UNIVERSITY OF OREGON - POLICE OVERSIGHT MECHANISM SURVEY

All PAC 10 schools with police departments and selected schools were contacted regarding whether they had the following oversight mechanisms or something similar in place:

1. Police Commission Model - External entity that provides insight to department leadership on emerging campus safety issues and recommends the development of policy.
2. Police Review Board Model - External entity that focuses on and reviews the quality of investigations against police officers.

Summary of Findings

PAC 10 Schools

Seven PAC 10 schools were contacted regarding what oversight mechanisms, if any, they had in place.

One of the schools contacted, UC Berkeley, has a dual-purpose oversight mechanism which combines the Police Commission and the Police Review Board models.

Police Commission Model-

Four out of seven PAC 10 schools have Police Commission groups.

Police Review Board-

One out of seven PAC 10 schools (UC Berkeley) has an external police review mechanism. The remaining six schools use an internal complaint process only.

Three PAC 10 schools do not have either type of oversight mechanism model in place. One school (UC Berkeley) has both in place.

Selected Schools

Five schools were contacted, all responded except for University of Wisconsin-Madison.

Police Commission Model-

Two out of four schools have Police Commission groups.

Police Review Board-

Two out of five schools have an external police review mechanism in place (both schools in Michigan, refer to this mechanism as an Oversight Committee*). UW-Madison did not respond however documents located on their website indicate their complaint process may be internal only.

One selected school, University of Georgia Athens, does not have either type of oversight mechanism in place. One school, University of Michigan Ann Arbor, has both mechanisms in place.

*Michigan universities with police departments are required by state law to have an Oversight Committee in place. Western Michigan University indicated that while they do have this mechanism in place pursuant to enactment of The Public Safety Oversight Committee Public Act 120, the committee has never been activated.
<table>
<thead>
<tr>
<th>MODEL</th>
<th>UA</th>
<th>ASU</th>
<th>UC Berkeley</th>
<th>Stanford</th>
<th>UCLA</th>
<th>UW</th>
<th>WSU</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police Commission*</td>
<td>No</td>
<td>Yes-Separate Entity</td>
<td>Police Review Board</td>
<td>No</td>
<td>No</td>
<td>Yes-Separate Entity</td>
<td>Yes-Separate Entity</td>
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<td>Mission</td>
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<td>Selection Process</td>
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<td>Composition</td>
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<td>Public Meetings</td>
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<td>Documents Available</td>
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<td>Of Interest:</td>
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</tbody>
</table>

*Police Commission Model - External group that provides insight to department leadership on emerging campus safety issues and recommends the development of policy.
**Police Review Board Model - External entity that focuses on and reviews the quality of investigations against police officers.
<table>
<thead>
<tr>
<th>MODEL</th>
<th>UGA</th>
<th>UM-Ann Arbor</th>
<th>UW-Madison</th>
<th>Iowa</th>
<th>Western Mich</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police Commission</td>
<td>No</td>
<td>Yes-Separate Entity</td>
<td>Did Not Respond</td>
<td>Yes-Separate Entity - Appears to be very proactive</td>
<td>No</td>
</tr>
<tr>
<td>Police Review Board</td>
<td>Internal Process Only</td>
<td>Oversight Committee</td>
<td>Internal Only*</td>
<td>Internal Process Only</td>
<td>Oversight Committee</td>
</tr>
<tr>
<td>Mission</td>
<td>Address grievances and complaints by persons against LE or the department</td>
<td>May make recommendations concerning grievances to VP/Chief Financial Officer</td>
<td>Committee meets when grievance is filed, also meets 2x a year to discuss semi-annual reports prepared by DPS re: grievances</td>
<td>Receive/address complaints against LE or the department, implemented by the Board of Trustees.</td>
<td>Strictly advisory, may recommend disciplinary measures, has no power or authority to force someone to testify, and not make decisions regarding outcomes.</td>
</tr>
<tr>
<td>Role</td>
<td></td>
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<td></td>
<td>Meet as needed or as designated by the chair or by VP of Business &amp; Finance</td>
</tr>
<tr>
<td>Responsibilities</td>
<td></td>
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<tr>
<td>Members</td>
<td>Six</td>
<td>Six</td>
<td></td>
<td></td>
<td>No specific training</td>
</tr>
<tr>
<td>Training</td>
<td>?</td>
<td>Nominated/Elected by peers (non members)</td>
<td></td>
<td>Nominated/Elected by peers (non members)</td>
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</tr>
<tr>
<td>Selection Process</td>
<td></td>
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<td>2 students, 2 faculty (1 senate, 1 non-senate) 2 staff (1 union, 1 non-union)</td>
</tr>
<tr>
<td>Composition</td>
<td>Faculty &amp; staff: 2 years, students: 1 year</td>
<td>Faculty &amp; staff: 2 years, students: 1 year</td>
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<td>1 year</td>
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<td>Term</td>
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<tr>
<td>Public Meetings</td>
<td>No</td>
<td>Business may not be conducted w/out quorum (more than 1/2 of current members)</td>
<td></td>
<td></td>
<td>Majority vote</td>
</tr>
<tr>
<td>Quorum</td>
<td>They sent us their 511 page policy manual on disk. Internal process see 5-17 thru 5-33</td>
<td>Email survey response, committee procedures, complaint form, internal complaint policy</td>
<td>Internal complaint process documents from their website</td>
<td>Web printout of Parents Association Advisory Board Policy &amp; grievance form, state statute, 2004 agenda item, 2010 agenda item</td>
<td></td>
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<tr>
<td>Documents Available</td>
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<tr>
<td>Additional Info:</td>
<td>They have a DPS Oversight Committee information posted on their HR website (including the names of current members). Complaints may be submitted to HR or DPS.</td>
<td>They became a sworn department in 1992. They just updated their complaint policy based on Portland, OR PD (their chief knows someone at PPB).</td>
<td></td>
<td>The committee has never been activated. It was formed to be in compliance with state law. Chief Brown advised that UM-Ann Arbor's QC is very proactive and has a different perspective on QC's than Western Mich</td>
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<tr>
<td>Of Interest:</td>
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</table>

*University of Madison did not respond, however their complaint process appears to be internal only based on documents located on their website.*
POLICE OVERSIGHT MECHANISM SURVEY TOOL

Good morning,

The University of Oregon Department of Public Safety (UODPS) is in the process of becoming a sworn university police department and will need to have a police commission/police review board (it will be written into our senate bill). Our goal is to seek out and utilize best practices to proactively develop a model that we can use here.

Chief Tripp has asked me to contact all PAC 10 schools with police departments to ask about what model you use, for example:

1. Police Commission Model - Provide insight to department leadership on emerging campus safety issues and recommend the development of policy.
2. Police Review Board Model - Focuses on and reviews the quality of investigations against police officers.

UODPS would like to combine both models into an oversight committee that will serve both purposes.

I have listed the questions below. Please advise if you would prefer that I call you directly.

1. What model are you using and for what specific purposes (How and why did you choose this particular model?)

2. How was the board constructed?

3. What is its charge/purpose?
   a. What is the role?
   b. What is the mission?
   c. What are the responsibilities?

4. How many members?
   a. Are the members appointed?
   b. What is the selection criteria?
   c. Is there a training that members attend?
   d. Does a member need to be directly involved within a sector of the community to be on the board?

5. Are there public meetings?
   a. Quorums?
   b. How often are the meetings?

6. How do you process complaints?

7. Is your Police Review Board or Police Commission affiliated in any way with the city whose jurisdiction you reside in?
8. Is there a statute or bill that drives the board?

9. Who created the charter and bylaws?
10. May we request from you the following information or can you direct us to an online source?
   a. Copy of the bill or statute (or the statute or bill number)
   b. Copy of the charter and bylaws
   c. Copy of the charge
   d. Copy of the application that prospective members fill out
   e. Department complaint policy (from General Orders)
   f. Copy of complaint process
   g. Any other documentation that might be helpful to us

We are extremely appreciative of any information that you can provide to us regarding your Police Commission/Police Review Board to help us develop ours.

Thank you very much for your time.

Monica Hildebrand  
Criminal Intelligence Analyst and Law Enforcement Planner  
Department of Public Safety  
University of Oregon  
541-346-0670

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University of Arizona

No Police Commission

Internal Police Review Board
Internal Affairs Summary - 2008

The purpose of conducting a thorough investigation of complaints is to improve and maintain both personal and departmental integrity, accountability and quality of service to the University community. Through a formal process of review, citizen confidence and trust is preserved which establishes and maintains open communications in the University community.

All complaints directed against UAPD, its employees or practices shall be promptly investigated. UAPD will accept written, e-mail, FAX and/or verbal complaints. UAPD maintains a brochure available to the public on how to make a complaint. This brochure is available during lobby hours or on the UAPD web site for access by the public. Click here to link to the brochure.

During 2008 there were a total of five (5) Professional Standard Investigations. The types of investigations were as follows:

- Citizen Complaints- 5

Administrative Investigation

An Administrative Investigation is an investigation into certain incidents even when there is no complaint and are assigned or approved by the Chief of Police.

There were no Administrative Investigations conducted in 2008.

Citizen Complaints

A Citizen Complaint is an internal or external complaint that cannot be resolved upon receipt by the supervisor with the complainant or is formally submitted in writing or on a UAPD complaint form. These complaints are forward to the affected employee's Division commander who assigns the complaint for investigation. Any supervisor may be assigned a Citizen Complaint Investigation.

There were five (5) Citizen Complaint Investigations conducted in 2008. Each one of these complaints was assigned to the affected employee's supervisor for investigation.

The closure of the complaints were as follows:

- Sustained 1
- Exonerated 4
- Mix Findings 1 (A finding of not sustained was part of a complaint in which a finding of exoneration was determined)

Supervisory Resolutions

A Supervisory Resolution is an internal or external complaint that when received by the supervisor is resolved with the complainant and requires no further investigation.
There were no Supervisory Resolutions conducted in 2008.

**Board of Inquiry**

A Board of Inquiry is convened to gather and evaluate all pertinent circumstances surrounding an incident or situation for which the Board was convened. The Board reports to the Chief of Police and is advisory in nature. A Board of Inquiry may be convened for vehicular accidents, industrial injuries, any discharge of a weapon, review of meritorious service or valor, damage of department equipment or other situations as deemed necessary by the Chief of Police.

There were no Boards convened in 2008.

**Professional Standard Investigations**

A Professional Standard Investigation is an investigation assigned to the Investigations Section involving serious misconduct or conduct constituting an alleged criminal violation. Professional Standards Investigations are conducted by the supervisor of the Investigations Section or as assigned by the Chief of Police.

There were no Professional Standards Investigations conducted in 2008.

**Disciplinary Action & Policy Changes**

As the result of any sustained complaint or preventable accident, progressive discipline may be instituted towards the employee involved. If findings identify unclear policy, updates or policy changes may take place. If findings involve a mixture, progressive discipline may be instituted in regards to any part of the complaint investigation that is sustained.

There were no UAPD policies revised due to any findings or recommendations of any investigation.
Arizona State University

Police Commission: Yes, Separate Entity

Internal Police Review Board
office of the executive vice president and provost of the university

Public Safety Advisory Committee - Downtown Phoenix campus

Chair(s)

- Rich Wilson, Commander, ASU Police

The Public Safety Advisory Committee (PSAC) serves in an advisory and consultative role and is responsible to the Executive Vice President, Treasurer, and CFO. The mission of the PSAC is to make recommendations to assist the ASU Police Department (ASU PD) to be responsive to the needs of the campuses and local communities and to provide the university administration with a vehicle to receive regular input on issues surrounding crime abatement, law enforcement, public safety, and emergency preparedness. The PSAC receives comments and suggestions from the public at large, facilitates communication, provides advice, reviews complaints against the ASU PD or its staff, and makes recommendations accordingly to the Executive Vice President, Treasurer, and CFO and/or the ASU Chief of Police. Employee and local community representatives are appointed by the Executive Vice President, Treasurer, and CFO and student representatives are appointed by ASASU with the approval of the Executive Vice President, Treasurer, and CFO.

