



New Bedford Police General Order

Subject COMPLAINT REVIEW POLICY	General Order Number 3-03
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C.A.L.E.A.	Cross references

The purpose of this General Order is to provide guidelines for the manner in which internal, as well as external complaints, against members of this department are recorded, registered, and investigated. It is also designed to provide methods for the supervision and control of investigations into alleged or suspected misconduct within this agency.

It is the policy of the New Bedford Police Department to investigate all complaints of alleged personnel misconduct, and to equitably determine whether the allegations are valid or invalid, and to subsequently take appropriate action. Responsibility for this function within the Department rests with the *Division of Professional Standards*, as established in Directive # 93-40. This policy is designed to provide a meaningful and effective complaint procedure directed towards improving the quality of police services. Additionally, this policy is designed to clarify individual rights and ensure due process protections to community members, and personnel alike. The fundamental principle incorporated within this policy is an emphasis upon *prevention* as the primary means of controlling and reducing misconduct.

Misconduct is defined as any act or conduct which is in violation of any provision of the Department Rules and Regulations, or which would constitute *conduct unbecoming an officer*, or *any act or conduct contrary to the good order and discipline of the Department*.

The primary responsibility for maintaining and reinforcing personnel conformance with the standards of conduct of this department shall be with the individual and the first-line supervisors. Supervisors shall familiarize themselves with the personnel assigned to their unit, and closely observe their general conduct and appearance on a daily basis. Supervisors must remain alert for indications of behavioral problems, or changes that may affect an individual's job performance. Such information should be documented by the supervisor. In those instances where a supervisor perceives that personnel may be having, or causing problems, the supervisor should make an assessment of the situation and determine the appropriate action. A supervisor may recommend remedial training in order to refresh or reinforce the job skills required of an individual.

Counseling may also be utilized as a tool by the supervisor to determine the extent of any personal or job problems that may be affecting performance, as well as to offer assistance, and guidance. Counseling may also serve as a means to discuss infrequent, minor rule violations with personnel.

All instances of remedial training and counseling shall be documented by the supervisor. Supervisor initiated counseling of this nature should not be confused with the formal, or behavioral counseling provided by an employee assistance program. Supervisor initiated counseling is designed as a tool by which supervisors engage in a dialogue with subordinates in order to avoid a circumstance that allows a minor problem to escalate into a major concern for both the employee and the department. As with all supervisor initiated actions, counseling such as this should be documented and retained by the supervisor for future reference.

The following procedures shall be utilized whenever a complaint is filed against any member of the department for alleged misconduct.

1./ The Commanding Officer, or any Supervisory Officer on duty on any relief, at any Station, Division, or Unit, shall receive and accept any complaint of alleged misconduct against any member of the Department. Complaints may be received in the form of letters, telephone calls, walk-ins, or those made by anonymous complainants.

A./ *Complaints received through the mail* shall be forwarded to the Office of the Chief of Police. Upon a review of the complaint by the Chief of Police or his designee, the complaint shall be forwarded to the Division of Professional Standards. A determination shall be made as to the appropriate form that the investigation will take, and appropriate steps taken to begin the process.

B./ *Complaints received by telephone call* shall be referred to either the Division Commander, or in his/her absence the Commanding Officer on-duty. The Commanding Officer shall determine whether or not the complainant is able to appear at the police facility in person to reduce their complaint to writing. If this is not possible, then the Commanding Officer is responsible for obtaining the necessary information to complete the ***Complaint Control Form (Appendix A)*** at the time of the telephone call. The Complaint Control Form shall then be routed as described below (see Paragraph 2 §E).

C./ *Anonymous complaints* shall be referred to either the Division Commander, or in his/her absence the Commanding Officer on duty. The Commanding Officer shall be responsible for recording the information available from the complaint on a ***Complaint Control Form***, and forwarding it to the Office of the Chief of Police. The Chief of Police or his designee shall determine whether or not a factual basis for the complaint exists, and will make a determination as to the appropriateness and scope of any required investigation.

D./ *On-Line Complaints* shall be available and printed from the Department's website in English, Spanish and Portuguese. Once completed, the complaint control form is to be delivered in person to any Division. When delivered the procedures outlined in the next section (see Paragraph 2) shall be followed.

2./ In the event that *a walk-in complainant* arrives at any police facility the following procedures shall apply:

A./ The Commanding Officer shall interview the complainant to determine the exact nature of the complaint, and if possible identify the involved personnel. Once the nature of the complaint is known, the Commanding Officer should attempt to resolve the complaint through an explanation of the applicable policies and procedures which governed the actions of the involved personnel. The objective of this explanation is to impart a greater understanding of why personnel behaved in the manner which has generated the complaint. In the event that the complaint is resolved to the satisfaction of the complainant, the Commanding Officer shall document this circumstance by completing the *Complaint Control Form* and having the complainant sign in the appropriate location. A copy of this report may be given to the complainant in the event that he/she requests one. The completed *Form* and all copies shall be forwarded to the Office of the Chief of Police for review.

