such person that his/her complaint should be directed to the Officer-in-Charge of Police Headquarters. The Patrol Officer shall inform the concerned member of the community the name of the OIC and the address of Police Headquarters (56 West Foster Street, Melrose, MA 02176) and the Non-Emergency number if needed (781) 665-1212.
2. Persons making an allegation or complaint of “racial profiling” shall also be advised of the state’s complaint line (1-866-6-RACIAL).

J. VERIFICATION OF RECEIPT:

1. Every person making a complaint against a department employee shall receive a copy of his/her complaint to serve as a receipt verifying that such complaint has been received. **52.2.4 a**
2. When a complaint is made in person, the officer receiving the complaint will ensure that the complainant receives a copy of his/her complaint to serve as a written verification that the complaint has been received.
3. When a complaint is received over the phone, through the mail, or by email, the officer-in-charge of Internal Affairs shall be responsible to ensure that the complainant is sent a copy of his/her complaint to serve as a written verification that the complaint has been received. **52.2.4 a**

V. INVESTIGATIVE PROCEDURES:

A. CATEGORIES OF COMPLAINTS / INVESTIGATIONS:

1. The Department has established specific guidelines regarding which categories of complaints shall be handled and investigated by the Internal Affairs Supervisor, or his/her designee, and which by subject employee's Shift Supervisor (OIC) as a part of routine discipline.
 - a. The criteria for assignment of an investigation to a shift supervisor or Officer-in-Charge of the station may include, but are not limited to, allegations of: **52.2.1 a**
 - i. Alleged rudeness;
 - ii. Tardiness
 - iii. Minor cases of insubordination
 - b. Reports of investigations performed by shift supervisors shall be forwarded and reviewed by the Patrol Commander.
 - c. The criteria for assignment of an investigation to the Internal Affairs Unit may include, but are not limited to, allegations of: **52.2.1 b**
 - i. Corruption;
 - ii. Brutality;
 - iii. Use of excessive force;
 - iv. Violation of civil rights including racial profiling and/or gender profiling;
 - v. Any allegation of criminal misconduct (felony of misdemeanor);
 - vi. Any other matter as directed by the Chief of Police.
2. **Discharge of Firearms:** 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, in order to ensure 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 Internal Affairs Supervisor, or his/her designee, for the purpose of determining the extent to which officers comply with departmental policy. **52.2.1 b**

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 Officer-in-Charge of the station, 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 Form**.

- 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 OIC should seek the easiest resolution to the problem to the agreed upon satisfaction of the complainant.
- b. Under no circumstances, however, will a justifiable complaint be refused, delayed, or otherwise rejected in this manner.

C. INVESTIGATION OF COMPLAINTS:

- a. The Chief of Police shall assign a superior officer as the Internal Affairs Supervisor. The Internal Affairs Supervisor shall be responsible for conducting Internal Affairs investigations and shall have the authority to report directly to the Chief of Police on any sensitive matter which impacts the integrity of the department. **52.1.3**
 - i. The affected employee shall be provided a written statement of the allegations against him/her (**Notification of Charges/Allegations**) unless the Police Chief determines that the premature disclosure might jeopardize an ongoing investigation involving a sensitive matter. **52.2.5**

NOTE: If the employee was not notified by order of the Police Chief, [s]he must receive written notification prior to any interrogation or administrative or criminal hearing.
 - ii. The Internal Affairs Supervisor shall be responsible for providing the Chief of Police with status reports on the progress of the investigation **every seven (7) days when applicable**. These reports shall contain all pertinent information relating to the progress of the investigation.
 - iii. If the substance of a complaint, if proven, would be of grave nature or is an accusation of a serious crime and an immediate action is deemed necessary, the Police Chief, or the Internal Affairs Supervisor shall be notified forthwith by phone in order that an investigation can be initiated without any significant delay. **52.1.3, 52.2.2**
 - iv. 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**