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Dept./Org.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Voting Members:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rich Wilson</td>
<td>Commander</td>
<td>ASU Police</td>
</tr>
<tr>
<td>Sandra Burrus</td>
<td>Assistant Dean</td>
<td>College of Public Programs</td>
</tr>
<tr>
<td>Roshawndra Carnes</td>
<td>Coordinator</td>
<td>Campus Environment Team</td>
</tr>
<tr>
<td>Lynn Gillen</td>
<td></td>
<td>FACMAN</td>
</tr>
<tr>
<td>Joseph Pettinato</td>
<td></td>
<td>Student Government</td>
</tr>
<tr>
<td>Lorrie Miller</td>
<td>Assistant Director</td>
<td>Student Affairs</td>
</tr>
<tr>
<td>Non-Voting Members:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>John Pickens</td>
<td>Chief of Police</td>
<td>ASU Police</td>
</tr>
<tr>
<td>Ronald Briggs</td>
<td>Community Coordinator</td>
<td>Taylor Place</td>
</tr>
<tr>
<td>Deborah Taska</td>
<td>Director</td>
<td>Disability Resources</td>
</tr>
<tr>
<td>Raymon Maderas</td>
<td>Health &amp; Safety Officer</td>
<td>Environmental Health &amp; Safety</td>
</tr>
</tbody>
</table>
Police Department Manual (PDP)

Effective: 5/10/1990
Revised: 10/29/2009

PDP 202-04: Public Safety Advisory Committee

Purpose

To review the functions of the Public Safety Advisory Committees

Source

University president
Charter and Bylaws of the Public Safety Advisory Committee

Background

The Public Safety Advisory Committee (PSAC) exists to assist the ASU Police Department (ASU PD) in remaining responsive to the needs of the campuses and local communities and to provide the university administration with input on issues surrounding crime abatement, public safety, and emergency preparedness. The primary role of PSAC is advisory and consultative. The PSAC is responsible to the executive vice president, treasurer, and CFO. The police department and its policies shall remain the responsibility of the ASU chief of police.

Policy

Practice

Typical functions of the PSAC include but are not limited to:

- receiving comments and suggestions about public safety from the public at large
- facilitating communication among relevant parties, especially the ASU PD, the campuses, and local communities
- offering advice related to crime abatement, public safety, and emergency preparedness
- supporting measures that enhance the foundations of safety and security upon which the university is built

and

- reviewing certain complaints against the police department and/or its members, examining the relevant circumstances, and providing recommendations. Recommendations made by the committee are advisory and the ASU chief of police is responsible for making decisions on those matters.

Matters may be brought to the attention of the PSAC in any of the following ways:

- The university president or executive vice president, treasurer, and CFO may forward topics, questions, concerns, or complaints to the PSAC chair.
- Members of PSAC may introduce topics, questions, concerns, or complaints.
- The ASU chief of police may introduce topics, questions, concerns, or complaints.
- The public may introduce topics, questions, concerns, or complaints.

Composition of the Public Safety Advisory Committee

Each Arizona State University campus shall have a campus local PSAC, which is governed by a PSAC Executive Committee. The executive committee is composed of the chairs of each campus PSAC and the ASU chief of police.

Each campus local PSAC shall have the following structure:

- The chair of the campus local PSAC shall be the ASU PD commander of the respective campus selected by the ASU chief of police.
Each campus local PSAC shall have standing members but may add additional ad hoc members as deemed appropriate for the respective campus. Each campus local PSAC shall have the authority to invite members of the campus community or local communities to any meeting to serve as consultants or to serve on ad hoc committees.

Standing Subcommittees

Each campus local PSAC shall determine appropriate standing subcommittees.

Meetings

The committee will meet on an as-needed basis. A meeting may be called by the campus local PSAC chair, the ASU chief of police, or the executive vice president, treasurer, and CFO.

A voting member of the committee also may request a meeting. Should a voting member request a meeting, that request is directed to the campus local PSAC chair or to the ASU chief of police. The decision to call a meeting requested by a voting member is up to the campus local PSAC chair and/or the ASU chief of police.

Annual Report

The committee shall submit an annual report of the activities to the executive vice president, treasurer, and CFO.

Cross-Reference

For information on complaints against ASU PD, see PDP 203-01, “Complaints against ASU Police Department Personnel.”

skip navigation bar
Police Department Manual (PDP)

PDP 203-01: Complaints against ASU Police Department Personnel

Purpose

To provide guidelines for filing complaints about ASU Police Department personnel

Source

ASU Police Department

Policy

The Police Department at Arizona State University is an Internationally Accredited Law Enforcement Agency and takes great pride in the services we provide to the ASU community, which includes students, faculty, staff, and visitors. As such, the Police Department wishes to hear about allegations of wrongdoing or poor service rendered by any member of the department. All complaints, even though made anonymously, will be investigated, and in cases where a complainant is listed a final resolution will be shared.

http://www.asu.edu/aad/manuals/pdp/pdp203-01.html

10/28/2010
Procedure

Complaints, even those made anonymously, can be made to the Police Department in a variety of ways by either internal or external sources. The department will accept verbal or written complaints, which can be submitted in person, by calling 480/965-3456, by sending a typed or printed letter, or by e-mail.

Anyone wishing to file a complaint regarding the conduct of an ASU Police Department (ASU PD) staff member(s) should first ask to speak directly with the member’s immediate supervisor. Assistance from another supervisor may be given if the member’s immediate supervisor is unavailable. The supervisor will first attempt to resolve the complaint informally. If the complainant is not satisfied with the informal resolution, or wishes to file a formal complaint, he or she may be asked to submit a written account of the events. The supervisor will document all events for the complainant if he or she is unable to submit a written account.

Upon receipt of a complaint, the ASU PD staff member’s supervisor will conduct an investigation and notify the complainant of the outcome.

Note: Complaints against ASU PD employees may also be submitted to the Public Safety Advisory Committee (PSAC) and forwarded to the Police Department.

<table>
<thead>
<tr>
<th>Responsibility</th>
<th>Action</th>
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</thead>
<tbody>
<tr>
<td>Complainant</td>
<td>Speak to the staff member’s immediate supervisor.</td>
</tr>
<tr>
<td>Supervisor</td>
<td>Attempt to resolve the matter informally. Communicate the result to the complainant.</td>
</tr>
<tr>
<td></td>
<td>If the complaint cannot be resolved informally:</td>
</tr>
<tr>
<td>Complainant</td>
<td>Submit a written complaint to the immediate supervisor.</td>
</tr>
<tr>
<td>Department</td>
<td>Conduct an investigation and take appropriate action.</td>
</tr>
<tr>
<td></td>
<td>Notify the complainant of the outcome.</td>
</tr>
</tbody>
</table>

endtable
Cross-References

For information on the Public Safety Advisory Committee, see PDP 202-04, "Public Safety Advisory Committee."

For related information see the Staff Personnel Policies and Procedures Manual:

SPP 801, "Employee Conduct and Work Rules"

and

SPP 809, "Discipline."

skip navigation bar

PDP manual | ASU policies and procedures manuals | Index of Policies by Title | PDP manual contact |
Police Department Web site

Back to Top

University Policy Manuals Group
1130 E. University Center, Suite 110
Mail code 4104 | 480/965-6777
Dorothy Dirlenz, Editor/Publisher

http://www.asu.edu/aad/manuals/pdp/pdp203-01.html

10/28/2010
A message from the
Chief of Police

The mission of the Arizona State University Police Department is to work in partnership with everyone to preserve life, maintain human rights, protect property, and promote individual responsibility and community commitment. Our Officers are sworn to protect the rights of everyone, regardless of race, color, religion, national origin, citizenship, gender, gender orientation, age, disability, or Vietnam-era veteran status. We take this duty to everyone very seriously, and for that reason we have adopted internal safeguards to discourage abuses of authority and to minimize the negative interaction by police employees.

Complaints regarding such abuses are vigorously and thoroughly investigated. If you feel that an employee of this Department has acted unprofessionally or in an inappropriate manner toward you or others, I encourage you to report the incident immediately to a police supervisor on any of the campuses.

The information in this brochure will explain our complaint process to you. Please be assured that our goal is to provide you with quality service in a spirit of community partnership. Please be assured also that it is helpful to all of us when you report incidents that you consider being unprofessional or inappropriate behavior. It is my hope that these efforts will build trust and create open and honest communication.

Professionally Yours,

John L. Pickens
Chief of Police

A Guide To The
Citizen
Complaint or
Commendation
Process

"Join Us In Partnership
For A Safe Community"

Arizona State University
Police Department

PO Box 871812
Tempe, AZ 85287-1812
Our policy...

It is the policy of the ASU Police Department to investigate all complaints against the department or its employees. This ensures the integrity of the Department while protecting the rights and interests of both citizens and department members.

Who may complain?
Any person who witnesses, or has direct knowledge of, police misconduct may file a complaint with the ASU Police Department.

When should you complain?
You should contact the Department whenever you witness behavior by any Department member which is a violation of city, state, or federal law, involves excessive use of force, or involves discourteous or abusive treatment.

How do you file a complaint?
Generally, complaints are filed through a department supervisor. If the immediate supervisor is unavailable, another supervisor may take the complaint. Complaints may be filed by mail in the form of a letter.

Who investigates the complaint?
Department supervisors are charged with maintaining discipline and with overseeing the conduct of members assigned to them. In most cases, the supervisor of the member conducts an investigation and reports the incident through the chain of command for disposition. Serious administrative investigations may be conducted by another member of the Department designated by the Chief of Police. Allegations of alleged criminal activity are handled by the Investigations Unit.

What is the complaint procedure?
After the supervisor has interviewed all parties involved, the disposition will fall into one of the following categories:
- Sustained — there is substantial evidence to prove the allegation.
- Not Sustained — there is insufficient proof to prove or disprove the allegation.
- Unfounded — the allegation is false.
- Exonerated — the incident occurred but was lawful and proper.

What is the disciplinary process?
If a complaint is sustained, disciplinary action may be taken which consists of one of the following measures:
- Oral Reprimand
- Written Reprimand
- Disciplinary Probation
- Suspension
- Demotion
- Termination

In addition to any disciplinary action, the employee may receive counseling and, where appropriate, training to correct deficiencies. An employee facing suspension without pay, demotion, or termination is entitled to a review by the University Grievance Committee. The President of ASU or designee makes the final administrative decision in these matters.

What will you be told?
After the thorough investigation of the complaint, the employee's supervisor, or another supervisor, will promptly contact you. You will be advised of the supervisor's findings and whether action will be taken. You will not be told specific information that would violate the employee's right to privacy.

Responsibility — ours and yours...

The ASU Police Department views all citizen complaints against its employees very seriously and actively pursues investigations into misconduct. For this reason, you must ensure that your complaint is based on fact and you have provided us with all of the facts to the best of your ability.

If you intentionally make a false report to this Department you should know that making the false report could result in criminal and civil legal proceedings being filed against you.

[ARS 13-2907.01]

Commendations:
If one of our employees has provided you with a positive experience, we would appreciate hearing from you. You can call, email or write the Chief of Police at the address listed on this brochure.

Our commitment to you...

