


HALES CORNERS POLICE DEPARTMENT

	GENERAL ORDER		
	TITLE INTERNAL INVESTIGATIONS		
	NUMBER:	EFFECTIVE 09/10/03	LAST REVISED 04/21/08
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NOTE: This General Order 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 directive, if proven, can only form the basis of a complaint by the department, and then only in a non-judicial administrative setting.

I. PURPOSE

The purpose of this General Order is to ensure the integrity of the Police Department by establishing procedures for handling complaints against members of the Department. These procedures will ensure the prompt and thorough investigation of incidents to clear the innocent, establish guilt, and facilitate suitable disciplinary action.

II. POLICY

The policy of this Department is that discipline is a function of command and a well-disciplined force is a force which voluntarily conforms to all rules and orders. Law enforcement personnel, like all citizens, are protected by the guarantees of the Constitution, but as public employees they are in a position of public trust and responsibility. Adherence to the rules and orders of the Department by its members will ensure their fitness to hold public office. A "Notice to the Public" concerning police complaints shall be posted in a conspicuous place in the public lobby of the Police Department.

III. SCOPE

The incidents or complaints which are to be handled in accordance with the provisions of this General Order are alleged or suspected violations of statutes, ordinances, and departmental rules and regulations by any employee of the Police Department. The incidents include:

A. Complaints from members of the general public.

All allegations of impropriety on the part of any employee shall be initially reviewed by a supervisor. The seriousness of the allegation, not the method by which it is reported, will be the determining factor in deciding whether an internal investigation should be conducted. If the complaint cannot be resolved without an investigation, the supervisor shall:

1. Provide the complainant with a Citizen Complaint Form, and assist, if necessary, the citizen in completing the form.
2. When a Citizen Complaint Form is received from a complainant, the employee who receives it shall sign and date the form signifying receipt and then provide a copy of the completed form to the person submitting the complaint. If the complaint form is mailed to the police department, the citizen will be notified by the Police Chief or his/her designee that the complaint was received.

3. Advise the complainant the Department will investigate the allegation and that the investigating official will notify the complainant of the findings and conclusion of the investigation.
 4. In the case of a complaint against the Chief of Police, advise the complainant of the right to file a complaint directly with the Fire and Police Commission President.
- B. Alleged violations reported to supervisory or command personnel by members of the Department.
- C. Those actions observed by supervisory or command officers which appear to be in violation of law or department regulation.

IV. RESPONSIBILITY OF INVESTIGATIONS

- A. The designated Lieutenant of Police shall be responsible for all investigations regarding allegations of serious misconduct by department employees, monitoring the investigation of procedural and minor misconduct complaints, and maintaining records of all complaints against the agency and its employees. The Lieutenant may designate other individuals to conduct internal investigations. In such instances, the investigating officer(s) shall have the authority to report directly to the Chief of Police.
- B. A Sergeant may investigate the following types of complaints:
1. General complaints concerning minor infractions of regulations and/or the manner in which employee duties are performed.
 2. Complaints relative to differences of opinion between an employee and a citizen arising from the performance of duty.
 3. Complaints concerning the manner in which an employee investigated a crime, traffic accident or call for police service.
 4. Complaints concerning an officer's authority to arrest or propriety of a particular charge.
- C. Individual Responsibility
1. Each employee of the Department shall cooperate fully with personnel conducting internal investigations. Supervisory or command personnel will initiate investigations into observed infractions or complaints received which fall into the scope of their authority. If the investigation of the complaint requires an extended period of time, the investigating supervisor or commander shall give periodic status reports to the complainant if doing so does not compromise the investigation.
 2. Prior to questioning an employee who is the subject of an internal administrative investigation, the investigating officer shall read Form *Informing the Member*. The investigating officer and the employee shall then sign and complete the form.
 3. It shall be the responsibility of any employee to answer fully and truthfully any question pertaining to the investigation of an infraction of law or regulation which might be asked.

4. During the course of an internal investigation, an employee does not have the right to refuse to answer any question concerning his performance of duty or his adherence to departmental rules and regulations. However, any admissions made during the course of an administrative investigation interview cannot be used against the employee in subsequent criminal prosecution. An employee must be advised of Miranda rights as soon as it appears the investigation has reached an accusatory stage and may result in a criminal prosecution.
5. If, during the course of an administrative investigation, the investigating officer determines probable cause exists to justify an employee's submission to a medical, physical, psychiatric, or laboratory examination, the investigating officer shall consult with the Chief of Police, who may then order the employee to submit to such tests. The exams may include, but are not limited to, intoximeter, blood and urine tests, photograph and physical line-ups, and voice and handwriting exemplars. Tests and exams will be performed in a reasonable manner. If the Chief of Police is unavailable to authorize such exams, his/her designee may do so.