- b. Any Internal Affairs investigation must be commenced immediately upon receipt of the complaint and **must be completed within ninety (90) days.**
52.2.3
 - i. If extenuating circumstances preclude completion within thirty (30) days, the Internal Affairs Supervisor shall request an extension from the Chief of Police in writing, and provide written notification to the employee (if previously notified of the complaint and investigation) and complainant of the delay. **52.2.3**
 - ii. If the investigation is not completed within thirty (30) days, the complainant shall be provided a brief summary progress report every thirty (30) days until the completion of the investigation. **52.2.4 b**
- c. An internal administrative investigation may inquire into a department employee's on-duty or off-duty conduct if such inquiry is reasonably 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 reputation of the department.
- d. **CRIMINAL PROCEEDINGS:** If it is determined 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.
 - i. 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 any custodial interrogation or its functional equivalent.
 - ii. After Miranda Warnings have been given, any voluntary statement made thereafter may be admissible in a criminal proceeding, and it may also otherwise be used for departmental disciplinary purposes if appropriate.
 - iii. 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.¹ However, as discussed below, an employee may be compelled to answer questions that are narrowly drawn and related specifically to his/her on or off duty conduct, and may be disciplined (including discharge) for failure to answer truthfully.

¹ *Uniformed Sanitation Men Ass'n, Inc. v. Comm. of Sanitation of New York*, 392 U.S. 280, 88 S.Ct. 1917(1969); *Gardner v. Broderick*, 392 U.S. 273, 88 S.Ct. 1913 (1968).

- e. **DEPARTMENTAL DISCIPLINARY ACTION:** 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.
- i. All department employees, when requested by the Police 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 (that they do not reasonably believe would tend to **incriminate** themselves for an alleged violation of the **law**), and any failure to answer completely and truthfully to such inquiries may be punished by the appropriate disciplinary action, including separation from the department if appropriate.²
- (a) The official conducting the interrogation must, at the time of the interrogation, specify to the employee or to his/her counsel or representative if they ask the precise repercussions (i.e., suspension, discharge, or the exact form of discipline) that will result if the officer fails to respond.³
- ii. When a department employee, after declining to do so voluntarily, is ordered to submit a report or to answer questions other than those narrowly tailored above) under a threat of the penalty of discipline (adverse job sanctions), (although it is not the investigator's intention to do do), that employee may be entitled to transactional immunity from criminal prosecution by operation of law for any criminal offenses to which the compelled testimony relates.
- (a) 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/her employment. **Transactional immunity grants "immunity from prosecution for offenses to which compelled testimony relates."**⁴
- iii. 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/her fitness or ability to remain in the police service, and if such employee is informed that (s)he does not have to answer questions which they reasonably believe would tend to incriminate

² *Carney v. Springfield*, 403 Mass. 604, 532 N.E.2d 631 (1988)

³ Id.

⁴ Id.

themselves and advised that they will not be disciplined for lawfully invoking their right against self-incrimination, (s)he must answer or face disciplinary action, including dismissal from the department, for refusing to answer such questions once granted a promise of Transactional Immunity in writing by the appropriate granting authorities.

- iv. In consultation and approval with the District Attorney's Office, the Chief may opt to secure a written grant of transactional immunity from the **Attorney General's Office in certain circumstances**. An employee may decline to answer any questions in a criminal investigation until such documentation granting the entitled immunity is received.
 - v. Nothing herein prevents the Internal Affairs Supervisor from moving forward on the investigation by pursuing other leads.
 - vi. In addition, the employee who is the target of the investigation can also offer to make a voluntary statement to investigators at any time during the investigation with proper notice.
- f. **DOUBLE JEOPARDY**: No double jeopardy exists when a department employee is found not guilty in court of criminal charges and is then found to be responsible for violating departmental charges after the appropriate notice and an opportunity for a disciplinary hearing, as the department charges are administrative in nature and can be sustained by the administrative standard defined as a "*preponderance of the evidence*" (51% or more) rather than the criminal court standard of "*beyond a reasonable doubt*" (to a moral certainty).
- g. **UNION REPRESENTATION**: 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;⁵ however, a request for an attorney or an employee representative to be present will be granted if the investigation is not thereby unduly delayed.
- i. Except in unusual situations, any interview or questioning should take place during employee's regular duty hours.
 - ii. 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.
 - iii. A department employee shall not be improperly harassed or threatened during this period of questioning.

