

# ANTIGO POLICE DEPARTMENT POLICY



<b>SUBJECT:</b> CITIZEN COMPLAINTS				
<b>DATE ISSUED:</b> 06.04.20	<b>EFFECTIVE</b> 06.04.20	<b>LAST UPDATE</b> 06.21.22	<b>REVIEWED BY</b> CHIEF DULEY	<b>PAGE #</b> 1

This policy is adopted pursuant to and consistent with Wisconsin Statutes 66.312(3).

## I. PURPOSE

The purpose of this policy is to inform all sworn employees of departmental procedures for addressing complaints of misconduct and to provide a specific procedure for processing, and resolving citizen complaints regarding the conduct of the law enforcement or civilian employees of the Antigo Police Department pursuant to WI Statutes 62.13(5) and 66.312(3). This procedure is intended to:

1. Maintain a high quality of police service to the citizens
2. Maintain a good relations with the general public and
3. Provide a fair and impartial vehicle for resolving legitimate grievances against law enforcement officers and
4. Ensure that the rights and integrity of the individual officers and civilian employee's are not compromised throughout the procedure.

## II. Definitions

*Citizen Complaint:* An allegation that a member of the department has misused, and, or failed to use, their authority, to the detriment of a person, group of persons or the people of the community.

*Grounds for Complaint:* These include, but are not limited to misuses of authority such as:

1. False arrest or false imprisonment
2. Unlawful seizure of property
3. Trespass
4. Excessive or unlawful force, including threats.
5. Discrimination on the basis of race, nationality, creed, sex, age or status.
6. Use of peacekeeping authority for private ends.
7. Harassment
8. Failure to perform the duties of an officer
9. Failure to identify one's self as an officer or failure to give a badge number or official identification when requested, unless doing so would jeopardize an investigation.
10. Commission of a crime
11. Violation of any person's rights under the Constitution.
12. Violations of law or department policy.

# ANTIGO POLICE DEPARTMENT POLICY



<b>SUBJECT:</b> CITIZEN COMPLAINTS				
<b>DATE ISSUED:</b> 06.04.20	<b>EFFECTIVE</b> 06.04.20	<b>LAST UPDATE</b> 06.21.22	<b>REVIEWED BY</b> CHIEF DULEY	<b>PAGE #</b> 2

### III. POLICY

- A. To maintain the confidence of the community in its police department, the department must have the ability to fairly and impartially investigate and dispose of complaints against its personnel. All citizen complaints against members of the department will be courteously accepted and fully investigated.
- B. All investigations arising from citizen complaints will be conducted in a fair and open manner consistent with the rights of all concerned and aimed at determining the truth.
- C. Members accused in citizen complaints shall be presumed innocent unless the charges are substantiated in the complaint process; the mere filing of a complaint does not substantiate its allegations.
- D. No disciplinary, personnel or discriminatory action adverse to a member may be taken when there is a finding at the final stage of the complaint process that the allegations were not substantiated or that the conduct complained of was justified.

### IV. PROCEDURES

#### A. Protection

1. Any person, including a member of the department, shall have the right to file a citizen complaint with any member of the department, who is on duty.
2. Complaints shall be in writing using APD Form 89 and must be personally delivered to the Chief of Police, as soon as possible.
3. Complaints from anonymous sources will be accepted only if the complaint contains sufficient factual information to warrant an investigation. Anonymous complaints will be referred to the Chief of Police and if the allegation appears to have sufficient factual information it will be investigated and referred to the District Attorney's Office for further review.
4. Oral complaints will not initiate the complaint process and the complainant shall be so advised. However, officers receiving an oral complaint may use that information to request the department initiate the process if there appears to be factual merit to the complaint.
5. A written complaint must specifically state the nature of misuse of authority and give facts in support of the allegation. A mere accusation without corroborative or supportive factual information will not form the basis for an investigation. The complainant or their attorney shall sign the complaint.
6. Any person accused in a complaint shall have the right to respond to the allegations to the Chief of Police.

