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EMPLOYEE PROTECTIONS
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3. The interview shall be conducted at a reasonable hour, preferably at a time when the employee is on duty, unless the seriousness of the investigation is of such a degree that immediate action is required.
4. The interview shall take place at the Police Headquarters or another location as mutually agreed to by both the employee and the investigating officer. No interview shall take place at the employee's residence without the employee's consent. Failure to consent to an in-home interrogation will not subject the employee to further charges.
5. No employee under interrogation shall be subject to offensive language. No promise of reward shall be made as an inducement for the employee to answer questions.
6. The complete interview of the employee shall be recorded, written, taped or transcribed. Upon request of the employee under investigation, a copy of the record shall be made available to him or his attorney. There shall be no unrecorded questions or statements.
7. The employee under investigation shall be allowed (at his/her own expense) to have an attorney or representative of their choice present during all interrogations and shall have the right to legal representation throughout the entire disciplinary process.
8. Interview sessions shall be for reasonable periods of time and shall be timed to allow for such personal necessity and rest periods as are reasonably necessary.

B. Duration of Investigations

The investigation shall be completed, and final Department action taken within ninety (90) days of the filing of such complaint or of the date the Department became aware of the potential misconduct. The Chief of Police may, in his sole discretion, make an exception to the ninety-day limit but extensions should be granted only in those cases in which extenuating circumstances exist. The employee who is the subject of an investigation shall receive notice of an extension exception unless the Department determines that such notice could jeopardize the investigation.

- C. An employee under investigation shall not be required to disclose information concerning any items of property, income, assets, source of income, debts or personal or domestic expenditure unless such information is reasonably determined as necessary to the investigation or when such disclosure is required by law.

D. Truth Verification Examinations

An employee under investigation may be required by the Chief of Police to submit to a polygraph or other truth verification examination. If the complainant, or individual initiating the investigation, is available to do so and refuses to take a polygraph or other truth verification examination, the accused employee shall not be required to submit to the examination (unless extenuating and articulable circumstances exist). If the complainant or individual initiating the investigation submits to the truth verification exam prior to the employee, and the results indicated untruthful or deceptive answers, the employee will not be required or requested to submit to an examination.

E. Psychiatric or Psychological Evaluations

No employee shall be required to submit to, or be subjected to any psychiatric or psychological evaluation, testing or questioning by a psychologist or psychiatrist retained or employed by the Department except upon an assertion by the Department of disability or unfitness for duty due to psychological reasons. An order to an employee to submit to such examination must be in writing and must set forth specific reasons for which the test is being ordered. The order to submit to such an examination and the results of the exam shall be kept confidential and shall be disclosed only to authorized personnel.

F. Nothing in this section shall prohibit the immediate temporary suspension from duty of an employee pending an investigation or any employee who reports to duty under the influence of controlled substances or alcohol, or under the influence of apparent mental or emotional disorder.

G. No dismissal, demotion, transfer or reassignment, or other personnel action which might result in loss of pay or benefits or which might otherwise be considered a punitive measure shall be taken against the employee unless the employee is notified of the action and the reasons therefore prior to the effective date of such action. (This stipulation does not apply to probationary status employees, during the probationary period.)

H. No employee shall be discharged, demoted, denied promotion, transferred or reassigned, or otherwise disciplined or discriminated against in regard to his/her employment with this Department, or be threatened with any such treatment by reason of his exercise of any of the rights enumerated herein.

I. The provisions of this Order shall not be applicable in the event the employee is under arrest or any criminal charges have been filed against the employee by this Department.

J. Complaints Brought With Malice

If allegations against an employee are determined to be without merit, foundation, made with malice and the intent to defame the employee, the investigating officer shall proceed with criminal charges against the complainant for the appropriate offense. Further, the investigating officer shall avail himself of any and all documents related to the

investigation, to the accused employee if the employee proceeds with any form of civil action or remedy against the complainant.

IV. EMPLOYEE GRIEVANCES

Section 1. General

The principal objective of the following policy and corresponding procedure is to resolve grievances at the lowest level possible. Nothing in this policy is intended to replace the Grievance Procedure provided in the City's Personnel Manual and any conflicts will be superseded by the City's Manual.

Section 2. Definition

- A. Grievance – The claimed unjust treatment, violation, misinterpretation or inequitable application of any of the provisions of the general orders, rules, regulations and other written directives covering working conditions applicable to the employees of this Department.
- B. Grievd Employee – An employee below the rank of Sergeant or Supervisor. This does not preclude personnel above this rank from contacting their supervisors concerning personal grievances.
- C. Immediate Supervisor – The next supervisory person in the chain of command. In the case of the Division of Uniform Patrol and the Criminal Investigation Division, the lieutenant will be considered the immediate supervisor.