⁵ *NLRB v. Weingarten*, 420 U.S. 251, 95 S.Ct. 959 (1975)

- h. 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.
 - i. An internal administrative investigation should be conducted with the same degree of professional competence as is devoted to a criminal investigation.
 - ii. Upon orders of the Chief of Police or his/her designee, an employee 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. **52.2.6 a**
 - iii. Drug or Alcohol Testing: Police employees may be compelled to submit to alcohol and/or drug testing in connection with an administrative investigation based upon reasonable suspicion.
- i. **IDENTIFICATION:** 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 or unduly suggestive and should not be used for an administrative investigation where criminal charges are also contemplated. **52.2.6 b, c**
- j. **SEARCHES**
 - i. A police officer's personal property, including his/her home, car and other property, is protected from unreasonable search and seizure under the Massachusetts Constitution, and it is possible that any evidence illegally obtained may not be used as evidence in an administrative proceeding.⁶
 - ii. Department property that is furnished to the officer as a convenience, and which is non-exclusive in nature, such as desks, lockers, offices or vehicles, where it is clearly understood in advance that an officer or supervisor has "no reasonable expectation of privacy," may be searched without a warrant.
- k. **FINANCIAL DISCLOSURE:** A police officer may be compelled to submit a financial disclosure statement as part of an internal affairs investigation provided such statement is material and relevant to the investigation being conducted.⁷
52.2.6d

⁶ *Board of Selectmen of Framingham v. Municipal Ct. of City of Boston*, 373 Mass. 783, 369 N.E.2d 1145 (1977)

⁷ *O'Brien v. Mun. Court*, 10 Mass. App. Ct. 851, 407 N.E.2d 1297 (1980)

- l. Under the provisions of M.G.L. c. 149, s. 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.⁸ Note the results of the polygraph cannot be used in a criminal investigation. **52.2.6f**
- m. **RECORDING INTERVIEWS:** Whenever possible, the complete interview with an employee who is the subject of an internal investigation in all internal administrative investigations should be recorded both audibly and visually. **52.2.6.e**
- n. **WITHDRAWN COMPLAINTS:** 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 also be secured from the complainant.
 - i. Even though a complaint is withdrawn, a full report of the investigation to date should be prepared for the Police Chief and his/her approval obtained for the termination or the possible continuation of the investigation.
 - ii. 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 strictly prohibited and will be treated as a serious violation of department policy which may result in separation from employment if sustained.

VI. INVESTIGATION REPORT CLASSIFICATIONS: 52.2.8

- A. After the investigation has been completed, a full written report shall be prepared for submission to the Chief of Police which shall include the following: **52.1.3**
 1. A copy of the original complaint report;
 2. Copies of any additional statements taken from the complainant or statements obtained from witnesses;
 3. Copies of any statements made or reports submitted by the department employee under investigation;
 4. A summary of all evidence gathered;
 5. Any mitigating circumstances; and

⁸ M.G.L. c. 149, s. 19B

6. An evaluation of the complaint, and for each allegation of misconduct, a Conclusion of Fact, and a definitive statement as to whether the allegations made by the complainant were:
 - a. **Sustained:** The complaint was valid and supported by sufficient evidence.
 - b. **Not Sustained:** There was inadequate or insufficient evidence to either prove or disprove the complaint;
 - d. **Unfounded:** The allegations were baseless and without foundation; or
 - e. **Exonerated:** The complaint was unjustified or unwarranted, as the actions of the accused department employee were in compliance with law or in accordance with department policy and procedure.
 7. The Internal Affairs Supervisor shall maintain a record of all complaints against the department or employees and protect the confidentiality of those records by securely maintaining them in his/her office in locked file cabinets. [52.1.2](#)
- B.** Upon receipt of the report of investigation, the Chief should take further action as is necessary based upon findings in the particular case.
1. Every person who has filed a complaint against an employee shall be notified promptly as to the final results of the investigation, in terms of conclusion of fact, personally if possible or otherwise by mail. [52.2.4 c](#)
 2. If a disciplinary hearing is deemed necessary, the complainant shall be notified that his/her testimony will be required at that time.
 3. The employee and his/her supervisor shall be notified promptly, in writing, as to the completion of the investigation.
 - (a) If the Department employee is cleared of the charges made, he or she shall be officially exonerated and the employee and his/her supervisor shall be notified in writing.