B./ In the event that the complaint cannot be resolved, the Supervisor receiving the complaint shall require the complainant, or if he/she is incapable, someone acting in his/her behalf, to reduce the complaint to writing, and sign it, utilizing a *Complaint Control Form*. The complainant may keep a copy of his/her written complaint. The preferred method is for the Supervisor to have the complainant complete the *Complaint Control Form* at the police facility, however if the complainant desires, the form may be taken and completed elsewhere. In these circumstances the Supervisor taking the complaint shall instruct the complainant to return the completed *Form* to him/her as soon as possible.

C./ In any case in which the complainant is incapable of reducing the complaint to writing, and does not have anyone available to act in his/her behalf, then the Commanding Officer shall assign a Ranking or Superior Ranking Officer to receive the complaint and reduce it to a *Complaint Control Form*. A copy of this report may be given to the complainant in the event that he/she requests one.

D./ The Commanding Officer shall ensure that the *Complaint Control Form* includes all of the requisite information as well as a concise narrative of the incident. In the event that the narrative requires additional pages to be completed, then Supplementary Report (I&C) pages should be utilized.

E./ Once completed, the *Complaint Control Form*, to include the original and copies, shall be forwarded by the Commanding Officer, to the Office of the Chief of Police or his/her designee.

3./ Upon receipt of the complaint, the Chief of Police or his designee, will take steps to become familiar with the facts and circumstances of the complaint, and cause an investigation to be conducted by forwarding the complaint to either the Division of Professional Standards, or

the appropriate Division Commander. It shall be the responsibility of the Deputy Chief of Police to determine the appropriate venue for the investigation of a particular complaint. The Division of Professional Standards shall have primary supervisory responsibility for the review and investigation of all complaints both internally and externally generated. For the purposes of directing the investigation, regardless of the venue of the investigation, the Division of Professional Standards operates with the authority of the Office of the Chief of Police.

A./ Once it has been determined in which venue responsibility for the investigation resides, the Chief of Police or his designee shall cause a notification to be made in writing to the complainant and the subject personnel detailing the essence of the complaint, the name of the officer assigned responsibility for the investigation, and the information necessary to contact that officer (i.e., hours of work, telephone number).

B./ Responsibility for the investigation of the following complaints/allegations shall reside with the Division of Professional Standards. Examples include, but are not limited to the following:

- 1./ Improper or Illegal Arrest.
- 2./ Improper or Illegal Search of a person, building, or vehicle.
- 3./ Excessive Use of Force.
- 4./ Serious infractions of Department Rules and Regulations, General Orders, Policies and procedures.
- 5./ Administrative Review of Alleged Criminal Acts.
- 6./ Administrative Review of all Suicides/Attempted Suicides while in custody of the NBPD.
- 7./ Administrative Review of all Discharges/Use of Firearms by members of the NBPD.

C./ District and Unit commanders will continue to be responsible for the investigation of complaints against personnel assigned to their Division or Unit which allege minor violations of the Department Rules and Regulations. Examples include, but are not limited to the following:

- 1./ Verbal Abuse.
- 2./ Neglect of Duty.
- 3./ Property Violations.
- 4./ Report Violations.
- 5./ Procedural Violations.

D./ In no instance will an individual holding the rank lower than that of Sergeant be assigned to make such an investigation, nor will any Ranking Officer lower in rank than the subject of the complaint be assigned to conduct the investigation.

E./ The investigation shall be conducted thoroughly, and impartially. All reasonable avenues of the investigation should be pursued, and shall include but not be limited to the following:

1./ Detailed statements beyond the initial *Complaint Control Form* from the complainant through a re-interview, if possible.

2./ Interviews or reports of *all identified witnesses, the subject(s) of the complaint, and any other information* relevant to the substance of the complaint.

3./ A visit to the scene/neighborhood of the incident designed to identify potential objective witnesses residing in the area, or reveal information relevant to the investigation..

4./ Reasonable attempts to arrange interviews with complainants, subjects, and witnesses, shall be made. These attempts should follow the progressive cycle as listed below:

- a./ Telephone contact.
- b./ Investigating officer's visit to an identified address.
- c./ Mailed correspondence by the investigating officer.
- d./ Any correspondence with complainants, witnesses, or their counsel shall be forwarded by use of Certified Mail (return receipt requested).

F./ Investigating Officers shall submit a complete report of their findings, including, but not limited to, all the statements, facts, conditions, circumstances, and evidence acquired during the course of the investigation to the Division/Unit Commander within thirty (30) days. Complaints investigated within the Division of Professional Standards shall be completed within ninety (90) days. In the event that the investigation exceeds the stated time limit, the Division/Unit Commander shall advise, and obtain approval in writing from the Chief of Police or his designee. The investigating officer shall not issue discipline in any form to the officer under investigation.

G./ The Division Commander shall review the findings of the investigation, and forward his/her conclusions regarding the merits of the complaint and a listing of any Rules and Regulations, Policies and Procedures, or General Orders that may apply to the circumstances of the complaint.

H./ The investigation shall be classified into one of the following categories for disposition:

- a./ **Sustained-** Sufficient evidence supports the complainant's allegations.
- b./ **Not Sustained-** Investigation failed to objectively prove or disprove the allegations.
- c./ **Exonerated-** Complained of action did occur, however the action was reasonable, proper, and legal.