Members of the ASU Police Department will at all times strive to be courteous and professional in all dealings with the citizens it serves. It is our hope that all of your contacts with our Officers are positive. If not, we will endeavor to resolve your complaint to your satisfaction in a prompt and objective way.
University of CA Berkeley

Police Review Board
**Police Review Board**  
**University of California Berkeley**

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<tr>
<th>How was the board constructed?</th>
<th>The Chancellor of the University of California, Berkeley established the Police Review Board in June 1990. The function of the Board is to administer citizen complaints against the sworn members of the University of California Police Department and to monitor and review departmental policies and procedures.</th>
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<tr>
<td>What is its charge/purpose?</td>
<td>The Berkeley Campus Police Review Board exists to review appeals taken from civilian complaint investigations undertaken by the University of California Police Department. In appropriate cases, it has the power to order the department to reopen its investigation or to conduct its own independent investigation and hearings in the matter. The Board also performs an audit role, examining the overall performance of the department's complaint process and the quality of police-community interactions and making policy recommendations concerning those issues as appropriate. In both its review and audit capacities, the Board reports to the Vice Chancellor-Administration.</td>
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<td>How many members?</td>
<td>The Board will be composed of eight members appointed by the Vice Chancellor-Administration, as follows.</td>
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<td>a. Appointed members?</td>
<td>(1) Two students, one an undergraduate selected by the ASUC officers and confirmed by 2/3 of the members of the Senate and the other a graduate student</td>
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<td>b. Selection Criteria</td>
<td>(2) Two faculty members recommended by the Academic Senate (such faculty members need not be Academic Senate members).</td>
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<td>c. Training for members?</td>
<td>(3) One member of the campus staff recommended by the Ombudsperson for Staff.</td>
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<td>Are there public meetings, and if so how often?</td>
<td>(4) One sworn police officer who has retired or resigned in good standing from active service as a police officer. Former UCPD police officers may serve on the Board, but shall not be eligible for service until at least five years after finishing their UCPD service.</td>
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<td>a. The Board shall prepare an annual report, reporting on the cases decided on appeal and on the information forwarded by the Department outside the appeal process. Such report shall focus on the Department's complaint procedures, tracking trends over time and making policy recommendations as appropriate based upon the information supplied to the Board. Such report shall also reflect community input on the activities of the Department and the Board, as solicited through an open public hearing. The annual report will not disclose information concerning individual cases or officers that is confidential under California law.</td>
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<td>b. The Board shall hold duly noticed public meetings at least once each academic year to receive community input concerning the Department and its activities and to disseminate the record of its own activities. The notice of such hearing should be accompanied by a draft of the Board's annual report, inviting the response of the community, the Department, and other interested parties, either orally or in writing. Following the hearing the Board shall prepare a revised version of its annual report, reflecting input from concerned communities.</td>
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<td>c. Copies of the Board's annual report shall be submitted to the Vice Chancellor-Administration, shall be distributed to interested community members and organizations, shall be published in appropriate public records (The Daily Californian), and shall be freely available to the public.</td>
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<td>How do you process complaints?</td>
<td>A complaint may be made at any time of the day or night to any police department employee. Complaints received will normally be referred to the Duty Supervisor. Depending on the circumstances, they will either investigate immediately or forward a report to the Complaint Investigation Unit in the Office of the Chief.</td>
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<td>The time limit for filing a complaint is 30 calendar days from the date of the alleged incident. Sexual harassment allegations will be accepted up to 90 calendar days after the alleged incident.</td>
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<td>All citizen complaints against the sworn members of the UCPD, except the Chief or Assistant Chiefs or Captains, shall be processed under this procedure in accordance with the definitions and provisions thereof; no other campus review mechanisms or grievance procedures shall be applicable.</td>
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Police Review Board Procedures for Handling Citizen Complaints Against Sworn Members of the Police Department

The Chancellor of the University of California, Berkeley, having previously established a University of California, Berkeley, Police Review Board to administer citizen complaints against the sworn members of the University of California, Berkeley, Police Department and to monitor and review departmental policies and procedures, hereby promulgates the following revised procedures to govern the operation of the Board, effective as of August 1, 2001.

I. GENERAL

1. Application of Procedures:

The following procedures shall be employed by the University of California, Berkeley, Police Review Board (the Board) to govern the receipt and processing of citizen complaints against sworn members of the University of California, Berkeley, Police Department (UCPD) in the performance of their duties. Complaints against the Chief of Police (Chief), Assistant Chiefs of Police (Assistant Chiefs), or Captains are excepted from the Board's jurisdiction, except in such particular cases and in such limited manner as are provided for in Section VI.3, and shall be reviewed as set forth in Section VI, below. The Board shall receive and process complaints in accordance with these procedures and shall advise and make recommendations concerning its findings, through the Vice Chancellor-Administration to the Chief. These procedures shall also govern the Board in its audit and public reporting roles, as more fully spelled out in Section VIII hereto.

2. Definitions:

The following definitions shall apply in these procedures:

a. Complaint: An allegation of improper conduct against a sworn officer of the UCPD (other than the Chief or Assistant Chief or Captain) while engaged in assigned police functions.

b. Improper Conduct: Conduct that violates established practice, standards of professional behavior, departmental rules, guidelines or directives.
c. Aggrieved Person: Any person, other than a member of the UCPD, directly affected by the alleged improper police conduct.

d. Complainant: The Aggrieved Person filing the Complaint.

e. UCPD Member: A sworn officer of the UCPD. (Other UCPD employees' alleged improper conduct shall be investigated separately under UCPD's internal procedures.)

IX. Subject Officer: A sworn officer of the UCPD (Berkeley Campus) against whom a complaint is filed.

X. Board: The University of California, Berkeley, Police Review Board or, when specifically authorized under these procedures, a three-member panel of the Board.

XI. Departmental Representative: That UCPD Member designated by the Chief to appear at a Board hearing to speak on behalf of the UCPD.

XII. Investigator: An investigator hired by the Vice Chancellor Administration on a case by case basis and assigned to the Board.

XIII. Mediation: One or more informal sessions before one Board member, attended by the Complainant and the Subject Officer, to discuss the Complaint and to attempt to reach a mutually amicable resolution.

3. Composition and Training of the Board:

a. The Board will be composed of eight members appointed by the Vice Chancellor-Administration, as follows.

(1) Two students, one an undergraduate selected by the ASUC officers and confirmed by 2/3 of the members of the Senate and the other a graduate student selected by the Graduate Assembly officers and confirmed by 2/3 of the members of the Assembly.

(2) Two faculty members recommended by the Academic Senate (such faculty members need not be Academic Senate members).

(3) One member of the campus staff recommended by the Ombudsperson for Staff.

(4) One sworn police officer who has retired or resigned in good standing from active service as a police officer. Former UCPD police
officers may serve on the Board, but shall not be eligible for service until at least five years after finishing their UCPD service.

(5) One member of the community bordering the Berkeley campus. Such member shall be selected by the Vice Chancellor-Administration from candidates nominated by relevant community organizations. In selecting a community member of the Board, the Vice Chancellor-Administration should ordinarily give preference to community members who have demonstrated connection to, and respect for, the values of the University community.

(6) A Chair, who shall be an individual of judicial temperament and background. The Vice Chancellor-Administration shall consult with the members of the Board before making a final selection.

b. All members will initially be appointed by the Vice Chancellor-Administration for one-year terms but will serve until their successors accept appointment. The Vice Chancellor-Administration may reappoint members for one or two year terms at his/her discretion. In making appointments, the Vice Chancellor-Administration shall aim to ensure that there will be significant year-to-year continuity in the Board's membership.

c. All members of the Board shall receive regular exposure to Departmental policies and practices, which may include briefings on complaint procedures, briefings on policies governing police civilian contacts, the use of force, and crowd control, and observation of UCPD officers at work.

d. All information provided to or generated by the Board relative to individual officers is considered strictly confidential under University policies and state law. No member of the Board shall make public comment on pending complaints or disclose any confidential matters pertaining to a complaint or performance issues at any time.

Back to Table of Contents

II. FILING COMPLAINTS, MEDIATION AND UCPD INVESTIGATION

I. Initiation of Complaints:

a. Complaints may be made by an Aggrieved Person. No Complaint will be deemed filed until it has been reduced to writing and signed by the Complainant. Complaint
forms will conclude with the following words: "I hereby certify that, to the best of my knowledge, the statements herein are true." Should a Complainant not wish to file a formal written complaint, he or she shall be advised of informal departmental review procedures.

b. All citizen complaints against the sworn members of the UCPD, except the Chief or Assistant Chiefs or Captains (see Section VI below), shall be processed under this procedure in accordance with the definitions and provisions thereof: no other campus review mechanisms or grievance procedures shall be applicable. Complaint forms may be obtained, and complaints filed, at any of the following offices:

- The Police Review Board in care of Rita Gardner, Office of the Vice Chancellor-Administration, 200 California Hall, 642-3100
- UCPD, #1 Sproul Hall, 642-6760 or police.berkeley.edu
- ASUC Student Advocate, 204 Eshleman Hall, 642-6912
- Campus Life and Leadership, 102 Sproul Hall, 642-5171
- Campus Climate and Compliance, 200 California Hall, 643-7985
- Office of Community Relations, 2130 Center Street, 643-5299

All complaints shall be forwarded immediately to the Chief of Police.

The campus ombuds offices are also available to assist with informal resolution of complaints. Assistance provided by the ombuds offices is separate from the formal process.

Ombuds offices:

- Faculty, 642-4226
- Staff and non-Senate Academics, 642-7823
- Students, including Postdocs, 642-5754

c. All Complaints shall be filed within thirty (30) calendar days of the alleged improper conduct, and any complaint not filed within thirty (30) calendar days shall be dismissed; provided, however, that a Complaint may be filed within an additional thirty (30) calendar days if the Complainant demonstrates to the Chair that failure to file the Complaint within the initial thirty (30) calendar day statutory period was the result of incapacity or excusable neglect. In the case of physical incapacity, and at the discretion of the Chair, a Complaint may be filed within one year. Lack of knowledge of the existence of the Board or its Complaint Procedures shall not constitute incapacity or excusable neglect in any case.

d. Complaints must allege facts establishing a prima facie showing of improper conduct. Complaints which do not establish a prima facie case of improper
conduct shall be referred by the Chief to the Board for summary dismissal. If the Board disagrees, the Board may remand it to the department for further review or conduct an external investigation.

e. If no Aggrieved Person is able to initiate a Complaint alleging excessive force, or in any case involving the death of a person, the Board may, with four affirmative votes, authorize an investigation or such other action as it deems appropriate. If such an investigation results in a hearing, the Board may designate any person not a member of the Board to act in the role of Complainant.

2. Recording of Complaints and Informing Interested Parties:

a. Within two (2) working days after receiving a Complaint, the Chief shall forward a copy of the Complaint to the Complainant, the Chair of the Police Review Board, each identified Subject Officer, and the Vice Chancellor-Administration, along with written notice of the filing of the complaint, the allegations of the Complaint, and that an investigation will commence by the UCPD Complaint Investigation Unit.

b. This investigation is to be completed within forty-five (45) calendar days from the filing of the complaint. At the request of the Chief of Police, the Vice Chancellor-Administration may grant up to a seven (7) calendar day extension for just cause. Failure of the Department to comply with the timing rules for investigations does not deprive either the Department or the Board of jurisdiction.

3. Mediation:

a. In all cases except those alleging excessive force, the Chief shall inform the Complainant of the possibility of mediation as an alternative to investigation and a possible Board hearing. Mediation is an informal process, held before one Board member, and attended by the Complainant and the Subject Officer, for the purpose of fully, thoroughly and frankly discussing the alleged improper conduct and attempting to arrive at a mutually agreeable resolution of the Complaint. During mediation the time limit for UCPD investigation is suspended.

b. If the Complainant elects Mediation, the Chief of Police shall notify the Subject Officer of the Complaint, and of the Complainant's willingness to enter Mediation. The Subject Officer has seven (7) calendar days to accept Mediation. If the Subject Officer agrees, the Chief shall schedule a Mediation session at the earliest convenient time. If not, the Chief shall proceed with the UCPD investigation.

c. The Mediation session will consist of the Complainant, the Subject Officer, and one Board member chosen by the Chair. No other person may be present, and no tape will be made. Witness statements may be presented in writing.
d. Mediation sessions shall not extend beyond ten (10) calendar days from the first scheduled meeting. Within this ten (10) day period, Mediation will continue as long as the Board member and the parties feel that progress is being made in the resolution of differences between the parties.

e. Complaints resolved through mediation to the mutual satisfaction of the parties shall be deemed withdrawn. Otherwise the Complaint will be referred back to the Chief for UCPD investigation and a possible Board hearing.

4. UCPD Investigation:

When Mediation is not elected or does not resolve the complaint, the Chief or his/her designee shall interview the Complainant, each Subject Officer, and witnesses or other persons likely to have information concerning the Complaint, shall assemble all other relevant information, complete the investigation and share the findings with the Complainant in writing. In cases where the Complainant is a student and the Department believes it is likely to complete its investigation during a semester break, the Department shall obtain an address where the student can be reached during the semester break and shall mail its notice of disposition both to the address listed on the complaint and to the student's semester break address. The notice to the Complainant shall inform the Complainant of his/her right to appeal in writing to the Police Review Board, of the deadline for filing an appeal, and of location and address at which an appeal can be filed.

Back to Table of Contents

III. APPEAL TO THE BOARD AND EXTERNAL INVESTIGATION

1. Appeal:

If the Complainant is not satisfied with the UCPD findings, the Complainant can appeal to the Police Review Board. All appeals shall be filed within thirty (30) calendar days of the UCPD findings, and any appeal not filed within thirty (30) calendar days shall be dismissed, provided, however, that an appeal may be filed within an additional thirty (30) days if the Complainant demonstrates that the failure to file an appeal within the initial thirty (30) day period was the result of excusable neglect; provided further, in the case of a student complainant, if the Complainant can establish that he/she failed to receive notice due to the Department's failure to comply with the notice requirements of Section II.4 with respect to investigations concluded during a semester break, the time to appeal shall be the longer of thirty (30) days after receiving actual notice of the Department's findings or ten (10) days after the end of the semester break in which the Department notified her of the
disposition.