VII. CONFIDENTIALITY OF INTERNAL AFFAIRS:

1. In order to ensure that the individual rights of employees who are the subject of an Internal Affairs investigation are protected, all materials relevant to those investigations and investigations against the Department shall be kept strictly confidential and under lock and secured by the Chief of Police. [52.1.2](#)
2. Internal Affairs investigators should note in their reports any instances where victims or 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.
55.1.3b

3. No statement regarding an Internal Affairs investigation will be made or issued to the public or the media unless the charges have been sustained and action has been taken or initiated against the officer or employee.
4. A copy of the completed investigation summary should be kept in a summary file as directed by the Chief of Police and will be the only source of public information about citizen complaints, other than the statistical log which may be prepared and published annually by the Chief of Police.

VIII. LIAISON WITH DISTRICT ATTORNEY'S OFFICE:

Any Internal Affairs investigation which may, or does, result in criminal charges being brought against an officer shall require the District Attorney's and/or the Attorney General's office to be appraised of the case for the purpose of advising on any legal issues and ultimate prosecution, if necessary. Contact shall be made through the Internal Affairs Supervisor.

IX. INVESTIGATIVE FILES:

- A. A complete file of records on the investigation of all civilian and internal complaints shall be kept in the office of the Lieutenant-in-Charge of Internal Affairs. These files shall contain supporting investigative information, as well as notes taken during the investigation and documentation resulting from the investigation. These files shall be treated as confidential investigative files and shall only be applicable to the state's public records laws once the case is closed subject to all applicable exemptions. **52.1.2**
1. If the misconduct of the employee results in dismissal, the investigative file shall also contain the following documentation provided to the employee;
 - i. a written statement citing the reason for the dismissal;
 - ii. the effective date of the dismissal; and
 - iii. a letter from the Human Resource Director for the City of Melrose outlining any external or fringe benefits available to the dismissed employee and directing the dismissed employee to the Director of Retirement Benefits for the City of Melrose for any accrued retirement benefits, if applicable.
- B. A copy of the completed investigation summary should be kept in a separate summary file in the office of the Internal Affairs Investigator and will be the only source of public information about civilian complaints, other than the statistical log which may be prepared and published annually by the Chief of Police. **If the complaint is sustained, those specific findings and the**

corresponding sanctions which are addressed to the involved employee shall be kept in the employee's personnel folder.

X. ANNUAL REPORT

The Chief of Police shall publish, in the Department's Annual Report, a summary of complaint statistics (both citizen complaints and internal affairs), 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. This shall be included on the Police Department's website. **52.1.11, 52.1.12**

XI. DISCIPLINARY RECORDS SUBMITTED TO POST

In 2021, each law enforcement agency in the Commonwealth, including the Melrose Police Department, provided the ***Massachusetts Peace Officer Standards and Training Commission*** ("POST") a comprehensive disciplinary record for each law enforcement officer *currently employed* by said agency, including, but not limited to:

- (i) every significant complaint of which the officer was the subject of during the course of their employment with the agency; and
- (ii) all disciplinary records of the officer, including the final disposition of a complaint, if any, and any discipline imposed.
- (iii) at the conclusion of each calendar year, the Chief of Police shall submit an updated list of the criteria listed in (i) and (ii) above of each officer currently employed or separated from service for any reason directly to POST.

Later that same year, each law enforcement agency in the Commonwealth, including the Melrose Police Department, provided to the ***Massachusetts Peace Officer Standards and Training Commission*** ("POST") a comprehensive disciplinary record for each law enforcement officer *previously employed* by said agency or a transfer or agency for which the agency is the transferee agency, including, but not limited to:

- (i) every significant complaint of which the officer was the subject of during the course of their employment with the agency; and
- (ii) all disciplinary records of the officer, including the final disposition of a complaint, if any, and any discipline imposed.