V. PROCEDURE

- A. The designated Lieutenant of Police shall have the overall responsibility for directing internal investigations concerning any employee, and will be responsible for assuring a complete and expeditious investigation of all cases directed to him/her. In the absence of the Lieutenant, or at the Lieutenant's direction, an employee's Shift Sergeant shall have the primary responsibility for directing the initial investigation.
- B. The designated Lieutenant or designee may request such assistance from other department employees as deemed necessary. Investigations should be completed within 30 days of receipt, unless circumstances develop which necessitate additional time to ensure a thorough investigation. If the investigation cannot be completed within the 30 day limit, the investigating officer shall notify the complainant of the status of the case.
- C. The Chief of Police will be advised by the investigating officer of any information developed during the course of an investigation which may necessitate:
 1. Reassigning the accused employee to other duties for the purpose of closer supervision or separation from the public or other employees.
 2. Relieving the accused from duty and/or placing them on administrative leave.
- D. When there is an indication that an employee has been drinking or is under the influence of a drug, any supervisor may require the employee to submit to a chemical test of breath, blood or urine for the purpose of determining the presence or quantity of alcohol or other drug in the employee's blood. The time lapse between the initial report or observation and the time of the test will be included in the initiating supervisor's report, along with the results of the alcohol test. Additionally, an employee may request an alcohol or drug test to prove he has not been drinking nor under the influence of a drug.
- E. When there is sufficient evidence to indicate that the employee has been drinking or is under the influence of a drug, the employee may be relieved from duty immediately by any supervisory employee of the Police Department. (See Section VI.)

- F. When the act complained of is a crime that might have resulted in arrest if the accused had been a private citizen, the Chief of Police, or in the Chief's absence the next ranking officer, shall be consulted for a decision as to whether:
 - 1. The accused employee should be relieved of duty.
 - 2. The accused employee should be arrested forthwith or whether an arrest warrant should be obtained.
 - 3. Action should be delayed until completion of the investigation.
- G. Written statements may be taken from the accused employee, witnesses, and complainants when they are helpful or desirable in arriving at a sound conclusion.
- H. Should it be determined at any time during the investigation that the complaint is clearly unfounded, the investigation shall be terminated. All relevant information supporting the termination of the investigation and the unfounding of the allegation shall be documented in a report to the Chief of Police.

VI. RELIEF FROM DUTY

- A. Any sworn supervisor shall relieve from duty immediately any employee of subordinate rank, irrespective of organizational assignment of either party, when it appears that such action is essential to protect the interests of the Department. The period of relief from duty shall continue until the Chief of Police orders the employee to return to duty. The relieved employee shall remain available to the Department and its procedures during this period.
- B. The relieving supervisor shall complete a Matter of Report providing full details of the incident including the time of relief and alleged violation(s) which resulted in the relief. The Matter of Report shall be submitted through the chain of command to the Chief of Police promptly.
- C. Procedures pertaining to relief from duty are not to be considered solely of a disciplinary nature. They are also applicable to administrative actions, such as illness or injury which preclude the employee from performing required duties, and investigations into the use of deadly force.

VII. CLASSIFICATION

Upon completion of an internal investigation, it shall be classified as one of the following:

- A. Unfounded - The allegation is false.
- B. Exonerated - The incident complained of occurred, but the action was lawful and proper.
- C. Not sustained - Insufficient evidence exists to either prove or disprove the allegation.
- D. Policy Failure – The allegation is supported by sufficient evidence; however, the employee was acting in accordance with established Department policy.

- E. Sustained - The allegation is supported by sufficient evidence. Only findings in this category will be included in an employee's personnel file.

Upon a finding of a sustained violation, disciplinary action will be commenced in accordance with General Order – *Discipline Procedure*.

VIII. REPORTING AND RECORD KEEPING

- A. Upon completion of the investigation, the final report shall include:


1. Classification of the allegation as described in Section VII.
2. When sustained, a statement of:
 - a. The regulation violated.
 - b. The nature of the violation.
 - c. The disciplinary action recommended or imposed, as provided in General Order – *Rules of Conduct*.

- B. Upon receipt of the final report, the Chief of Police or his designee shall notify the complainant of the classification of the complaint. If the complaint is sustained, the complainant will be advised that corrective action has been taken.