2. Timing Rules:

Rules governing the timing of Board decisions, investigations, and hearings are designed to encourage the prompt processing of claims, but failure to comply with those rules shall not deprive the Board of jurisdiction to decide an appeal timely filed under Section III.1.

3. Panel Review:

When an appeal is filed, a three member panel of the Police Review Board designated by the Chair will review the investigative findings of the UCPD and determine whether to summarily affirm the investigation, remand to UCPD with a request for further investigation or clarification, or refer the Complaint on to the full Board for an external investigation. In the event that the panel is unable to reach agreement on a course of action, it may, in consultation with the Chair, refer the matter to the full Board for decision. The panel shall render its initial decision on those issues within twenty-one (21) calendar days after the filing of the appeal. In cases of unusual significance, the Chair may, in its discretion, direct that the initial review of an appeal be conducted by the full Board rather than by a panel thereof, in which case the same timing rules shall apply.

4. Summary Affirmance:

The Board shall summarily reaffirm the Department's findings when it is readily apparent that the Department's investigation was complete and its findings correct on the evidence presented, so that further investigation or hearing by the Board would be highly unlikely to lead to a different conclusion than that reached by the Department. In the event of a summary affirmance, the Board shall prepare a letter explaining its decision, which shall be provided to the Complainant, the Subject Officer, the Department, and the Vice Chancellor-Administration.

5. Remand to the Department:

a. The Board may remand to the Department for further investigation or clarification where the Department's investigation appears incomplete, where aspects of the Department's reasoning or conclusions are unclear, or where there are issues arising from the evidence gathered by the Department which have not been addressed in the Department's reasoning and conclusions.

b. When a Complaint is remanded, the Department shall have thirty (30) calendar days to forward revised findings. Upon receipt of the revised findings, the Board
shall have fourteen (14) calendar days to complete its review pursuant to Section III.2.

6. External Investigation:

a. Commencement of Investigation: In cases where the Board has recommended an external investigation, the Board shall seek to retain an investigator as promptly as possible.

b. Manner of Conducting External Investigations: The investigation shall be conducted in a manner designed to produce a minimum of inconvenience and embarrassment to all parties. When possible, UCPD members shall not be contacted at home, and others should not be contacted at their place of employment.

c. Exercise of Constitutional Rights: UCPD members, including those who are identified as the Subject Officer of a Complaint, have a duty to answer questions in any investigation or hearing conducted by the Board regarding conduct and observations which arise in the course of their employment, and may be subject to discipline for failure to respond. The exercise of any or all constitutional rights shall not in any manner be considered by the Board in its deliberations. Testimony compelled by the Board may not be used in a criminal proceeding against the Subject Officer.

d. Statements of Witnesses: Whenever the investigator takes a statement from any Complainant, Subject Officer, witness, or other person likely to have information concerning the Complaint, the investigator shall commence by explaining the nature of the proceeding and the issues involved, including their right to review and correct their statement and the confidentiality provisions governing the proceeding. The statement shall be tape recorded, whenever practicable. Furthermore, a summary shall be drafted by the Investigator, and whenever practicable, signed by the person who gave the statement. The Investigator shall make every reasonable effort to obtain the signature of each person on his or her statement. Each summary shall be mailed to the person giving the statement, who will have three (3) working days to notify the Investigator if he or she wishes to add to or modify the statement. All tape recordings, written statements or summaries, shall be kept and preserved according to established University procedures.

7. Investigation Timetable and Report:

a. The investigator's report shall be submitted to the Board within forty-five (45) calendar days after the investigator has been retained.

b. The investigator's report should identify the important issues in the case, set forth
the evidence bearing on those issues, and aim to assist the Board in determining the need for and content of any hearing on the matter. When the evidence warrants, the Investigator may make recommendations regarding procedural issues or possibilities for summary disposition.

c. Any supplemental report will be given to the parties at least forty-eight (48) hours before the hearing:

8. Notification to the Parties:

a. Immediately after completion of the investigator's report, the Board shall provide to the Complainant the following:
(1) Written notice that the Complaint will be considered by the Board.
(2) Any Investigator's recommendations dealing solely with summary disposition or procedural matters.
(3) Written notice:
   
   (i) that the Complainant may consult an attorney if desired, and that an attorney may represent him or her at the hearing, but that an attorney will not be required;
   (ii) that the Complainant is entitled to testify and to present witnesses and other evidence at the hearing; and,
   (iii) in cases where the Complainant's testimony is deemed material to the disputed issues, that the Complainant's failure to appear and testify may be grounds for the dismissal of the Complaint.

b. Immediately after completion of the Investigator's report, the Board shall provide to each Subject Officer and the Chief of Police the following:
(1) Written notice that the Complaint will be considered by the Board.
(2) Any Investigator's recommendations dealing solely with summary disposition or procedural matters.
(3) A copy of the Investigator's report and summary, including all attachments, transcribed statements and exhibits supplied to the Board.
(4) Written notice:
   
   (i) that the Subject Officer may consult an attorney if desired, and that an attorney may represent him or her at the hearing, but that an attorney will not be required and
   (ii) that both the Subject Officer and the Department have the right to attend, to testify, and to submit witnesses and other evidence at the hearing.
IV. RESPONSES TO EXTERNAL INVESTIGATION IN LIEU OF BOARD HEARING

1. No Contest Response:

   a. A Subject Officer may enter a written response of "no contest" at any time before a hearing. A response of "no contest" indicates that the Subject Officer accepts the allegations of the Complaint or the Investigator's findings as substantially true. The Subject Officer shall be bound by the terms of the no contest response in any consideration of the Complaint by the Chief of Police.

   b. Upon receipt of a "no contest" response, the Board shall refer the file and finding of no contest to the Chief of Police for appropriate action.

2. Summary Dismissal:

   After reviewing the Investigator's report, the Board may summarily dismiss a Complaint which it finds clearly without merit on the recommendation of the Investigator, its own motion, or that of the Subject Officer. Parties to the Complaint shall be notified of the summary disposition.

3. Summary Affirmance:

   After reviewing the Investigator's report, the Board may summarily sustain a Complaint which it finds clearly meritorious on the recommendation of the Investigator, its own motion, or that of the Complainant. Summary affirmance will not occur over the objection of the Subject Officer, who shall be notified of the summary hearing, and may appear or make a timely objection in writing.

V. BOARD HEARING

1. Function:

   The Board, or any three-member panel designated to act in its stead, shall review the Investigator's report and the evidence gathered in connection therewith, hear testimony, prepare findings, and advise the Chief of Police of its conclusions. In the
event that the Board does not summarily resolve the case after receiving the report of the investigator, the hearing shall be convened within thirty (30) days after submission of the report.

2. Composition of the Hearing Board:

A Board hearing shall be conducted by the Board as a whole, with a minimum of five Board members, or any three member panel designated by the Chair to act in its stead. The Chair will conduct the hearing.

3. Bias or Prejudice:

A Board member who has personal bias or prejudice in the outcome of a Complaint shall not sit on a hearing of that Complaint.

4. Confidentiality:

Hearings shall be strictly confidential in accordance with California law and University regulations.

a. Except as provided in these Procedures, no member of the Board shall discuss or listen to discussion of the facts or analysis of any matter which is the subject of a Complaint prior to its hearing.

b. No member of the Board shall make public comment on pending complaints or disclose any confidential matters pertaining to the Complaint at any time.

c. Failure to comply with this regulation shall be grounds for removing a member from the Board. Such an allegation may be brought to the Chair by a Complainant, Subject Officer or other Board members. Board members, in particular, will recognize an ethical obligation to report violations of confidentiality: Should the Chair find the allegation of breach of confidentiality to be true, the Chair shall recommend to the Vice Chancellor-Administration the removal of the offending member.

5. Presence at Hearing:

a. The Complainant, the Departmental Representative, and the Investigator shall be present and available to testify unless (a) otherwise directed by the Board, or (b) the Complainant's presence is in conflict with University rules of confidentiality. The Subject Officer has the right to be present at all sessions of the hearing and to offer testimony and evidence in his own defense. In addition, pursuant to Section III.4.b of these procedures, the Subject Officer is obliged to answer questions at the hearing if asked to do so by the Board.
b. No person who is present at a Board hearing or Mediation session shall become the subject of harassment or personal attack. If the Chair fails to maintain reasonable order, UCPD Members shall be excused without prejudice. The burden shall be upon the UCPD Member to establish to the satisfaction of the Chief that his or her reasons for leaving were sufficient.

c. In cases where the Complainant's testimony is material to the issues raised by the Complaint, the failure of the Complainant without good cause to appear at a hearing where his/her testimony has been requested by the Board shall result in the Complaint being dismissed and preclude the matter from future consideration by the Board.

6. Evidence:

The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Evidence shall be taken in accordance with the following provisions:

a. The Board shall call and examine witnesses and receive exhibits on any matter relevant to the issues.

b. Oral evidence from UCPD members and other University of California employees need not be taken under oath, although such witnesses may elect to testify under oath. Testimony of other witnesses shall be taken under oath, and Complainants shall receive an admonishment substantially similar to that mandated by Penal Code §148.6.

c. Upon the request of either party, witnesses shall be excluded from the hearing until they are called to testify.

d. Irrelevant and unduly repetitious evidence shall be excluded.

e. The Subject Officer may elect to restrict questioning to no more than two Board members who shall be designated by the Chair.

7. Hearing Procedure:

a. The hearing will ordinarily proceed as follows. The Board will ask the Complainant to present the Complaint and will receive testimony from any witnesses the Complainant requests the Board to hear. The Board will then ask the
Subject Officer to respond to the Complaint and will receive testimony from any witnesses the Subject Officer requests the Board to hear. The Board may vary the order of proof in its discretion for the convenience of the parties or to improve the accuracy, fairness or timeliness of the hearing process. At any time the Board may call additional witnesses on its own motion or may ask the Departmental Representative for relevant information or commentary. After the Board has taken all relevant evidence, each party will be given an opportunity to make a closing statement.

b. The hearing may continue from day to day, if the volume or complexity of the evidence so requires. If the Board considers that additional evidence is necessary to reach its findings, it will continue the hearing to a future date unless the parties agree to allow the Board to receive such material in writing without reconvening.

c. The opinion of the Assistant Chancellor-Legal Affairs will be sought whenever the interpretation of these Procedures is contested and pivotal in the case, or when a case raises substantial legal issues of first impression and shall be binding on the Police Review Board.

8. Deliberation:

After the taking of evidence has been concluded, the Board will deliberate in closed session. During deliberations, the Board may consult the Investigator, the Departmental Representative, or the Assistant Chancellor-Legal Affairs for clarification of evidentiary or procedural matters, but such persons shall not be entitled to participate directly in deliberations. The Board shall not consider any evidence not received as part of the hearing. The Board may reconvene in the presence of all parties to ask further questions, and each party shall have the opportunity to respond to any such questions.

9. Majority Vote:

All action by the Board, including three-member panels thereof, shall be by majority vote, unless otherwise specified in these Procedures.

10. Standard of Proof:

No complaint shall be sustained unless it is proven by clear and convincing evidence presented at the hearing or otherwise contained in the record. 'Clear and convincing' is more than a 'preponderance of the evidence,' but less than "beyond a reasonable doubt."

11. Categories of Findings for Each Allegation:
a. If the investigation shows that the alleged act did not occur, the finding shall be "Unfounded."
b. If the investigation fails to support the allegation but the allegation cannot be shown as false, the finding shall be "Not Sustained."
c. If the investigation shows the alleged act did occur but was lawful, justified and proper, the finding shall be "Action Justified."
d. If the investigation supports the allegation and the action is not justified, the finding shall be "Sustained."

12. Report of Board Findings and Notification:

a. Within thirty (30) calendar days after the conclusion of the hearing, the Board shall submit written findings to the Chief of Police and the Subject Officer through the Vice Chancellor-Administration. Such findings shall discuss both the conduct of the Subject Officer and any relevant reviews of Departmental practice or policy. Any dissenting Board member may set forth the reasons for dissenting in writing, and such dissent shall be circulated in the same manner as the written findings of the majority of the Board.

b. The Vice Chancellor-Administration shall provide the Subject Officer with a copy of the written findings of the Board and notify the officer of the right to petition for a rehearing. The complainant shall be provided with notice of the final disposition of the matter (consistent with the rights of privacy of the Subject Officer) and notified of the right to petition for a rehearing.