# ANTIGO POLICE DEPARTMENT POLICY



<b>SUBJECT:</b> CITIZEN COMPLAINTS				
<b>DATE ISSUED:</b> 06.04.20	<b>EFFECTIVE</b> 06.04.20	<b>LAST UPDATE</b> 06.21.22	<b>REVIEWED BY</b> CHIEF DULEY	<b>PAGE #</b> 3

7. If a complaint does not contain a sufficient allegation of misuse of authority and facts to support it and the complainant cannot correct the defect, the complaint shall be dismissed by the Chief of Police as unfounded and that action reported to the complainant and the member complained against.
8. Both the complainant and the member complained of have the right to appeal the Chief's decision to a court of law or the Police and Fire Commission, otherwise the decision of the Chief of Police will be final.
9. Any discipline order against a member of the department as a result of the citizen complaint process shall conform to state law and any applicable provisions contained in the labor agreement then in force.
10. All persons who file complaints shall be informed of the final disposition of their complaints by the Chief of Police, or designee.

## B. Written Complaint Process

1. The written complaint process must be used whenever a complaint alleges criminal activity, excess force, or violation of a constitutional right. It may be used in any other case. These rules shall be available to all persons concerned. If at any time in the process it becomes apparent to the Chief of Police that the complaint is in fact a complaint between employer and employee, than the procedures in the labor agreement shall be followed.
2. The Chief of Police may appoint an investigating officer who is senior to, and from another work detail than the officer complained against, and who shall:
  - a. Obtain statements from complainants and any witnesses.
  - b. Advise complainants and witnesses that they may have to give testimony at a later date.
  - c. Give the officer complained against written notice of the facts of the complaint.
  - d. Request a written report of the facts from the officer complained against.
  - e. Conclude the investigation as rapidly as possible and within 10 day of appointment as investigating officer, unless an extension is granted by the Chief of Police with notice to the officer complained against and to the complainant.
  - f. Make a written finding of facts and a recommendation to the Chief of Police on what action, if any, should be taken.
  - g. Both parties shall have access to statements or other evidence collected in the course of the investigation. When disclosure of

# ANTIGO POLICE DEPARTMENT POLICY



<b>SUBJECT:</b> CITIZEN COMPLAINTS				
<b>DATE ISSUED:</b> 06.04.20	<b>EFFECTIVE</b> 06.04.20	<b>LAST UPDATE</b> 06.21.22	<b>REVIEWED BY</b> CHIEF DULEY	<b>PAGE #</b> 4

the evidence would prejudice other investigations or create a reasonable fear of reprisal, the Chief of Police may withhold access until the danger of prejudice or reprisal passes.

- h. The decision of the Chief of Police shall be final, unless appealed. The disposition of the case will be reported fully to the complainant.

## C. Guidelines to the officer being investigated

1. Section 164.02 of the Wisconsin Statutes provides:  
164.02 Interrogation. (1) If a law enforcement officer is under investigation and is subjected to interrogation for any reason which could lead to disciplinary action, demotion, dismissal or criminal charges, the interrogation shall comply with the following requirements:
  - a. The law enforcement officer under investigation shall be informed of the nature of the investigation prior to any interrogation.
  - b. At the request of any law enforcement officer under interrogation, he or she may be represented by a representative of his or her choice who, at the discretion of the officer, may be present at all times during the interrogation.
2. Evidence obtained during the course of an interrogation not conducted in accordance with sub. (1) may not be utilized in any subsequent disciplinary proceeding against the law enforcement officer.
3. 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 purposes only.
4. No Miranda warnings are required if the investigation is for internal disciplinary purposes only.

## D. Complaints against the Chief of Police

Shift commanders/supervisors who received complaints directed against the Chief of Police and arising out of specified conduct on the part of the Chief of Police, shall file the complaint with the President of the Board of the Police and Fire Commissioners for investigation in accordance with WI Statute 62.13(5).