XII. PUBLICLY AVAILABLE DATABASE BY POST

Pursuant to M.G.L Chapter 6E Section 13(a)(b):

The POST Commission shall maintain a publicly available database of orders issued pursuant to section 10 of Chapter 6E on the commission's website, including, but not limited to:

- (i) the names of all decertified officers, the date of decertification, the officer's last appointing agency and the reason for decertification;
- (ii) the names of all officers who have been suspended, the beginning and end dates of suspension, the officer's appointing agency and the reason for suspension; and
- (iii) the names of all officers ordered to undergo retraining, the date of the retraining order, the date the retraining was completed, the type of retraining ordered, and the officer's appointing agency and the reason for the retraining order.

The POST Commission shall also cooperate with the national decertification index and other states and territories to ensure officers who are decertified by the Commonwealth are not hired as law enforcement officers in other jurisdictions, including by providing information requested by those entities.

XIII. POST: DIVISION OF POLICE STANDARDS 52.2.9

Pursuant to **M.G.L. Chapter 6E Section 8:**

- (a) There shall be within the POST Commission an entity known as the *Division of Police Standards*. The purpose of the Division of Police Standards shall be to investigate officer misconduct and make disciplinary recommendations to the POST Commission.

G.L. Chapter 6E Section 8(b)(1) – The Chief of Police shall transmit any complaint received by the Melrose Police Department within two (2) business days to the Division of Police Standards:

The notification shall include, but shall not be limited to:

1. the name and commission certification identification number of the subject officer
2. the date and location of the incident;
3. a description of circumstances of the conduct that is the subject of the complaint;
4. whether the complaint alleges that the officer's conduct:
 - a. was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level;
 - b. was unprofessional;
 - c. involved excessive, prohibited or deadly force; or
 - d. resulted in serious bodily injury or death; and

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5. a copy of the original complaint submitted directly to the agency; provided, however, that the commission may establish a minimum threshold and streamlined process for the reporting or handling of minor complaints that do not involve the use of force or allegations of biased behavior.

Upon completion of the internal investigation of a complaint, the Chief of Police shall immediately transmit to the Division of Police Standards an investigation report in a form to be determined by the POST Commission;

That notification shall include, but shall not be limited to:

1. a description of the investigation and disposition of the complaint;
2. any disciplinary action recommended by internal affairs or the supervising officer; and
3. if the recommended disciplinary action included retraining, suspension or termination, a recommendation by the head of the agency for disciplinary action by the commission including, retraining or suspension or revocation of the officer's certification.

Upon final disposition of the complaint, the Chief of Police shall immediately transmit to the Division of Police Standards a final report.

This final report shall include, but shall not be limited to:

1. any disciplinary action initially recommend by internal affairs or the supervising officer;
2. the final discipline imposed and a description of the adjudicatory process; and
3. if the disciplinary action recommended or imposed included retraining, suspension or termination, a recommendation by the head of the agency for disciplinary action by the commission including, retraining or suspension or revocation of the officer's certification.

If an officer resigns during an agency investigation, prior to the conclusion of an agency investigation or prior to the imposition of agency discipline, up to and including termination, the head of said agency shall immediately transmit to the division of police standards a report in a form to be determined by the commission; provided, that the form shall include, but shall not be limited to:

- (i) the officer's full employment history;
- (ii) a description of the events or complaints surrounding the resignation; and
- (iii) a recommendation by the head of the agency for disciplinary action by the commission, including retraining or suspension or revocation of the officer's certification.

Notwithstanding any general or special law or collective bargaining agreement to the contrary, nothing shall limit the ability of the head of an agency to make a recommendation in their professional judgment to the commission relative to the certification status of an officer, after having followed the agency's internal affairs procedure and any appeal therefrom.