13. Petition for Rehearing:

a. Within fifteen (15) calendar days of the mailing of findings to the Subject Officer and notice of disposition to the Complainant, any party to the Complaint may petition in writing, with grounds set forth, for a rehearing. Such rehearing may be granted by the Board if it is shown that there is newly discovered evidence that is material for the party making the application which could not have been, with reasonable diligence, discovered and produced at the hearing; or that there was substantial procedural error likely to have affected the outcome.

b. Upon receipt of a petition for rehearing by either party, a decision shall be made within fifteen (15) calendar days as to whether to grant or deny it. When a rehearing is granted, it shall be held within thirty (30) calendar days of the receipt of the petition.

14. Circulation of Findings to the Chief of Police:

a. The Board shall promptly forward copies of its findings together with the
investigative packet to the Chief of Police, through the Vice Chancellor-Administration, for appropriate action. Within fifteen (15) calendar days of receiving the findings, the Chief of Police may notify the Board that the findings are inadequate. The Chief shall specify those matters which, in his or her opinion, require further elaboration, explanation or investigation.

b. The Board will decide whether to reopen the Complaint and any subsequent hearing shall be held within thirty (30) calendar days of the Chief's notification to the Board.

c. When there is a dispute regarding the findings of the Police Review Board and the Chief of Police, those findings will be provided to the Vice Chancellor-Administration who will then decide on the validity of the Complaint based on the information presented.

Back to Table of Contents

VI. COMPLAINTS AGAINST CHIEF, ASSISTANT CHIEFS AND CAPTAINS

1. Allegations alleging improper conduct on the part of the Chief or an Assistant Chief or Captain may be made by an Aggrieved Person. Such allegations shall be set forth in writing, signed by the Complainant, and submitted to the Vice Chancellor-Administration, either directly or through the Campus Police Department.

2. Such Complaint shall be filed within thirty (30) calendar days of the alleged improper conduct, and any Complaint not filed within thirty (30) calendar days shall be dismissed; provided, however, that a Complaint may be filed under this subsection within an additional thirty (30) calendar days if the Complainant demonstrates to the Vice Chancellor-Administration that failure to file the Complaint within the initial thirty (30) calendar day statutory period was the result of incapacity or excusable neglect. In the case of physical incapacity, and at the discretion of the Vice Chancellor-Administration, a Complaint may be filed within one year. Lack of knowledge of the existence of the Board or its Complaint Procedures shall not constitute incapacity or excusable neglect in any case.

3. Upon receipt of a Complaint under this subsection, the Vice Chancellor-Administration, or his or her designee, shall interview the Complainant, each Subject Officer and witnesses or other persons likely to have information concerning the Complaint and shall assemble all other relevant information. The Vice Chancellor-Administration may seek the advice of the Board regarding any policy issues raised in the course of this investigation.
4. After the review is completed, the Vice Chancellor-Administration shall share the findings with the complainant and take such administrative action as may be warranted pursuant to established University and Campus Personnel Policies.

VII. OTHER ISSUES RELATING TO APPEALED COMPLAINTS

I. Authority of Internal Affairs of the Chief of Police:

Nothing in this procedure limits the investigatory authority of the Chief of Police to conduct internal review of the conduct of the UCPD and UCPD Members; provided, however, that in citizen complaints against Subject Officers, the Chief, or his designee, shall make every effort to cooperate in good faith with the Board and to avoid burdensome and duplicative investigations.

2. Exceptional Cases:

The Police Review Board may be requested by the Vice Chancellor-Administration to investigate any Complaint on a priority basis if it is determined by the Vice Chancellor-Administration that the nature of the Complaint requires an external review.

3. Waiver:

Any person who is a party or witness to a proceeding before the Board may waive any provision of these rules intended for her protection. Such waiver may be express, or, in appropriate circumstances, implied from conduct.

4. Record-keeping:

The Board shall maintain records of all proceedings conducted before it. To the extent permitted by law governing the confidentiality of the proceedings, the Board will make available to the public material on appealed cases in its annual report prepared pursuant to Section VIII of these procedures.

VIII. OVERSIGHT AND REPORTING FUNCTION
1. Receipt of Information from the Department:

   a. In all cases in which the Department resolves a Complaint and in which no appeal is taken, the Department shall supply to the Board, in a timely manner, a copy of the Complaint and of the Department's Sufficiency Review Board report for the case. In addition, in any such case, the Chair of the Board may request a copy of the Department's entire investigative record in the case for the Chair's use in analyzing the issues raised in the case. In appropriate cases, the Chair may request from the Vice Chancellor-Administration permission to share all or part of the Department's investigative record with other members of the Board.

   b. The Department shall prepare an annual report on interaction with civilians, that discusses and summarizes civilian complaints and inquiries that were resolved without a full investigation (for example, by a work-file memorandum), describing the location of the events involved, the nature of the interaction with the department, the precise character of the civilian concern, and the department's resolution and assessment of the matter.

   c. The Board shall have the right to pose questions to the Department based on the information received pursuant to subsections a. and b., and to comment on issues of policy or practice raised therein. In addition, the Board may request reasonable briefings concerning issues of Departmental policy relating to its areas of interest. Should the department believe that a request from the Board poses an unreasonable burden and should the Board disagree, the matter will be referred to the VC-Administration for resolution.

2. Public Reports and Meetings:

   a. The Board shall prepare an annual report, reporting on the cases decided on appeal and on the information forwarded by the Department outside the appeal process. Such report shall focus on the Department's complaint procedures, tracking trends over time and making policy recommendations as appropriate based upon the information supplied to the Board. Such report shall also reflect community input on the activities of the Department and the Board, as solicited through an open public hearing. The annual report will not disclose information concerning individual cases or officers that is confidential under California law.

   b. The Board shall hold duly noticed public meetings at least once each academic year to receive community input concerning the Department and its activities and to disseminate the record of its own activities. The notice of such hearing should be accompanied by a draft of the Board's annual report, inviting the response of the
community, the Department, and other interested parties, either orally or in writing. Following the hearing the Board shall prepare a revised version of its annual report, reflecting input from concerned communities.

c. Copies of the Board's annual report shall be submitted to the Vice Chancellor-Administration, shall be distributed to interested community members and organizations, shall be published in appropriate public records (The Daily Californian), and shall be freely available to the public.

Back to Table of Contents

IX. Review of these Procedures

The Vice Chancellor-Administration shall conduct a review of the effectiveness of these revised procedures to determine whether further amendments are warranted. The timing of such review shall be in the Vice Chancellor's discretion, but such a review shall commence no later than academic year 2004-2005. The Vice Chancellor-Administration shall make determinations regarding recommendations for amendment after receiving recommendations from the Board, which recommendations shall be based on input from members of the campus community, including the Chief of Police and UCPD members.

Links

1. http://administration.berkeley.edu/prb/PoliceReview.htm#table
UNIVERSITY OF CALIFORNIA POLICE DEPARTMENT
BERKELEY
CITIZEN'S COMPLAINT

INCIDENT DATE: ___________________________  TIME: ________________

INCIDENT LOCATION: ____________________________________________

OFFICER(S)/EMPLOYEE(S) INVOLVED: ____________________________________________

WITNESSES / OTHERS INVOLVED:

NAME: ___________________________  CONTACT INFO: ___________________________

NAME: ___________________________  CONTACT INFO: ___________________________

NAME: ___________________________  CONTACT INFO: ___________________________

SPECIFIC TYPE OF ALLEGATION(S):
(Describe the incident in detail on attached pages)

☐ Unprofessional conduct  ☐ Unreasonable use of force  ☐ Property damage or loss

☐ Discrimination  ☐ Dishonesty  ☐ False detention or arrest

☐ Other (describe): ____________________________________________

INSTRUCTIONS: Complete, sign and return this form and attach a statement describing the
details of the incident to UCPD (Room 1 Sprout Hall, UC Berkeley) within ten (10) days of
receipt. Failure to return your statement and forms in a timely manner may adversely affect
consideration of your complaint. Please refer to the UCPD "Complaint Process Guide" pamphlet
or http://police.berkeley.edu for more information about complaint procedures and options.

CONTACT INFORMATION AND CERTIFICATION (Required):

NAME (Print): ___________________________  TELEPHONE: ___________________________

MAILING ADDRESS: ____________________________________________

With my signature I hereby certify that my description of this incident as submitted is true,
accurate and complete. I understand I am submitting a formal complaint and I agree to be
interviewed and to cooperate with UCPD personnel assigned to investigate this report.

SIGNED: ___________________________  DATE: ___________________________

CC 05/06
UCPD Complaint Process

The University of California Police Department is committed to providing the highest quality law-enforcement services to the University Community and its visitors. We take pride in tailoring our services to the needs of our community and we welcome your constructive comments, feedback and input to ensure we are doing the best job possible.

A proper relationship between the police and the public they serve, fostered by confidence and trust, is essential to successful law enforcement. Police personnel must be free to exercise their discretion and best judgment in situations of danger or disorder and to initiate action in a reasonable, lawful and impartial manner without fear of reprisal, while also observing the rights of all people.

If you have a question or concern about a contact with the police or our services in general there are several options available to you:

- Contact a supervisor, or the officer directly, #1 Sproul Hall, 642-6760
- Email us at police@berkeley.edu
- Complete our feedback questionnaire
- Send a letter or email to the Chief of Police
- File a formal or informal complaint (further information below)

How to make a complaint

A complaint may be made at any time of the day or night to any police department employee. Complaints received will normally be referred to the Duty Supervisor. Depending on the circumstances, they will either investigate immediately or forward a report to the Complaint Investigation Unit in the Office of the Chief.

Download the PDF version of the Citizen Complaint form.

The time limit for filing a complaint is 30 calendar days from the date of the alleged incident. Sexual harassment allegations will be accepted up to 90 calendar days after the alleged incident.

All citizen complaints against the sworn members of the UCPD, except the Chief or Assistant Chiefs or Captains, shall be processed under this procedure in accordance with the definitions and provisions thereof: no other campus review mechanisms or grievance procedures shall be applicable.

Complaint forms may be obtained, and complaints filed, at any of the following offices:

- The Police Review Board in care of Rita Gardner, Office of the Vice Chancellor-Administration, 200 California Hall, 642-3100
- UCPD, #1 Sproul Hall, 642-6760 or police.berkeley.edu

http://police.berkeley.edu/about_UCPD/complaint.html
- ASUC Student Advocate, 204 Eshleman Hall, 642-6912
- Campus Life and Leadership, 102 Sproul Hall, 642-5171
- Campus Climate and Compliance, 200 California Hall, 643-7985
- Office of Community Relations, 2130 Center Street, 643-5299

All complaints shall be forwarded immediately to the Chief of Police.
The campus ombuds offices are also available to assist with informal resolution of complaints.
Assistance provided by the ombuds offices is separate from the formal process.

Informal complaints can be reported at the Ombuds offices:

- Faculty (and non-Senate academics), 642-4226
- Staff, 642-7823
- Students, 642-5754

The purpose of the Complaint Investigation Unit is to assure that complete, fair and impartial investigations are made of citizen complaints.

Investigation procedure

The person receiving the complaint will ask you to provide as much information as possible. If you were involved in or witnessed the incident, it is extremely important to the investigation that a statement is obtained from you.

Once basic information has been received, the complaint may be handled in one of three ways.

Informal Resolution: If the complaint is a matter of such nature that it can be resolved or disposed of to the satisfaction of the complainant, or the complainant is satisfied with documenting their concerns, a Work File Memo will be completed and routed to the employee’s immediate supervisor, or in the case of a policy or operational procedure issue, to the Division Manager. The Chief, Division Commander and Complaint Investigation Unit will be advised of the concern.

Mediated Resolution: Except in those cases alleging excessive force, the complainant may choose the option of mediation as an alternative to investigation. Mediation is an informal process, held before one Police Review Board member, and attended by the complainant and the subject officer for the purpose of thoroughly and frankly discussing the alleged misconduct and arriving at a mutually agreeable resolution of the complaint. The subject officer must agree to this form of resolution as well. If you elect mediation as a means for resolution of your complaint, please notify the supervisor you meet with when you file your complaint or contact the Complaint Investigation Unit.

Formal Resolution: an investigation will be conducted which will include the taking of formal statements from all persons concerned, and the gathering and presentation of physical evidence and other information pertaining to the case. Each allegation is examined on its own merits.

Regardless of the method of resolution, all complaints will be reviewed by the Chief of Police.