## E. Immediate Temporary Suspension or Change of Duties

1. An officer complained against may be immediately suspended from duty with pay.

# ANTIGO POLICE DEPARTMENT POLICY



<b>SUBJECT:</b> CITIZEN COMPLAINTS				
<b>DATE ISSUED:</b> 06.04.20	<b>EFFECTIVE</b> 06.04.20	<b>LAST UPDATE</b> 06.21.22	<b>REVIEWED BY</b> CHIEF DULEY	<b>PAGE #</b> 5

2. A temporary suspension may be imposed by the Chief or ranking officer:
  - a. When a member is found by a superior to be under the influence of alcohol while on duty, or in a mental or physical state which presents a danger to himself or others.
  - b. When it is alleged that the officer engaged in illegal activity.
  - c. When their presence on duty could jeopardize the impartiality of an investigation.
3. A temporary suspension under this section may not be considered in any disciplinary, personnel, or discriminatory action as being adverse to a member regardless of the outcome of the complaint process.
4. The Chief may assign a temporary change of duties to an officer complained against when there exists an assignment which they are capable of fulfilling and which is not closely related to the assignment from which the complaint originated. A temporary change of duties should be made when the officer's presence in their original assignment may jeopardize or appear to jeopardize the impartiality of an investigation.
5. An immediate temporary suspension or change of duties is neither deemed nor intended as an act of discipline, but is an attempt to preserve the fairness of the complaint process.

## F. Appeal of Decision

1. Complainants right to commission hearing.  
The complainant may, if dissatisfied with the decision of the Chief of Police appeal the decision to the President of the Board of the Police and Fire Commissioners for a formal hearing. The request for a formal hearing must be received by the President within 30 days of the written disposition.
2. Employee's right to a commission hearing.  
If the employee is a sworn law enforcement officer, he/she has a right to request a hearing on the disciplinary action imposed by the Chief of Police pursuant to WI Statute 62.13(5)(c).

## G. Disposition of Complaints

The Chief of Police shall in an appropriate manner make the final decision and disposition of the citizen complaint. Disposition of a complaint involving disciplinary action will not be made without first confronting the employee involved, relating the results of the investigation and enabling the employee a legitimate opportunity to respond to the information which was gathered. The

# ANTIGO POLICE DEPARTMENT POLICY



<b>SUBJECT:</b> CITIZEN COMPLAINTS				
<b>DATE ISSUED:</b> 06.04.20	<b>EFFECTIVE</b> 06.04.20	<b>LAST UPDATE</b> 06.21.22	<b>REVIEWED BY</b> CHIEF DULEY	<b>PAGE #</b> 6

Chief of Police will inform the employee of the results of the investigation and the disposition of the complaint in writing.

The case dispositions shall be classified in the following manner.

1. Unfounded. The investigation indicates that the allegations made are false.
2. Not Sustained. There is insufficient evidence or information to either prove or disprove the allegation.
3. Sustained. The evidence supports and indicates that the allegations are true and appropriate action was taken by the Chief of Police.

**NOTE: IF ALLEGATIONS ARE SUSTAINED, THE CHIEF OF POLICE SHALL TAKE SUCH ACTION AGAINST THE EMPLOYEE AS IS APPROPRIATE.** This may include disciplinary action pursuant to State Statute 62.13(5).

**H. Exonerated.**

At the conclusion of the investigation the information indicates that the incident or complaint did in fact occur however it was justified, lawful and proper under the existing circumstances.

**I. Policy Failure**

The investigation indicates that the allegations are in fact accurate however the employee was acting in accordance with the established department policy. In these types of cases the actual case record for the investigation will be maintained in an internal affairs file for a minimum of five years.

**J. Notification to Complainant of Disposition**

The Chief of Police or his designee will provide written notification to the complainant relative to the disposition and the reasons therefore within a reasonable and timely period.

**K. Complaint Directly to the Police and Fire Commission**

In lieu of a complaint directly to the Chief of Police citizens may file a complaint with the Police and Fire Commission. All officers of the police department should be able to explain this process to citizens.

# ANTIGO POLICE DEPARTMENT POLICY



<b>SUBJECT:</b> CITIZEN COMPLAINTS				
<b>DATE ISSUED:</b> 06.04.20	<b>EFFECTIVE</b> 06.04.20	<b>LAST UPDATE</b> 06.21.22	<b>REVIEWED BY</b> CHIEF DULEY	<b>PAGE #</b> 7

This policy is for departmental use only and does not apply to any criminal or civil proceeding. The department policy shall not be construed as a creation of a higher legal standard of safety or care in any evidentiary sense with respect to third party claims. Violations of this policy will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

This policy is effective commencing on June 21, 2022.

Signed:

A handwritten signature in blue ink that reads "Daniel J. Duley".

Antigo Police Department  
Chief of Police