- C. In the event the complaint is found to be other than sustained, the complainant will be notified and provided an explanation for the finding. If such explanation does not satisfy the issue the complainant shall be advised by the Chief or his designee of the right to file a complaint against a sworn Department member with the Fire and Police Commission, pursuant to State Statute 66.13. In the case of a civilian employee, the complainant will be advised a complaint may be filed with the Hales Corners Village Board.

- D. A copy of all complaints and reports of the investigation of those complaints shall be maintained as follows:

1. If the complaint is against a particular employee and the charges are sustained, the records shall be maintained in that individual's personnel file. If the complaint is not sustained, the records shall be maintained in the files of the designated Lieutenant.
2. If the complaint is against the Department and has not been referred to the Hales Corners Fire and Police Commission, the records shall be maintained in the files of the Chief of Police.
3. If the complaint is referred to the Hales Corners Police and Fire Commission, the records shall be maintained by the Police and Fire Commission or their designee.

ISSUED BY:  Eric R. Cera Chief of Police	HISTORY: Effective: 06/01/2003 Reviewed: 07/20/2004 Revised for Lt's 01/19/2005 Revised: ERC 04/21/2008 Reviewed: ERC 05/21/2012 Reviewed: ERC 09/20/2016	Reviewed: ERC 03/20/2020 Reviewed: ERC 06/16/2022
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NOTICE TO THE PUBLIC

THIS NOTICE EXPLAINS HOW TO REGISTER A COMPLAINT AGAINST THE DEPARTMENT OR ANY OF ITS EMPLOYEES:

All complaints made against the Department or its employees shall be investigated, including anonymous complaints. Anonymous complaints will be investigated to the degree possible. If no corroborative information or evidence results from the investigation and the complainant cannot be contacted for an interview, the complaint will be considered invalid.

PROCEDURE:

1. Attempt to see or make arrangements to see the employee's immediate supervisor. If the complaint does not concern any individual employee, but instead addresses a particular departmental policy or procedure, ask to see the Chief of Police.
2. If the complaint cannot be resolved by the employee's immediate supervisor, you will be asked to complete a written notarized report form which identifies the circumstances, nature, and extent of your complaint. The report form requests specific information which the Department needs in order to make a thorough investigation.
3. Persons who initiate written complaints shall receive written acknowledgment from the Chief of Police or the Chief's designee.
4. The status of the investigation shall be communicated to the complainant periodically and at its conclusion.
5. Investigations shall be completed within thirty (30) days from the time the written complaint is registered. Exceptions shall only be granted by the Chief of Police when extenuating circumstances are present.

SECTION 946.66 OF THE WISCONSIN STATE STATUTES PROVIDES THAT:

946.55 False complaints of police misconduct

(1) In this section:

(a) "Complainant" means a complaint that is filed as part of a procedure established under s. 66.0511(3)

(b) "Law Enforcement officer" as the meaning given in s. 165.85(2)(c).

(2) Whoever knowingly makes a false complaint regarding the conduct of a law enforcement officer is subject to a Class A forfeiture.

* A Class A forfeiture is a forfeiture not to exceed \$10,000.00 .

Date:	Day of Week:	Time:	Case Number:
Statement of: (Last Name)	First Name	Middle Initial	DOB:
Address:	City:	State:	Zip:
Home Phone:	Work Phone:	Location of Incident	
Date of Incident	Time of Incident	Name of Officer Involved	

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

SEAL
HERE

COMMISSION EXPIRES (DATE)

* A Class A forfeiture is a forfeiture not to exceed \$10,000.00

HALES CORNERS POLICE DEPARTMENT

INTERNAL INVESTIGATION INFORMING THE MEMBER

1) The Hales Corners Police Department is presently investigating you concerning: _____

2.) Disciplinary action may result.

3) This is an internal investigation, and the answers you give, or the fruits thereof, cannot be used against you in a criminal proceeding.

4) Pursuant to Wisconsin Statute 174.02 and/or 111.70(2), you may be represented by a representative of your choice, who, at your discretion, may be present for consultation at all times during the interrogation.

5) Refusal to respond during the interrogation, or any response which is untruthful, could result in your suspension or termination from the Hales Corners Police Department.

6) You will have to submit an "In the Matter Of" report. You may consult with your representative while writing the report. Your "Matter Of" must be submitted

(immediately or specify date and time)

I hereby acknowledge that this form has been read to me by a supervisory officer and I have received a copy of the same.

Department Member's Signature

Date _____, 20____

Time _____

Supervisor's Signature

Supervisor's Signature

Original: With Investigative Package

Pink Copy: To Employee

HCP-47