Complaint Investigation Process

The investigation and review should be completed within 45 working days. The Complaint Investigation Unit (CIU) may extend the time frame targets for good cause only. In no event, however, will the process require more than 60 working days, total, unless the Chief of Police specifically approves the delay in writing.

There are five possible dispositions:
• **Work File Memo:** The intake and preliminary investigation show there was no formal complaint justified, and that the matter is satisfied and the initial concern resolved and documented.

• **Unfounded:** The investigation disclosed that the act(s) complained of did not occur. (The disposition also applies when the individual employee(s) were not involved in the act or acts which may have occurred).

• **Exonerated:** The investigation discloses that the incident occurred, as charged in the allegation, but the act is found to be proper, lawful, and justified.

• **Not Sustained:** The investigation discloses insufficient evidence to either prove or disprove the allegation(s) in the complaint.

• **Sustained:** The investigation discloses a preponderance of evidence that supports the allegation(s) in the complaint.

A completed Report of Findings will be reviewed by the Sufficiency Review Board which will make recommendations to the Chief on the appropriate disposition for each allegation, and will also recommend any discipline or corrective measures. The Chief of Police will review the Report of Findings, and recommendations, and either approve or disapprove the Report and/or Recommendation. If the Chief of Police disapproves the case, it will be returned to the CIU for additional investigation or the SRB for other necessary action.

At the conclusion of the investigation, the Complaint Investigation Unit will forward a copy of the written report and other materials used as a basis for disciplinary action, to each employee named in the allegation. Complainants will receive a letter advising them of the completion of the investigation. The letter will contain what the finding was, but will not disclose what action was taken regarding the employee due to confidentiality laws.

If a complainant is not satisfied with these findings, they have 30 calendar days to appeal the investigation to a three person appeal panel appointed by the chair of the Police Review Board. The panel will review the investigative findings and determine whether to affirm the findings or refer the complaint on to the full Police Review Board for further investigation or review.

**Police Review Board:** The Chancellor of the University of California, Berkeley, has established a Police Review Board. Contact the Board at (510) 642-3100.

The University of California Police welcomes feedback from the community. Please contact the Complaint Investigation Unit at 510-642-1296 or at Room 1 Sproul Hall, Berkeley, California 94720-1199, if you have any comments or further questions. Contact Numbers
UNIVERSITY OF CALIFORNIA POLICE DEPARTMENT
BERKELEY
CITIZEN'S COMPLAINT – STATEMENT

NAME (Print): __________________________  TELEPHONE: ____________

MAILING ADDRESS: ______________________

INSTRUCTIONS: In the space below, please describe in detail the incident about which you wish to complain. Be specific about persons involved and their actions. Use as many copies of this form as needed (or plain paper) and sign, date and number each page. Attach and return this statement to UCPD with your "Citizen's Complaint" form within ten (10) days. Please refer to the UCPD "Complaint Process Guide" pamphlet or http://police.berkeley.edu for more information about complaint procedures and options.

STATEMENT:

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SIGNED: ______________________________  DATE: ________________

PAGE _____ of _____

CCS 05/06
**Internal Review of Complaint**  
**University of California Los Angeles**

<table>
<thead>
<tr>
<th>What is it's charge/purpose? (role/mission/responsibilities)</th>
<th>The purpose of this procedure is to provide guidelines for the reporting, investigation and disposition of complaints regarding the conduct of employees of the UCLA Police Department as required under Penal Code § 832.5.</th>
</tr>
</thead>
</table>
| How many members?  
  a. Appointed members?  
  b. Selection Criteria  
  c. Training for members? | No Members, just the employee's immediate supervisor. |
| Are there public meetings, and if so how often? | No |
| How do you process complaints? | Formal complaints of alleged misconduct shall be documented by a supervisor on a Personnel Complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible. When a Personnel Complaint form is completed in person, the complainant should legibly write a detailed narrative of his/her complaint. If circumstances indicate that this is not feasible, the complaint may be audio recorded by the receiving supervisor. In an effort to ensure accuracy in any complaint, it is recommended that a recorded statement be obtained from the reporting party. A refusal by a party to be recorded shall not alone be grounds to refuse to accept a complaint. |
WHAT IF I HAVE A COMPLAINT?

A relationship of trust and confidence between members of the University of California Police and the community we serve is essential to effective law enforcement. Law enforcement officers must be free to exercise their best judgment and to initiate law enforcement action in a reasonable, lawful and impartial manner, without fear of reprisal. Likewise, officers have a special obligation to respect the rights of all persons.

The University of California Police Department acknowledges its responsibility to establish a system of complaint and disciplinary procedures which not only subject the officer to corrective action when he/she conducts himself/herself improperly, but also will protect him/her from unwarranted criticism when he/she discharges his/her duties properly. It is the purpose of these procedures to provide a prompt, equitable, open and expeditious disposition of complaints regarding the conduct of members of the Department.

To this end, the University of California Police Department welcomes from members of the community constructive criticism of the Department and valid complaints against its members or procedures.

HOW DO I MAKE A COMPLAINT?

A complaint may be made in person, or initially, by telephone or by mail to any police supervisor of the UCLA Police Department.

MUST A COMPLAINT BE MADE IN PERSON?

An initial complaint may be made by telephone or by mail, however, you will be asked to complete and sign a written form, as well as be interviewed by an investigator.

ARE THERE ANY RESTRICTIONS ON MAKING A COMPLAINT?

A complaint should be made as soon after the incident as practical. Complaints made after thirty (30) days from the incident may not be accepted unless valid reasons exist.

WILL MY COMPLAINT BE INVESTIGATED?

Each complaint is read and assigned by the Chief of Police or his/her designee to be completely and thoroughly investigated by a UCLA police supervisor.

WILL ACTION BE TAKEN AGAINST THE OFFICER?

If an officer’s actions have violated departmental rules or regulations, or other policies or laws, appropriate action will be taken.

PERSONS UNDER THE AGE OF 18

A person under the age of 18 may file a complaint with the knowledge and signature of a parent or legal guardian.

"Working together to keep our community safe"
COMPLAINT FROM MEMBER OF THE PUBLIC
(Continued)

NAME ______________________________ Last First Middle

ADDRESS _______________________________
Number/Street City/State Zip

PHONE NUMBER(S) _______________________________

DATE/TIME OF INCIDENT _______________________________
ARRESTED □ CITED □

LOCATION OF INCIDENT _______________________________
Street Address or Description of Location

COMPLAINT IS AGAINST OFFICER(S):

NAME ______________________________ ID#

NAME ______________________________ ID#

NATURE OF COMPLAINT (Use additional sheets if necessary.)

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Personnel Complaints

1020.1 PURPOSE AND SCOPE
The purpose of this procedure is to provide guidelines for the reporting, investigation and disposition of complaints regarding the conduct of employees of the UCLA Police Department as required under Penal Code § 832.5.

Refer to Policy Manual § 340 regarding standards of conduct.

1020.1.1 PERSONNEL COMPLAINTS DEFINED
Personnel complaints consist of any allegation of misconduct or improper job performance against any Department employee that, if true, would constitute a violation of Department policy, federal, state or local law.

Inquiries about employee conduct which, even if true, would not qualify as a personnel complaint may be handled informally by a Department supervisor and shall not be considered complaints.

This policy shall not apply to any interrogation, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of an employee in the normal course of duty, by a supervisor or any other employee, nor shall this policy apply to an investigation concerned solely and directly with alleged criminal activities. Government Code 3303 (i)

Personnel Complaints shall be classified in one of the following categories:

Informal - A matter in which the complaining party is satisfied that appropriate action has been taken by a Department supervisor of rank greater than the accused employee. Informal complaints need not be documented on a personnel complaint form and the responsible supervisor shall have the discretion to handle the complaint in any manner consistent with this policy. Informal complaints are considered resolved complaints.

Formal - A matter in which the complaining party requests further investigation or which a Department supervisor determines that further action is warranted. Such complaints may be investigated by a Department supervisor of rank greater than the accused employee or referred to the Support Operations Bureau Professional Standards Unit depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Support Operations Bureau, such matters need not be documented as personnel complaints, but may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

1020.2 ACCEPTANCE OF COMPLAINTS

1020.2.1 AVAILABILITY OF COMPLAINT FORMS
Personnel Complaint forms are available from the Watch Commander or other patrol supervisor.
Personnel Complaints

1020.2.2 SOURCE OF COMPLAINTS
(a) A Department employee becoming aware of alleged misconduct shall immediately notify a supervisor.

(b) A supervisor receiving a complaint from any source alleging misconduct of an employee which, if true, could result in disciplinary action.

(c) Anonymous complaints and third party complaints should be accepted and investigated to the extent that sufficient information is provided.

1020.2.3 ACCEPTANCE OF COMPLAINTS
A complaint may be filed in person, in writing or by telephoning the Department. Although not required, every effort should be made to have the complainant appear in person. The following should be considered before taking a complaint:

(a) Complaints shall not be prepared unless the alleged misconduct or job performance is of a nature, which if true, would normally result in disciplinary action.

(b) When an uninvolved supervisor or the Watch Commander determines that the reporting person is satisfied that his/her complaint required nothing more than an explanation regarding the proper/improper implementation of Department policy or procedure, a complaint need not be taken. If the supervisor is able to resolve the matter to the reporting person’s satisfaction, the supervisor must still complete a complaint form and check the box ‘Resolved by Supervisor.’

1. The supervisor will also write a memo to the Support Operations Captain to advise how the complaint was resolved.

(c) When the complainant is intoxicated to the point where his/her credibility appears to be unreliable, identifying information should be obtained and the person should be provided with a Personnel Complaint form.

(d) Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with his/her parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint.

1020.2.4 COMPLAINT DOCUMENTATION
Formal complaints of alleged misconduct shall be documented by a supervisor on a Personnel Complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

When a Personnel Complaint form is completed in person, the complainant should legibly write a detailed narrative of his/her complaint. If circumstances indicate that this is not feasible, the complaint may be audio recorded by the receiving supervisor. In an effort to ensure accuracy in any complaint, it is recommended that a recorded statement be obtained from the reporting party. A refusal by a party to be recorded shall not alone be grounds to refuse to accept a complaint.

Whether handwritten or recorded, the complainant’s signature should be obtained at the conclusion of the statement. The complainant should be provided with a copy of his/her own original complaint per Penal Code § 832.7.
Personnel Complaints

1020.2.5 FALSE COMPLAINT ADMONITION
Every person making a complaint in person shall be advised of the consequences of filing a false complaint.

1020.3 SUPERVISOR RESPONSIBILITY
A supervisor who becomes aware of alleged misconduct shall take reasonable steps to mitigate or prevent aggravation of the situation. Moreover, supervisors shall also maintain the ability to engage in the interrogation of an employee in the normal course of duty, counseling, instruction, or informal verbal admonishment, or other routine or unplanned contact. Government Code 3303 (f)

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the employee's immediate supervisor. The Support Operations Captain or authorized designee may, however, direct that another supervisor investigate it. The supervisor shall be responsible for the following:

(a) A supervisor receiving a formal complaint involving allegations of a potentially serious nature shall ensure that the Watch Commander, Field Operations Lieutenant, Field Operations Captain and Support Operations Captain are notified as soon as practicable.

(b) A supervisor receiving or initiating any formal complaint shall ensure that a Personnel Complaint form has been completed as fully as possible. The original complaint form will then be directed to the Support Operations Captain via the chain-of-command, who will take appropriate action or assign the matter to a supervisor for investigation.

1. During the preliminary investigation of any complaint, the supervisor should make every reasonable effort to obtain names, addresses and telephone numbers of additional witnesses.

2. Once immediate medical attention has been provided (if applicable), photographs of alleged injuries as well as accessible areas of non-injury should be taken.

3. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall report the matter to the accused employee’s Bureau Commander or the Assistant Chief of Police who will initiate appropriate action.

(c) A supervisor dealing with an accused employee shall ensure that the procedural rights of the employee are followed pursuant to Government Code § 3303, et seq.

(d) When the nature of a personnel complaint relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination, the supervisor receiving the complaint shall promptly contact the Support Operations Captain for direction regarding the supervisor's role in investigation and/or addressing the complaint.

1020.4 ASSIGNMENT TO ADMINISTRATIVE LEAVE
When a complaint of misconduct is of a serious nature or when circumstances particularly dictate that it would impose an unreasonable risk to the Department, the employee, other employees or the public, a supervisor may assign the accused employee to administrative leave pending completion of the investigation or the filing of administrative charges.