The Division of Police Standards shall initiate a preliminary inquiry into the conduct of a law enforcement officer if the POST Commission receives a complaint, report or other credible evidence that is deemed sufficient by the commission that the law enforcement officer:

- (i) was involved an officer-involved injury or death;
- (ii) committed a felony or misdemeanor, whether or not the officer has been arrested, indicted, charged or convicted;
- (iii) engaged in conduct prohibited pursuant to **M.G.L. Chapter 6E Section 14** {Use of Force};
- (iv) engaged in conduct prohibited pursuant to **M.G.L. Chapter 6E Section 15** {Failed to Intervene}; or
- (v) the commission receives an affirmative recommendation by the head of an appointing agency for disciplinary action by the commission, including retraining or suspension or revocation of the officer's certification.

The Division of Police Standards may initiate a preliminary inquiry into the conduct of a law enforcement officer upon receipt of a complaint, report or other credible evidence that is deemed sufficient by the POST Commission that the law enforcement officer may have engaged in prohibited conduct.

- All proceedings and records relating to a preliminary inquiry or initial staff review used to determine whether to initiate an inquiry *shall be confidential*, except that the executive director may turn over to the attorney general, the United States Attorney or a district attorney of competent jurisdiction evidence which may be used in a criminal proceeding.

The Division of Police Standards shall notify any law enforcement officer who is the subject of the preliminary inquiry, the head of their collective bargaining unit and the head of their appointing agency of the existence of such inquiry and the general nature of the alleged violation within thirty (30) days of the commencement of the inquiry.

The Division of Police Standards may audit all records related to the complaints, investigations and investigative reports of any agency related to complaints of officer misconduct or unprofessionalism, including, but not limited to, personnel records.

- The commission shall promulgate rules and regulations establishing an audit procedure; provided, however, that said rules and regulations shall not limit the ability of the division of police standards to initiate an audit at any time and for any reason.

The Division of Police Standards shall create and maintain a database containing information related to an officer's:

- (i) receipt of complaints and related information, including, but not limited to: the officer's appointing agency, date, a description of circumstances of the conduct that is

the subject of the complaint and whether the complaint alleges that the officer's conduct:

- i. was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level;
- ii. was unprofessional;
- iii. involved excessive, prohibited or deadly force; or
- iv. resulted in serious bodily injury or death;
- v. allegations of untruthfulness;
- vi. failure to follow commission training requirements;
- vii. decertification by the commission;
- viii. agency-imposed discipline;
- ix. termination for cause; and
- x. any other information the commission deems necessary or relevant.

The Division of Police Standards shall actively monitor the database to identify patterns of unprofessional police conduct. Upon identification of a pattern of unprofessional police conduct, the Division of Police Standards may recommend the evidence in its possession for review in a preliminary inquiry.

The **Division of Police Standards** shall be a law enforcement agency and its employees shall have such law enforcement powers as necessary to effectuate the purposes of this chapter, including the power to receive intelligence on an applicant for certification or an officer certified under this chapter and to investigate any suspected violations of law.

XIV. SUSPENSION OF AN OFFICER'S POST CERTIFICATION

Pursuant to **M.G.L. Chapter 6E Section 9:**

(1) The POST Commission *shall immediately suspend* the certification of any officer who is *arrested, charged or indicted* for a felony.

(2) If, after a preliminary inquiry pursuant to paragraph (1) of subsection (c) of section 8, the POST Commission concludes *by a preponderance of the evidence* that a law enforcement officer has engaged in conduct that could constitute a felony and upon a vote to initiate an adjudicatory proceeding of said conduct, the commission **SHALL** immediately suspend an officer's certification.

(3) The POST Commission **MAY**, after a preliminary inquiry pursuant to paragraph (1) of subsection (c) of section 8, suspend the certification of any officer who is arrested, charged or indicted for a misdemeanor, if the commission determines *by a preponderance of the evidence* that the crime affects the fitness of the officer to serve as a law enforcement officer.

(4) The POST Commission *may*, pending preliminary inquiry pursuant to paragraph (1) of subsection (c) of section 8, suspend the certification of any officer if the commission determines *by a preponderance of the evidence* that the suspension is in the best interest of the health, safety or welfare of the public.