Section 3. Appropriateness of Grievances

The following areas are not included within the scope of the grievance review procedure, except as provided in the City of Ballwin Personnel Manual Section XI:

- 1. Disciplinary action, job classification, complaint review procedure, promotional results and other areas as determined by the Chief of Police.
- 2. Department operation, including orders given, response to such orders and the carrying out of required duties.
- 3. Examination marks or points submitted during a promotional process or performance evaluation ratings assigned by a supervisor.
- 4. Individual assignments or transfers (excluding working hours).

A grievd employee may submit individual grievances free from restraint, interference, discrimination or reprisal. The Chief of Police will exercise final authority on the disposition of each grievance.

Section 4. Grievance Procedure

- A. A grievance should, whenever possible be discussed and settled informally between the grieved employee and his immediate supervisor. A grievance should be filed within the specified time in each step, unless extended with mutual written consent.

A grieved employee should first take up the grievance with his immediate supervisor. The parties should discuss the grievance in a professional manner and make every effort to reach a satisfactory settlement at this point. The immediate supervisor shall give his answer orally within three (3) working days. These actions shall be documented by the supervisor.

If the grievance is not satisfactorily settled on an informal basis with the employee's immediate supervisor, the grieved employee may institute a formal grievance by setting forth in writing in an inter-office memorandum containing the following:

1. The complete nature of the grievance and the facts upon which it is based, including an allegation of the specific act and harm done,
2. The specific language, section or phrase of a general order, special order, rule or policy allegedly violated, misinterpreted or misapplied, and
3. The remedy or adjustment sought.

The grievance shall be presented to the employee's Bureau Commander in writing within 7 days of the occurrence of the alleged violation; or if it concerns an alleged continuing violation, then it must be filed within 14 days after the violation first became known to the grieved employee. Receipt of the grievance should be acknowledged via writing to the submitting employee listing time, date and person receiving.

The receiving Bureau Commander shall analyze the facts of each allegation. The grieved employee shall be offered an opportunity to meet with the Bureau Commander in an attempt to settle the grievance. The decision of the Bureau Commander shall be in writing and be transmitted to the grieving employee within 3 working days after receipt to the grievance, unless extended and the employee is so notified. The response shall either grant or deny the grievance and give the reason(s) for such decision, and will identify remedies or adjustments, if any, to be made.

If the matter is not satisfactorily settled at this time the grieved employee may file, within 3 working days after the receipt of the decision by the Bureau Commander, a notice of appeal to the Grievance Review Committee. This notice shall specify the reasons for the appeal and shall be submitted to the Bureau Commander.

A Grievance Review Committee will be established and will be composed of four members as follows:

Lieutenant
Sergeant
Non-Commissioned Supervisor

Elected Member

The first three members listed shall be appointed by the Chief of Police. The elected member shall be chosen by and from the Progress Initiation Team. The Lieutenant will be the Chairman of the Grievance Review Committee, and shall coordinate the hearing process, but shall have no vote except in case of a tie. No committee member shall hear a grievance that has been processed through them in one of the previous review steps.

The committee's authority will be limited to resolving grievances to the mutual satisfaction of both parties, which will include a written recommendation for resolution to the Chief of Police. Command and supervisory personnel are responsible for assisting the Grievance Review Committee, upon request, in developing relevant information in their respective areas of responsibility.

- B. The Committee may resolve grievances only when the action taken is mutually acceptable to both parties to the grievance. If resolved, the written grievance will be retained in the Grievance Review Committee file for a period of three years. If not resolved, the Committee will summarize, in a memorandum, the pertinent details of the Committee's investigation. The Committee's Chairman will forward the memorandum and the employee's written grievance to the Chief of Police for consideration with appropriate suggested recommendations. The decision of the Chief of Police is final, and there is no appeal of this decision to higher authority.
- C. Department employees will be informed in writing of the status of their grievance by their respective Bureau Commander within 30 days from the date it was forwarded by the Grievance Review Committee.
- D. The Grievance Review Committee files will be maintained by the Office of the Chief of Police. Bureau Commanders will annually review grievances filed by their respective personnel and provide the Chief of Police with a report documenting any repetitive grievances and the steps taken to resolve them.

BY ORDER OF: Chief Steven Schicker 3/10/14
Steven Schicker, Chief of Police Date

ATTESTED BY: Robert Kuntz 4/8/14
Robert Kuntz, City Administrator Date

cc: City Attorney

MPCCF REFERENCE

16.4, 16.6, 16.7, 16.9-16.12, 30.1, 30.2, 30.3, 30.4, 30.5

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3. Photographs or line-ups.
4. Submission of financial disclosure statements.
5. Use of instruments for detection of deception.