- d./ **Unfounded-** Investigation reveals that complained of action did not occur.
- e./ **Filed-** The matter is placed on file without any disposition.

I./ Investigative reports on individual complaints should be based upon facts. There should be no editorialization or personal opinions within the specific case.

J./ A review of the completed cases will be made on a monthly basis in order to determine future policy needs of the department.

K./ Complaints investigated at either the Division/Unit level or within the Division of Professional Standards shall be returned upon completion to the Deputy Chief for review and approval. Once approved, the Deputy Chief shall forward those investigations to the Chief of Police for review and a final signature attached indicating the approval of the conclusions by the Chief of Police.

L./ The Chief of Police shall cause a notification to be made in writing to the complainant and the subject officer(s) detailing the disposition of the investigation.

4./ Whenever an officer is required to submit a report or answer questions in response to a complaint, the following procedures shall be followed.

A./ Prior to being required to prepare a report, or answer questions, the officer shall be provided with a copy of the complaint and be provided with a reasonable amount of time to review the contents of the complaint. During this time, the officer should make any arrangements to attain the level of representation that he/she deems necessary to protect his/her interests.

B./ Prior to being required to prepare a report, or answer questions, the officer shall be provided with a written notice of his/her rights and privileges pursuant to applicable due process guarantees and the nature of the complaint. A copy of this notice, signed by the officer and supervisor shall be included in the completed investigation report.

C./ In the event that the proper forms are not included in the investigative package, the Division/Unit commander should contact the Division of Professional Standards in order to obtain them.

D./ When a member of the Department is ordered to submit a report as part of an investigation into a complaint, that report shall be completed and submitted to the requesting authority within seven (7) days.

E./ Whenever possible, Department members will be interviewed during the course of their normal tour of duty, and with reasonable prior notice of the time of the interview.

F./ Department members under investigation shall not be subjected to offensive language, nor threatened or coerced during an interview.

G./ All interviews conducted by the Division of Professional Standards shall be recorded. Any interruptions will be noted and any relevant discussions transpiring during breaks will be summarized on the recording and verified by the Department member being questioned.

H./ Department members who are the subject of an internal investigation or their Commanding Officer may contact the Division of Professional Standards to determine the status of the investigation into the complaint filed against them.

5./ Upon receipt of all the reports of an investigation into a complaint, the Chief of Police may take any of the following actions:

A./ If the investigation reveals that the complaint is unfounded or the officer(s) are exonerated, then the matter may be closed.

B./ Complaints that are sustained and may be characterized as minor, such as those described in Page 4 section C may be settled by the Chief of Police or his designee.

C./ In the event that the complaint is of a more serious nature, a Board of Review may be created. The Board shall consist of a Deputy Chief of Police and four (4) Ranking and/or Superior Ranking Officers and shall be responsible for reviewing all reports, evidence, and information which may have a bearing on the case.

1./ The Board is not designed to interview any of the involved parties including the subject of the complaint, witnesses, or the complainant. The Board may however, remand the case back to the investigating party to expand on any questions.

2./ The Deputy Chief of Police chairing the Board will submit a report to the Chief of Police within five (5) days, identifying the members of the Board along with their conclusions and recommendations.

3./ Recommendations submitted by the Board of Review are advisory in nature and not binding upon the Chief of Police or the Appointing Authority.

6./ The Chief of Police shall submit a complete report to the Appointing Authority (the Mayor) in all cases when a suspension has been imposed by the Chief under authority of the provisions of MGL Chapter 41 § 43 and 45 when recommendations are made by the Chief of Police to the Appointing Authority for a hearing and in other cases when required.

7./ In computation of any time limit in this General Order, Saturdays, Sundays, and Holidays are excluded. The Chief of Police may waive any time limit except those provided by law in the event of unusual circumstances or conditions.

8./ The Division of Professional Standards shall be responsible for compiling statistical data regarding the receipt and investigation of complaints against Department members.

A./ The Division of Professional Standards shall maintain a Case Management Log detailing the particulars of each complaint assigned for investigation.

B./ The Division of Professional Standards shall compile an annual report of the investigations and complaints received and their final disposition.

9./ Nothing in this General Order is intended to abrogate, any Federal, State, or local law or regulation, governing civil service procedures. Nor shall any provisions of this General Order be construed so as to deny any rights or privileges granted to any member of the Department by Civil Service or applicable law.

10./ Numbered Complaint Control forms are no longer required. The memorandum dated July 4, 1999 and attached to this order requiring the use of numbered complaint forms should be discarded. The attached Complaint Control Tracking List should still be utilized when a complaint is issued. The Complaint Control Tracking List will allow the documentation of the complainant's contact information, date of complaint issue, and date of return for future reference if necessary. When completed, the Complaint Control Tracking List shall be returned to the Division of Professional Standards.



Joseph C. Cordeiro
Chief of Police

cc: All Divisions, Units & Bureaus

Attachments:

Appendix A – Complaint Control Form

Appendix B – Complaint Control Form Tracking List