(5) A suspension order of the POST Commission issued pursuant to this subsection shall continue in effect until issuance of the final decision of the commission or until revoked by the commission.

The POST Commission shall administratively suspend the certification of an officer who fails to complete in-service training requirements of the commission within 90 days of the deadline imposed by the commission;

- provided, however, that the commission may promulgate reasonable exemptions to this subsection, including, but not limited to, exemptions for:
 - (1) injury or physical disability;
 - (2) a leave of absence; or
 - (3) other documented hardship.
- The commission shall reinstate the certification of an officer suspended pursuant to this subsection upon completion of the in-service training requirements of the commission.

The commission shall administratively suspend the certification of an officer with a duty to report information to the commission pursuant to section 8 who fails to report such information.

- The commission shall reinstate the certificate of an officer suspended pursuant to this subsection upon completion of said report.

A law enforcement officer whose certification is suspended by the commission pursuant to M.G.L. Chapter 6E Section 9 (a), (b) or (c) shall be entitled to a hearing before a commissioner within 15 days. The terms of employment of a law enforcement officer whose certification is suspended by the commission pursuant to said subsection (a) (b) or (c) shall continue to be subject to chapter 31 and any applicable collective bargaining agreement to which the law enforcement officer is a beneficiary.

XV. REVOCATION OF AN OFFICER'S POST CERTIFICATION

Pursuant to **M.G.L. Chapter 6E Section 10:**

- (a) The commission shall, after a hearing, REVOKE an officer's certification if the commission finds by clear and convincing evidence that:
 - (i) the officer is **convicted of a felony;**
 - (ii) the certification was issued as a result of administrative error;
 - (iii) the certification was obtained through **misrepresentation or fraud;**
 - (iv) the officer **falsified any document** in order to obtain or renew certification;

- (v) the officer has had a certification or other authorization **revoked by another jurisdiction;**
- (vi) **the officer is terminated by their appointing agency, and**
 - **any appeal of said termination is completed,**
 - **based upon intentional conduct performed under the color of their office to:**
 - **obtain false confessions;**
 - **make a false arrest;**
 - **create or use falsified evidence, including false testimony or**
 - **destroying evidence to create a false impression;**
 - **engage in conduct that would constitute a hate crime, as defined in section 32 of chapter 22C; or**
 - **directly or indirectly receive a reward, gift or gratuity on account of their official services;**
- (vii) the officer has been convicted of **submitting false timesheets** in violation of section 85BB of chapter 231;
- (viii) the officer knowingly **files a written police report containing a false statement or commits perjury,** as defined in section 1 of chapter 268;
- (ix) the officer **tampers with a record** for use in an official proceeding, as defined in section 13E of chapter 268;
- (x) **the officer used force in violation of section 14;**
- (xi) **the officer used excessive use of force resulting in death or serious bodily injury;**
- (xii) **the officer used a chokehold in violation of said section 14;**
- (xiii) **the officer engaged in conduct that would constitute a hate crime,** as defined in section 32 of chapter 22C;
- (xiv) **the officer engaged in the intimidation of a witness,** as defined in section 13B of chapter 268;
- (xv) **the officer failed to intervene, or attempt to intervene, to prevent another officer from engaging in prohibited conduct or behavior, including, but not limited to, excessive or prohibited force in violation of section 15;**
- (xvi) **the officer is not fit for duty as an officer and the officer is dangerous to the public, as determined by the commission.**

(b) The commission *may*, after a hearing, *suspend or revoke* an officer's certification if the commission finds by clear and convincing evidence that the officer:

- (i) has been **convicted of any misdemeanor**;
- (ii) **was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level in their conduct**;
- (iii) has a **pattern of unprofessional police conduct that commission believes may escalate**.
- (iv) **was suspended or terminated by their appointing agency for disciplinary reasons, and any appeal of said suspension or termination is completed**; or
- (v) **has repeated sustained internal affairs complaints, for the same or different offenses**.

(c) The commission may reinstate the certification of an officer suspended pursuant to subsection (b) at the expiration of the suspension, if the commission finds that all conditions of the suspension were met.

