

Personnel Complaints

1018.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Waupaca County Sheriff's Office. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1018.2 POLICY

The Waupaca County Sheriff's Office takes seriously all complaints regarding the service provided by the Office and the conduct of its members.

The Office will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining or employment agreements.

It is also the policy of this office to ensure that the community can report misconduct without concern for reprisal or retaliation.

1018.3 PERSONNEL COMPLAINTS

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

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

1018.3.1 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any office member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

1018.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

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1018.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the sheriff's facility and be accessible through the office website. Forms may also be available at other County facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1018.4.2 ACCEPTANCE

All complaints will be courteously accepted by any office member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form 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.

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

1018.5 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint.

1018.5.1 ANNUAL REVIEW

Annually, the Division Captains shall conduct a review of all complaints to determine any patterns or tendencies that may need to be addressed. The results of the annual review shall be documented and forwarded to the Sheriff or the authorized designee.

1018.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1018.6.1 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation.

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1018.6.2 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

1018.7 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Office, the Sheriff or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any office badge, identification, assigned weapons and any other office equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1018.8 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Sheriff shall be notified as soon as practicable when a member is accused of criminal conduct. The Sheriff may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

The Waupaca County Sheriff's Office may release information concerning the arrest or detention of any member, including a deputy, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

1018.9 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Sheriff through the chain of command. Each level of command should review and include their comments in writing before forwarding the report. The Sheriff may accept or modify any classification or recommendation for disciplinary action. Forms of discipline include, but are not limited to, training, counseling and punitive action.

1018.9.1 DIVISION CAPTAIN RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Division Captain of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

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The Division Captain may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Sheriff, the Division Captain may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Sheriff, the Division Captain shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

1018.9.2 SHERIFF RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Sheriff or authorized designee shall review the recommendation and all accompanying materials. The Sheriff may modify any recommendation and/or may return the file to the Division Captain for further investigation or action.

Once the Sheriff or authorized designee is satisfied that no further investigation or action is required by staff, the Sheriff or authorized designee shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Sheriff or authorized designee shall provide the member with a written notice and the following:

- (a) Access to all of the materials considered by the Sheriff or authorized designee in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Sheriff or authorized designee within five days of receiving the notice.
 - (a) Upon a showing of good cause by the member, the Sheriff or authorized designee may grant a reasonable extension of time for the member to respond.
 - (b) If the member elects to respond orally, the presentation may be recorded by the Office. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed a response, or if the member has elected to waive any such response, the Sheriff or authorized designee shall consider all information received in regard to the recommended discipline. The Sheriff or authorized designee shall render a timely written decision to the member and specify the grounds, scope, reasons for discipline, and the effective date of the discipline. Once the Sheriff or authorized designee has issued a written decision, the discipline shall become effective.

1018.9.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Chief Deputy or the authorized designee should ensure that the complainant is notified of the completion (i.e., sustained, not sustained, exonerated, unfounded) of the complaint.

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1018.10 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

1018.11 POST-DISCIPLINE APPEAL RIGHTS

A non-probationary employee may have the right to appeal the imposition of a disciplinary suspension, transfer, demotion or termination as provided in a collective bargaining agreement, local ordinance or police commission rule (Wis. Stat. § 62.13(5)(i); Wis. Stat. § 62.50(13); Wis. Stat. § 59.26(8)(b)(6)).

1018.12 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and members other than non-probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy. However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their names through a liberty interest hearing, which shall be limited to a single appearance before the Sheriff or the authorized designee.

Any probationary period may be extended at the discretion of the Sheriff in cases where the individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate.

1018.13 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Files Policy.