

Fennimore Police Department Personnel Complaints		
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PURPOSE

This policy establishes the internal affairs function of the Fennimore Police Department and identifies the purpose and procedures for conducting investigations and complaints against the Police Department or its employees.

POLICY

It is the policy of the Fennimore Police Department to ensure the integrity of the agency and its employees is maintained. This shall be accomplished through an internal system of investigation and review founded on objectivity, fairness and justice. This internal investigative process shall be invoked in accordance with the following policy and procedure.

The Chief of Police or his/her designee shall be responsible for investigating all personnel complaints. Depending on the nature of the investigation or the nature of the complaint, the Chief of Police may, in his or her discretion, retain the services of an outside investigator or agency. Any such investigator or agency shall be provided with a copy of this policy.

PERSONNEL COMPLAINTS DEFINED AND CLASSIFIED

Personnel complaints consist of any allegation of misconduct or improper job performance by any department employee that, if true, would constitute a violation of department policy, federal, state or local law, policy or rule. Allegations or complaints may be generated internally or by the public.

Inquiries about employee conduct or performance that, if true, would not violate a department policy, or a federal, state or local law, policy or rule may be handled informally by a department supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the department's response to specific incidents.

It is intended that the provisions of this policy be consistent with any applicable laws, collective bargaining agreements and City of Fennimore procedures. In the event any provision of this policy is not so consistent, the applicable law(s), agreement or City of Fennimore procedures shall govern.

This department will investigate all false claims made against its law enforcement officers. Knowingly making a false complaint against an officer may subject the complainant to a Class A forfeiture (Wis. Stat. § 946.66; Wis. Stat. § 66.0511).

PROCEDURE

Sources of Complaints

Members of the public may make complaints in writing, by e-mail, in person or by telephone. Any employee of this department who becomes aware of alleged misconduct shall immediately notify a supervisor.

Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source of an allegation of misconduct which, if true, could result in disciplinary action. Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.

Acceptance of Complaints

All complaints will be courteously accepted by any employee and promptly given to the appropriate supervisor. Although written complaints are preferred, e-mail and verbal complaints will be accepted by any supervisor. If a supervisor is not immediately available to take a verbal complaint, the receiving employee shall advise the complainant to contact a supervisor. The supervisor, upon contact of the complainant, shall complete and submit the personnel complaint form or other documentation as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

The following should be considered before taking a complaint:

- If the complainant is intoxicated or impaired to the point where his/her credibility appears to be unreliable, identifying information should be obtained and the person should be provided with a personnel complaint form to be completed and submitted later.
- Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint.

Complaint Documentation

When a personnel complaint form is completed in person, the complainant should legibly write a detailed narrative of his/her complaint. If circumstances indicate that this is not feasible, the complaint may be dictated to the receiving supervisor. To ensure accuracy in any complaint, it is recommended that a recorded statement be obtained from the reporting party. If requested, the complainant should be provided with a copy of his/her original personnel complaint.

Formal personnel complaints of alleged misconduct that are not reported in person shall be documented by a supervisor on a citizen complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

If the complaint involves an officer involved death or any incident that has resulted in an injury that could foreseeably become an officer involved death, the administrative investigation will not interfere with the independent criminal investigation conducted consistent with Wis. Stat. § 175.47.

Rights of Employees Under Investigations

When an employee is notified that he/she has become the subject of an internal investigation, the employee shall be informed of the allegations and his/her rights and responsibilities related to the investigation.

The rights of an employee under investigation shall be determined by the nature of the investigation. Rights associated with an administrative investigation shall differ from those associated with a criminal investigation.

In a situation where the investigation may result in criminal charges being preferred against the employee under investigation, the employee shall be afforded rights consistent with a criminal investigation. In some circumstances, a separate investigation may be conducted.

Prior to any investigative interview during an administrative investigation that could lead to disciplinary action; the employee will be advised that he or she has the right to representation at the interview. It is the employee's responsibility to ensure that his or her representative, if representation is desired, is present at that interview.

During an internal investigation for strictly administrative purposes, an employee may be compelled to answer questions directly related to his/her official duties. Answers received in such a manner may not be used in a criminal proceeding involving the employee. Prior to any administrative questioning, the employee shall be read the standardized "Garrity Warning" that appears in Appendix A of this policy.

The following guidelines apply to an interview during an investigation for strictly administrative purposes.

- The purpose of the investigation is to obtain information to determine whether disciplinary action is warranted. The answers obtained may be used in disciplinary proceedings resulting in reprimand, demotion, suspension or dismissal.
- All questions asked of the employee under investigation that are specifically related to employment must be fully and truthfully answered. Refusal to answer may result in disciplinary action, up to and including termination.
- No Miranda Rights are required.

During a criminal investigation involving a department employee, the employee will be allowed the same constitutional protections afforded the general public. No adverse administrative action will be taken based solely on a department employee's invocation of his/her constitutional rights.

Status of Employee Under Investigation

If the condition of an employee is such that a supervisor deems that he/she should not be performing police duties, or if the alleged misconduct is of such a serious nature that the best interest of the department and the community would be served by the employee being relieved from duty, the supervisor shall place the employee on administrative leave with pay and provide the employee with instructions for reporting to the department.

Administrative leave may continue pending the outcome of an investigation if the Chief of Police deems it in the best interest of the department and the community.

Complaint Adjudication

The Chief of Police will classify completed internal investigations using the following guidelines:

- **Substantiated:** The allegations are supported by sufficient evidence to conclude they are true.
- **Not substantiated:** Insufficient evidence to either prove or disprove the allegations.
- **Unfounded:** Investigation indicates that the allegations are false.
- **Exonerated:** Investigation indicates that the incident occurred but was justified, lawful and proper under the circumstances.
- **Policy/Procedure failure:** The investigation reveals that the allegations are true; however, the employee was acting in accordance with established department policy or procedures.

Substantiated complaints will be placed in the employee's personnel file, including all investigatory documents relevant thereto. All unsubstantiated complaints shall be placed in the "general" complaint file. These internal affairs files shall be maintained for a period of seven (7) years.

Complainant Notification of Disposition

The Chief of Police or designee shall inform the complainant named in the personnel complaint in writing of the disposition and the reasons therefore within a reasonable period of time.

Appeal Procedure

Employees wishing to appeal the outcome of any internal investigation shall do so according to the grievance procedure established by the collective bargaining unit and the City of Fennimore and/or all applicable laws.

DISCLAIMER

This policy is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this policy may form the basis for departmental administrative action, but it is not intended for use in courts of civil or criminal jurisdiction.

/s/ Christopher J. French

09/21/2020

Christopher J. French
Chief of Police

Date

APPENDIX B
FENNIMORE POLICE DEPARTMENT
CITIZEN COMPLAINT DISPOSITION FORM

Nature of the Complaint: _____

Officer(s) Involved: _____ Receiving Supervisor: _____

Date/Time of Incident: _____ Date/Time Reported: _____

Location of Incident: _____ Related Incident Numbers: _____

Complainant Name: _____ DOB: _____

Address: _____ Phone: _____

Details of the Complaint:

Supervisor's Assessment of Complaint Validity:

Supervisor's Recommendations:

Chief's Review:

Final Disposition: _____ Date: _____

Citizen Contacted with Disposition:

Date: _____ Time: _____

APPENDIX C