(d) The commission may, after a hearing, order retraining for any officer if the commission finds substantial evidence that the officer:

- (i) failed to comply with this chapter or commission regulations, reporting requirements or training requirements;
- (ii) was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level in their conduct;
- (iii) used excessive force;
- (iv) Failed to respond to an incident according to established procedure;
- (v) has a pattern of unprofessional police conduct;
- (vi) was untruthful, except for a statement or action that mandates revocation pursuant to subsection (a);
- (vii) was suspended or terminated by their appointing agency for disciplinary reasons, except those reasons which mandate revocation pursuant to said subsection (a);
- (viii) fails to intervene to prevent another officer from engaging in prohibited conduct or behavior, except a failure to intervene in conduct that mandates revocation pursuant to said subsection (a); or
- (ix) would benefit in their job performance if retrained.

(e) **The commission shall immediately notify the officer and the head of the appointing agency of the officer who is decertified, suspended or ordered to undergo retraining of the order.**

(f) The commission shall conduct preliminary inquiries, revocation and suspension proceedings and hearings, and promulgate regulations for such proceedings and hearings, pursuant to sections 1, 8 and 10 to 14, inclusive, of chapter 30A. Any decision of the commission relative to a preliminary inquiry, revocation and suspension proceeding shall be appealable pursuant to chapter 30A. No adverse action taken against a certification by the commission pursuant to this section shall be appealable to the civil service commission established under chapter 31. No employment action taken by an appointing authority that results from a revocation by the commission pursuant to subsection (a) shall be appealable to the civil service commission established under chapter 31.

(g) The commission shall publish any revocation order and findings. The commission shall provide all revocation information to the national decertification index. No officer may apply for certification after that officer's certification has been revoked pursuant to this section.

(h) An appointing agency shall complete an internal affairs investigation into officer misconduct and issue a final disposition within one year of receiving a complaint or notice from the commission of the complaint being filed.

- The commission may, upon a showing of good cause, extend the time to complete the investigation. The commission shall not institute a revocation or suspension hearing pursuant to this section until the officer's appointing agency has issued a final disposition or 1 year has elapsed since the incident was reported to the commission, whichever is sooner.
- If the officer notifies the commission that the officer wishes to suspend such hearing pending an appeal or arbitration of the appointing agency's final disposition, the commission shall suspend the hearing. Any such suspension of the hearing shall not exceed 1 year from the officer's notice to the commission; provided, however, that at any time during which the hearing is so suspended and upon a showing of good cause by the officer, the commission shall further suspend the hearing for a period of not less than 6 months and not more than the commission determines is reasonable; provided, however, that any delay in instituting a revocation or suspension hearing shall not exceed 1 year from the officer's request. If the officer notifies the commission that the officer wishes to suspend such hearing pending the resolution of criminal charges, the commission shall suspend the hearing; provided, however, that the officer's certification shall be suspended during the pendency of any delay in such hearing. This subsection shall not impact the commission's authority to suspend a certification pursuant to section 9.

XVI. DECERTIFIED OFFICERS NOT ELIGLE FOR EMPLOYMENT

Pursuant to **G.L. Chapter 6E Section 11**, neither any agency, nor a sheriff, nor the executive office of public safety nor any entity thereunder shall employ a decertified officer in any capacity, including, but not limited to, as a consultant or independent contractor.

XVII. *PROTECTIONS FOR TESTIFYING BEFORE POST*

Pursuant to **G.L. Chapter 6E Section 12**, no officer or employee of the Commonwealth or of any county, city, town or district shall discharge an officer or employee, change their official rank, grade or compensation, deny a promotion or take any other adverse action against an officer or employee or threaten to take any such action for providing information to the commission or testifying in any commission proceeding.

XVIII. *POLICY CONCLUSION:*

Every complaint received against the Melrose Police Department or an employee of the Department shall be considered a serious matter. Therefore, every Superior Officer assigned to investigate such matters shall be directly responsible and accountable for the appropriate disposition of these investigations. A fair, just and thorough internal affairs investigation policy helps maintain our Department's integrity and ongoing sustainable community support. **52.1.1**