III. SUPERVISORY RESPONSIBILITY

- A. Supervisors shall interview all citizens, including those who wish to remain anonymous, who contact them regarding allegations of misconduct by Department employees. The supervisor shall determine if misconduct is in fact indicated. If an issue other than officer misconduct is raised the supervisor is encouraged to resolve the citizen's complaint without initiating an internal investigation.
- B. When the complainant insists on remaining anonymous and refuses to reduce the complaint to writing, and the complaint constitutes a minor allegation, the supervisor shall have the authority to evaluate the complaint based on the circumstances described, the credibility of the complainant, and the apparent motivation behind the complaint. If it is the supervisor's opinion that the allegation is without merit, no further action or documentation shall be required.
- C. Complaints made by an individual, or anonymously, which constitute a serious allegation, will be documented on an Allegation of Employee Misconduct form (BPD#7) and referred to the Office of the Chief of Police.
- D. If evidence of misconduct exists, the supervisor shall prepare an Allegation of Employee Misconduct form (BPD#7) on the alleged incident. The citizen should be requested, but not required, to sign the Allegation of Employee Misconduct form and provide a written and signed statement regarding the allegation(s). The citizen's unwillingness to provide a written and signed statement or sign the Allegation of Employee Misconduct form will be documented by the supervisor. The supervisor will also describe the Complaint Review Procedure and/or provide a copy of the "Citizens Guide to Making Inquiries, Commendations, and Complaints" (BPD#4) to the citizen.
- E. Supervisory personnel will initiate and conduct investigations when they personally observe or learn of misconduct falling within the scope of their authority. They will not look to higher authority for the initiation of this action. Supervisors are authorized to conduct complete investigations for matters that are not considered serious in nature such as alleged rudeness on the part of the officer, tardiness or insubordination. A supervisor may conduct an investigation of more serious violations such as misuse of force, breach of civil rights or criminal misconduct, only after having received authorization from the Professional Responsibility Unit.
 1. Supervisors may recommend summary discipline if deemed appropriate by the investigation. Prior approval must be obtained from the Professional Responsibility Unit before discipline is imposed to ensure consistency of discipline.

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2. Supervisors may consider using remedial training as a form of discipline in cases where inexperience and/or lack of skill are found to be key in repetitive minor violations.
 3. Supervisors may also exercise counseling, as a form of discipline toward those officers under their command who the supervisor feels would benefit from such personal interaction. Although counseling may be informal, supervisors will complete an informal counseling form (BPD # 37) and will maintain that form throughout the current annual rating period.
 4. When an employee's repeated violations of certain standards constitute more than a minor allegation, the immediate supervisor will be responsible for filing a complaint with the Professional Responsibility Unit who may recommend punitive action in the interest of discipline.
- F. Any supervisor has the authority to relieve an employee from duty when it appears that such action is in the best interest of the Department.
1. When an employee is relieved from duty, the employee's bureau commander, direct supervisor, and the Commander, Bureau of Administration will be notified immediately.
 2. An employee relieved from duty will report the following day to their Bureau Commander at 9:00 AM, unless otherwise directed by the Professional Responsibility Unit.

IV. PROFESSIONAL RESPONSIBILITY UNIT

- A. The Professional Responsibility Unit is a staff unit which is responsible for the investigation of complaints against the Department or its employees or complaints which are referred to it by employees of the Department, including all serious allegations. The Professional Responsibility Unit through the Bureau of Administration and Operational Support will report directly to the Chief of Police.
- B. The Professional Responsibility Unit will also conduct an investigation at the request of any Department employee who feels threatened by a false accusation or a contrived situation involving false evidence or testimony. An employee may report such concerns directly to the Professional Responsibility Unit.
- C. Anonymous complaints constituting a serious allegation that are referred to the Professional Responsibility Unit shall be reviewed by the Commander to ensure that the appropriate action is taken based upon the seriousness of the allegation, the apparent credibility and motivation of the complainant, and the potential for a complete and equitable investigation.

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Anonymous complaints having sufficient information to support an investigation shall be assigned for investigation based upon the same criteria as attributable complaints.

- D. The Professional Responsibility Unit shall review all complaints to maintain consistency of internal investigation as well as all manner of imposed disciplinary actions.