Adopted: 2010/07/19 ©1995-2010 Lexipol, LLC
The supervisor may consult with the Support Operations Captain to determine if administrative leave is appropriate.

1020.4.1 ADMINISTRATIVE LEAVE
An employee placed on administrative leave may be subject to the following guidelines:

(a) Under such circumstances, an employee placed on administrative leave shall continue to receive regular pay and benefits pending the imposition of any discipline.

(b) An employee placed on administrative leave may be required by a supervisor to relinquish any badge, Department identification, assigned weapon(s) and any other Departmental equipment.

(c) An employee placed on administrative leave may be ordered to refrain from taking any action as a Department employee or in an official capacity.

(d) The employee shall be required to continue to comply with all policies and lawful orders of a supervisor.

(e) An employee placed on administrative leave may be temporarily reassigned to a different shift (generally normal business hours) during the pendency of the investigation and the employee may be required to remain available for contact at all times during such shift and report as ordered.

(f) It shall be the responsibility of the Support Operations Captain to promptly notify the employee’s Bureau Commander and the Chief of Police.

(g) At such time as any employee placed on administrative leave is returned to full and regular duty, the employee shall be returned to his/her regularly assigned shift with all badges, identification card and other equipment returned.

1020.5 ALLEGATIONS OF CRIMINAL CONDUCT
Where an employee of this Department is accused of potential criminal conduct, a separate supervisor shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practical when an employee is formally accused of criminal conduct. In the event of serious criminal allegations, the Chief of Police may request a criminal investigation by an outside law enforcement agency.

An employee accused of criminal conduct shall be provided with all rights and privileges afforded and the employee may not be administratively ordered to provide any information to a criminal detective. No information or evidence administratively coerced from an employee may be provided to an investigator conducting the criminal investigation.

Any law enforcement agency is authorized to release information concerning the arrest or detention of a peace officer, which has not led to a conviction, however, no disciplinary action, other than paid administrative leave shall be taken against the accused employee based solely on an arrest or crime report. Labor Code § 432.7 (b)

An independent administrative investigation shall be conducted based upon the allegations in the report in accordance with Department policy.
1020.6 ADMINISTRATIVE INVESTIGATION OF COMPLAINT
When conducted by a supervisor the following procedures shall be followed with regard to the accused employee(s):

(a) Interviews of accused employees shall be conducted during reasonable hours and, if the employee is off-duty, the employee shall be compensated. Government Code § 3303 (a)

(b) No more than two interviewers may ask questions of an accused employee. Government Code § 3303 (b)

(c) Prior to any interview, an employee shall be informed of the nature of the investigation. Government Code § 3303 (c)

(d) All interviews shall be for a reasonable period and the employee's personal needs shall be accommodated. Government Code § 3303 (d)

(e) No employee shall be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively or be subject to discipline for insubordination. Nothing administratively ordered may be provided to a criminal investigator. Government Code § 3303 (e)

(f) Absent circumstances preventing it, the interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview. Government Code § 3303 (g)

(g) If the allegations involve potential criminal conduct, the employee shall be advised of his/her Constitutional rights pursuant to Lybarger (Lybarger v. City of Los Angeles (1985) 40 Cal.3d 822, 827). This admonishment shall be given administratively whether or not the employee was advised of these rights during any separate criminal investigation. Government Code § 3303 (h)

(h) All employees subjected to interviews that could result in punitive action shall have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual employee's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed. Government Code § 3303 (i)

(i) All employees shall provide complete and truthful responses to questions posed during interviews.

(j) No employee may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation. Government Code § 3307

1020.6.1 ADMINISTRATIVE SEARCHES
An employee of this Department may be administratively ordered to submit to a blood, breath or urine test for alcohol and drugs under any of the following circumstances:

(a) When the employee, whether on-duty or off-duty, is involved in a shooting or police related death.

(b) When the employee is involved in an injury or fatal accident while on-duty.

(c) When the employee is involved in an injury or fatal accident while operating any University owned vehicle whether on-duty or off-duty.
Personnel Complaints

(d) When the employee is found to be exhibiting objective symptoms of intoxication or drug influence while on-duty.

The use of compelled testing results shall be restricted to the administrative investigation.

Any employee may be compelled to disclose personal financial information pursuant to proper legal process if such information tends to indicate a conflict of interest with official duties or, if the employee is assigned to or being considered for a special assignment with a potential for bribes. Government Code § 3308

Employees shall have no expectation of privacy when using telephones, computers, radios, MDCs, email or other communications provided by the Department.

Assigned lockers and storage spaces may only be administratively searched in the employee’s presence, with the employee’s consent, with a valid search warrant or where the employee has been given reasonable notice that the search will take place. Government Code § 3309

All other Department assigned areas (i.e., desks, office space, assigned vehicles) may be administratively searched by a supervisor, in the presence of an uninvolved witness, for non-investigative purposes (e.g., obtaining a needed report or radio). An investigative search of such areas shall only be conducted upon a reasonable suspicion that official misconduct is involved.

1020.6.2 ADMINISTRATIVE INVESTIGATION FORMAT
Investigations of personnel complaints shall be detailed, complete and essentially follow this format:

(a) Introduction - Include the identity of the employee(s), the identity of the assigned investigator(s), the initial date and source of the complaint.

(b) Synopsis - Provide a very brief summary of the facts giving rise to the investigation.

(c) Summary Of Allegations - List the allegations separately (including applicable policy sections) with a very brief summary of the evidence relevant to each allegation. A separate recommended Finding should be provided for each allegation.

(d) Evidence As To Each Allegation - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of employee and witness statements. Other evidence related to each allegation should also be detailed in this section.

(e) Conclusion - A recommendation regarding further action or disposition should be provided.

(f) Exhibits - A separate list of exhibits (i.e., recordings, photos, documents, etc.) should be attached to the report.

1020.7 DISPOSITION OF PERSONNEL COMPLAINTS
Each allegation shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged act(s) did not occur or did not involve Department personnel. Complaints which are determined to be frivolous will fall within the classification of unfounded. Penal Code § 832.5 (c)

Exonerated - When the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.
Not Sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance which was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

1020.8 COMPLETION OF INVESTIGATIONS

Every 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. The letter of intent or notice of adverse action must be sent with the one year limit set forth in Government Code § 3304 (d) but the discipline does not have to be imposed within the one year limit.

In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304 (d) or Government Code § 3508.1.

If the nature of the allegations dictate that confidentiality is necessary to maintain the integrity of the investigation, the involved employee(s) need not be notified of the pending investigation unless and until the employee is interviewed or formally charged within one year of discovery.

If the complaining party is charged with a criminal offense associated with this investigation, then the investigation may be suspended until the completion of the criminal case.

Upon completion, the report should be forwarded through the chain-of-command to the commanding officer of the involved employee(s).

Once received, the Assistant Chief of Police may accept or modify the classification and recommendation for disciplinary action contained in the report.

Within 30 days of the final review by the Chief of Police, written notice of the findings shall be sent to the complaining party. This notice shall indicate the findings, however, will not disclose the amount of discipline, if any imposed. The complaining party should also be provided with a copy of his/her own original complaint. Penal Code § 832.7

Any complaining party who is not satisfied with the findings of the Department concerning their complaint may contact the Chief of Police to discuss the matter further.

1020.8.1 CONFIDENTIALITY OF PERSONNEL FILES

All investigations of personnel complaints shall be considered confidential peace officer personnel files. The contents of such files shall not be revealed to other than the involved employee or authorized personnel except pursuant to lawful process.

In the event that an accused employee or the representative of such employee knowingly makes false representations regarding any internal investigation and such false representations are communicated to any media source, the Department may
Personnel Complaints

disclose sufficient information from the employee's personnel file to refute such false representations. Penal Code § 832.5

All formal personnel complaints shall be maintained for a period of no less than five years. Penal Code § 832.5

All Department (e.g., those that originate internally) initiated complaints shall be maintained no less than two years. Government Code § 34090 et seq.

Sustained complaints shall be maintained in the employee's personnel file. Complaints which are Unfounded, Exonerated or Not Sustained shall be maintained by the Support Operations Captain apart from the employee's personnel file.
University of Washington

Police Commission: Yes, Separate Entity

Internal Police Review Board
It is impossible to predict who will commit violence or when it will occur, but it is possible to identify situations that might lead to violence.

The UVU Police Department’s Crime Prevention Unit represents the department at campus orientations for new incoming students, parents and employees. The CPU staff resource booth at community events, provides seminars on personal and workplace safety, conducts offices and environmental security surveys, advises on the storage of petty cash, maintains a database of electronic and bicycle registration, and addresses other security-related topics as requested by student organizations and University departments. CPU requests can be made by email (cpu-info@uvu.edu) or by telephone at 208-543-9318.

Annual crime prevention and safety presentations are facilitated by the CPU in the summer prior to each academic year for parents of new students. 22 presentations were provided for 3,540 people in 2005. The CPU launched the 2006-2007 academic year by partnering with Housing and Food Services Residences Halls online staff (Residence Directors (RDs) and Residence Advisors (RA)). To provide 10 floor-townhall meetings for approximately 400 students covering the topics of personal safety, steps to prevent burglary, electronic device serial number registration and anti-theft bicycle registration. The CPU facilitates campus violence prevention, safety presentations, and active shooter/workplace violence prevention presentations on a per request basis for students, faculty and staff at off-campus and off-campus locations. In 2005, 10 were facilitated with 5,507 people attending.

Unique to the UVW campus is the "Bicycle Round-Up." Annually in March prior to the beginning of the academic year, the UVW Police partners with UVW Commuter Services to collect abandoned bicycles on main campus. Annually, approximately 200 bicycles are rounded up, held for 60 days (in case the owner comes forward to claim it) and auctioned to students, faculty and staff who choose to commute via bicycle. The program is a theft prevention initiative to eliminate the attraction of thieves to bicycles that may appear unattended because bicycles are often left for long periods.

The round-up helps to counter this impression and provides a cost-effective commute option for many. Bicycle serial number registration is easy and free to complete online at http://www.washington.edu/admissions/bicycle.html.

In 2010, the UVW PD is initiating a new AD and RA fire safety training initiative and a new student orientation program, UVW will partner with the UVW department of Environmental Health & Safety UVW Fire Academy to facilitate fire drills, test fire extinguishers and perform safety evolutions by RA's and 1RA's. New Student Orientation developments for incoming new students will be added in 2010 to make orientation for parents of new students; topics to be covered include how to report crimes, response to major incidents, personal safety tips and alcohol and drug policies.

R.A.D. is a self-defense tactics course taught by certified police instructors. The 2.5-hour seminar was developed specifically for women on university and college campuses. It is not a martial art program, but teaches basic self-defense movements. To learn more, or to obtain upcoming class registration information, contact the UVWPD R.A.D. program at 208-543-9387 or email (cpu-info@uvu.edu).

Crime Victim Advocate
206-543-9337

The UVU Crime Victim Advocate is available to assist University of Washington students, faculty and staff experiencing domestic violence or relationship abuse, or who are victims of other crimes. An advocate can help with locating resources, both on and off-campus; assist in obtaining domestic violence, anti-harassment or a sexual assault protection order; and explore ways to improve personal safety.

Members of the University community must assume responsibility for their personal safety and the security of their property. Please use the following guidelines to help keep you and your property safe:

- Report all suspicious persons/activities to the UVWPD immediately by dialing 911.
- Avoid walking alone at night regardless of gender. A man is just as likely to be a target of robbery as a woman based on recent statistics. Use the UVW NightWalk service (206-543-WALK (9250)).
- Do not allow tailgating (letting someone follow you through a locked door). Remember that residence halls are restricted to the students who live there and their guests.
- Know the locations of the code blue emergency telephones and the yellow emergency call boxes located in the parking garages. Campus maps show the locations of emergency telephones: www.washington.edu/home/maps.
- Engrave owner's name and address on laptop and cell phones. If lost, there is a chance of recovering your lost property.
- Register your electronic items and bikes with the UVWPD www.washington.edu/security/property.
- Know your personal property and secure it with personal insurance coverage. Backup your computer data safely in case the machine gets stolen.
- Lock up bicycles using proper locking procedures and a good quality lock such as a "Type III lock."
- Lock car doors and close windows when leaving your car.
- If you know that you will be returning to your vehicle when it's dark outside, use well-lit parking lots. Park under a streetlight.
- Do not leave valuables in your car. If you must, put these items in the trunk prior to your arrival at your destination.
- Carry only those items of value that you need on your person; e.g., limit the amount of cash and the number of credit cards, and never carry your social security card in your purse or wallet.
- Never leave valuables (wallets, purses, books, laptops, etc.) unattended and unsecured— even for a bathroom break.
- Always lock the door to your residence hall room, whether or not you are there. Keep windows closed and locked when you are not at home.
- Do not leave messages on your door advertising your departure or arrival times. This tempts thieves of your absence. Consider removing your name if it is posted on your door.
Washington State University

Police Commission: Yes, Separate Entity

Internal Police Review Board
About the Board

Chief Bill Mercier formed the Board on his own initiative as a way to involve the community in campus policing. The first meeting of the Police Advisory Board was held on December 12, 1997. Currently the Police Advisory board is comprised of WSU students, faculty, staff and a WSU police representative. Each year we open positions to students who are able to attend the monthly meetings and other members of the WSU campus community who are interested in serving on the board.