V. PROCEDURE

- A. Complaints shall be accepted from any source, whether made in person, in writing, or by telephone. Individuals are encouraged to submit their complaints in person in order to obtain as complete a report as soon as possible after the incident. In cases in which the complainant cannot file the report in person, department personnel shall visit the individual at his/her home, place of business or hospital in order to complete the report.
- B. Complaints shall be accepted from anonymous sources and persons under arrest in police custody as long as the complaint contains sufficient factual information to warrant an investigation. Each complaint shall be investigated to its logical conclusion and the investigation results properly placed into the appropriate category of completed cases. All complaints will be investigated to the extent allowed by available information. It is intended that most investigations will be concluded within ninety (90) days. More complex issues may require the lengthening of the time frame, so extensions of authorized investigative time may be granted by the Chief of Police.
- C. Individuals who file written complaints or those made by telephone shall receive a written confirmation of the receipt of their complaint, signed by the Chief of Police or his designee. The complainant will receive periodic status reports and will be notified of the results of the investigation upon conclusion. Persons signing a complaint alleging excessive use of force shall be asked to sign a form authorizing release of their relevant medical records to this department.
- D. While encouraging the filing of legitimate complaints against employees as a means by which they can be held accountable to the public, the department simultaneously seeks to hold members of the public responsible for the filing of false and malicious allegations against employees. In cases of this nature, the complainants will be informed that appropriate legal proceedings will be instituted to remedy such action.
- E. Complaints shall be referred to the Office of the Chief of Police where they will be recorded in a secure central log, assigned a unique case number and assigned to the Professional Responsibility Unit who may investigate the complaint or assign the investigation to the employee's supervisor or commander. When a complaint is received, the accused employee will be notified in a confidential manner of the essential information of the complaint as soon as after the investigation is commenced unless such notification may interfere with the investigation. The accused employee will be encouraged to consult General Orders 16-7 – 16-12 and Employee Protections to assure that he/she is aware of their rights and responsibilities as they relate to internal investigations. The Chief of Police will be immediately notified of all complaints alleging criminal misconduct on the part of an employee or those that, if sustained, may result in dismissal.

VI. INVESTIGATIVE REPORT AND CLASSIFICATION OF INVESTIGATION

- A. The assigned investigator shall interview the complainant, all witnesses and the accused employee, as well as review relevant reports, activity sheets, etc. All questioning sessions may be taped or video recorded. Accused employees may be required by the Chief of Police to submit to a truth verification examination.
- B. The investigator shall consider all relevant documents, testimony and evidence in order to determine what happened. He shall prepare a summary report that provides a complete account of the situation. Gaps or conflicts in evidence and testimony shall be so noted and the investigator shall not draw conclusions of fact from them.
- C. In cases where the internal investigation indicates the possibility of a criminal act on the part of the employee, the matter shall be referred to the Prosecuting Attorney to determine if criminal prosecution would be initiated.

At the conclusion of an investigation, the investigator shall prepare a written report setting forth the complaint and the facts reflected by the investigation. The investigative report will be forwarded to the Professional Responsibility Unit.

- D. The Professional Responsibility Unit will recommend based upon a “conclusion of fact”, that the complaint be classified as:
 - 1. Exonerated: incident occurred, but lawful and proper. Officer’s actions may warrant commendation.
 - 2. Unfounded: allegation is false or incident did not occur.
 - 3. Not Sustained: evidence insufficient to prove or disprove the allegation.
 - 4. Sustained: evidence sufficient to support the allegation. Officer’s actions may warrant discipline.
 - 5. Not Involved: Employee was not present at the time of alleged misconduct / incident.
 - 6. Complaint Withdrawn: Complaint withdrawn by complainant.
- E. An investigation may be terminated when circumstances prevent the investigation from progressing toward a successful conclusion. When such circumstances exist, the investigation shall be considered “Closed” with no action taken.
- F. Internal affairs investigations will be maintained in a secure place and will be the responsibility of the Professional Responsibilities Unit.

VII. IMPOSITION OF A DISCIPLINARY ACTION

- A. Following the determination of a sustained complaint of employee misconduct, the department shall act swiftly and deliberately to impose a proper and just disciplinary action on the employee in accordance with departmental guidelines.
- B. The disciplinary action to be taken shall be determined by the seriousness of the incident. It shall be commensurate with the circumstances surrounding the total incident and with the employee's service record or prior sustained complaints. If the complaints were for similar or identical incidents of misconduct as the current offense, the disciplinary action shall be more severe than for the first offense.

The conclusion of fact and of the imposed penalty shall be noted in the employee's personnel file. An employee may appeal the imposed discipline under the procedures set forth in the City's Personnel Manual

- C. Should the disciplinary action result in dismissal, the employee shall have the following information provided to him by the Chief of Police
 - 1. A written statement advising the employee of his dismissal;
 - 2. A statement as to the content of the officer's employment record relating to the dismissal.
 - 3. The effective date of the dismissal; and
 - a. The Finance Department of the City will issue the dismissed employee a statement of the status of fringe and retirement benefits after dismissal.
- D. A notice of all dismissals and resignations shall be made to the POST commission as required by Missouri statute.

BY ORDER OF: Chief Steven Schicker 1/14/14
Steven Schicker, Chief of Police Date

ATTESTED BY: Robert Kuntz 1/24/14
Robert Kuntz, City Administrator Date

cc: City Attorney

MPCCF REFERENCE

16.4, 16.5, 16.6, 16.7, 16.8, Chapter 30 1-7