Each member is responsible for reporting information regarding campus safety issues or events of interest from their areas or departments of Washington State University. This exchange of information with the WSU police facilitates a forum in which concerns of the WSU community members can be discussed, information disseminated and assistance from the WSU Police can be obtained. We address many concerns ranging from pedestrian safety, IT security to sexual assault and alcohol awareness. The WSU Police Advisory board is also interested in assisting with campus educational programs regarding WSL Police and public safety.

The Police Advisory Board meets the first Tuesday of each month during the academic year. The current 2010-2011 meeting time is at 3:00pm. Please contact us for the meeting place. Each year this is subject to change.

If you have any questions please contact Kim Barrett at 509-335-4386 or kim_barrett@wsu.edu

Police Advisory Board, PO Box 647300, Pullman WA 99164-7300, 509-335-8548, Contact Us

http://pab.wsu.edu/About

10/26/2010
The application for board membership is now online. (click here)

For more information email: kim_barrett@wsu.edu or call 509-335-4386

Our Mission:

1. To achieve a greater understanding of the duties and role of the WSU Police Department in the WSU community in order to serve as a bridge of understanding between the WSU Police Department and the WSU community.

2. To increase the visibility of the committee members among their colleagues in order to effectively represent the desires and needs of those individuals to the WSU Police Department.

3. To serve as a community force to enhance public safety.

Serving the WSU community since 1996, the Police Advisory Board's main goal is to serve as a connection between the WSU campus community and the WSU Police. The board is comprised of students, faculty and staff from all areas and departments on campus. We seek to share WSU's community input on matters pertaining to police service and campus safety issues. The board also functions as a sounding board for the Chief of Police on various issues or concerns involving the department and the WSU community addressing specific incidents and on broader matters of policy and procedure. We also make recommendations to the WSU Police on the promotion of public awareness.

In an effort to expand community alliances, the board meets once a year with the Pullman Police Advisory Board to discuss overlapping concerns and contribute any information regarding the WSU campus community.

The WSU Police Advisory Board meets the first Tuesday of every month during the academic year.

http://pab.wsu.edu/
University of Michigan Ann Arbor

Police Commission: Yes, Separate Entity

Oversight Committee
# Police Review Board
## University of Michigan Ann Arbor

We have both. Our group that corresponds to the first model you have listed is called the Campus Safety and Security Advisory Committee (CSSAC). I have attached a document that gives a brief overview. This group existed before the University created its own police department in 1991. In fact, some of its recommendations led to our security department evolving into a full service police agency. The role of this group has changed overtime, but its primary goal remains to act as a forum for review of the overall safety and security environment at U of M and to allow us to bring issues forth directly to them. The second group, The Police Oversight Committee was mandated by state legislation, Public Act 120 of 1990. This is the same legislation that enabled institutions of higher education to depurate police officers themselves, rather than through a surrounding agency. It was only after this legislation was enacted that we were able to create our department. I have attached both the legislation and a copy of a general description of the committee. You can also look at their website at [http://hr.umich.edu/dps](http://hr.umich.edu/dps).

### How was the board constructed?

CSSAC was constructed to provide a high level forum to address safety issues on campus. (see attached). The Oversight Committee was constructed as a mandate from state law.

### What is its charge/purpose? (role/mission/responsibilities)

The purpose of this policy is to describe procedures for accepting and processing commendations and complaints against employees, both from internal and external sources.

### How many members?

| CSSAC -15 | Oversight Committee - 6 |
| Committee-elected from three groups: Faculty, Staff and Students. Each group elects two members |
| University. Oversight Committee—have a lot of friends |

### Are there public meetings, and if so how often?

No public meetings. Quorums: CSSAC—none stipulated Oversight Committee—3 (half of the Committee). Frequency of meetings: CSSAC- Oversight Committee—as needed with at least two annual meetings.

### How do you process complaints?

We have two processes. The first is a formal internal investigation. These are for allegations of a more serious nature. They are usually conducted by a senior command officer. These investigations are internal and generally for use internally. We also have what we call a “service complaint”, which allows us to investigate and document less serious allegations (the officer was rude, etc) in a less formal and structured manner. It also enables us to deal with these types of issues very quickly. The Oversight Committee is empowered to conduct their own investigations if a person initiates contact with them. The two investigations are completely independent of each other. We have no on-going contact with the Committee except to provide them with an annual summary of our internal investigations. I have attached our complaint against officers policy.

### Is there a statute or bill that drives the board?

Only the Oversight Board which is Public Act 120 of 1990 (attached)

### Who created the charter and bylaws?

Neither group has a formal charter or bylaws, except in the manner of selection of the group members.
I. PURPOSE
The purpose of this policy is to describe procedures for accepting and processing commendations and complaints against employees, from both internal and external sources.

II. POLICY
A. The Staff Operations Deputy Chief has the authority to determine who investigates a complaint against an employee of the Department.
B. It shall be the policy of the Department to perform internal investigations in a thorough, fair and timely fashion. Rank or position of persons investigating shall not have a bearing on investigations, as the investigating authority is given by the Chief; a union member shall not, however, investigate another member of the same union. Investigations shall be conducted with the presumption employees generally act appropriately and shall be treated accordingly unless evidence to the contrary overcomes this presumption.
C. The Department shall diligently investigate all accusations made by or against any level department member in an equally fair and impartial manner.

III. DEFINITIONS
A. Misconduct: Conduct, performance or behavior that includes, but is not limited to:
   1. Any act or omission which interferes with the orderly and efficient administration or operation of the Department;
   2. Any violation of an order, policy, rule, or regulation, whether written or unwritten, which is known or should have been known;
   3. Unsatisfactory work performance that is caused by something other than a lack of capacity or ability;
   4. Any off-duty behavior described in the Standards of Conduct policy;
   5. Misrepresentation of facts, orally or in writing;
   6. Sexual or discriminatory harassment; and/or
   7. Use of alcohol or non-prescribed controlled substances while on-duty.
   8. Test positive for alcohol or non-prescribed controlled substances while on-duty.
B. Investigating Officer: The employee assigned to complete the investigation of a citizen complaint or department inquiry.
C. Internal Affairs Function: The function assigned the responsibility for investigating complaints of misconduct committed by DPS employees.

IV. PROCEDURES
A. Employee Complaint or Commendation Procedures
   1. The procedures for the public to commend an officer and to file a complaint against an officer or the department shall be maintained on the department's website.
B. Employee Commendations Received
   1. A commendation received for any DPS employee shall be referred to an on-duty shift supervisor. If the shift supervisor is unavailable, the person shall be referred to the next available supervisor. Personnel receiving the commendation should attempt to obtain the person’s name and telephone number so that a supervisor can contact him/her.
   2. The commendation shall be reduced to writing by the supervisor and submitted to the employee’s respective Bureau Commander.
3. Any commendation received through the mail or by any electronic means shall be immediately forwarded to the employee's respective Bureau Commander.

4. A copy of the commendation will be placed into the employee's personnel file and forwarded to the employee through his/her supervisor.

5. A copy of the commendation will be posted at a location designated for such use, available to be seen by those within the employee's workgroup.

C. Responsibility of Employee Receiving a Complaint

1. Complaint Received In-Person or by Telephone

   a. A complaint of any nature against DPS or its employees shall be referred immediately to an on-duty shift supervisor. If the shift supervisor is unavailable, the complaint shall be referred to the next available supervisor. Personnel receiving the complaint should attempt to obtain the complainant's name and telephone number so that a supervisor can contact the complainant as soon as possible.

   b. Persons filing a complaint who desire to remain anonymous shall not be discouraged from doing so. After the complaint has been taken, anonymous callers should be encouraged to contact the Staff Operations Deputy Chief within five business days to facilitate the investigation process with any questions that may have arisen.

2. Complaint Received Through U.S. Mail, Campus Mail or Electronic Mail

   Any complaint received through the mail or by any electronic means shall be immediately forwarded to the Staff Operations Deputy Chief or his/her designee for investigative assignment as outlined in the "Internal Investigations" policy.

D. Responsibility of Supervisor Receiving a Complaint

1. Upon becoming aware of or receiving notification of potential misconduct by an employee, the supervisor shall record the nature of the complaint and forward it immediately to the Staff Operations Deputy Chief.

2. The supervisor may attempt to resolve a complaint by an explanation of departmental policies and procedures. Attempts to resolve complaints shall be documented on the complaint report.

3. If the nature of the complaint received from a citizen is regarding the quality of service provided by the employee or a minor rules violation that would not result in discipline, the complaint may be handled as a service complaint.

   a. The supervisor receiving the complaint shall complete a "complaint form" and submit it to the Staff Operations Deputy Chief. In the narrative portion of the form, the supervisor will indicate their recommendation that the complaint be handled as a service complaint. The Staff Operations Deputy Chief will determine whether the complaint should be treated as a service complaint or as an internal investigation.

   b. The Staff Operations Deputy Chief will assign the service complaint to a supervisor for handling if it was not resolved by the first supervisor. The supervisor may be in the chain of command of the employee named in the complaint.

   c. Within 7 days of receipt, a supervisor handling a service complaint will:

      i. Contact the citizen to discuss the complaint.

      ii. Discuss the department's expectations with the employee.

      iii. Review and explain the citizen's perception of the employee's conduct.

      iv. Discuss recommendations on alternate approaches for improving citizen satisfaction with the services provided by the employee.

      v. Document the meeting with the employee on the appropriate form.

      vi. The form will be forwarded to the Staff Operations Deputy Chief for retention in accordance with State and University guidelines.

      vii. Service complaints will not be included on the annual IA reports and reviews.
4. If the allegations made are criminal in nature or are not criminal but could have a significant impact on the operations or image of the department, the Staff Operations Deputy Chief shall immediately inform the Chief.

E. Internal Affairs Investigation

1. The Internal Affairs Function is under the direction of the Staff Operations Deputy Chief who is delegated the authority of the Chief for the purposes of directing the investigation.

2. The investigation of all cases of alleged misconduct or criminal conduct on the part of department employee shall be assigned through the Internal Affairs Function. The Staff Operations Deputy Chief will determine, on a case-by-case basis, the appropriate command level to be assigned the investigation.
   a. All complaints will be forwarded to the Staff Operations Bureau Commander and will be assigned to a supervisor for investigation based on the nature of the complaint, the person(s) involved or other factors deemed relevant.
   b. An outside law enforcement agency may be requested to conduct an investigation that involves any alleged employee criminal conduct.

3. Every alleged act of misconduct shall be investigated and the results of the investigation shall be reduced to a written report and submitted to the Staff Operations Deputy Chief. The investigating officer shall summarize the pertinent facts and include:
   a. A summary of the complaint or alleged act of misconduct;
   b. The employee(s) names and relevant information;
   c. The name and other necessary information of the person(s) making the misconduct allegation, if relevant;
   d. A brief description of the alleged violations;
   e. A detailed explanation and description of the incident;
   f. A summary of the investigation to include, but not be limited to witness statements, physical evidence and other evidence important to the investigation;
   g. The observations and “conclusions of fact” by the investigating officer, to include one or more of the findings listed below:
      i. UNFOUNDED
         The investigation indicated that the alleged acts did not occur, or failed to involve the subject employee(s).
      ii. UNFOUNDED, LACK OF SUPPORTING EVIDENCE
         The investigation failed to discover sufficient evidence to clearly prove or disprove the allegations made in the complaint.
      iii. FOUNDED, BUT PROPER CONDUCT
         The allegation is true, but the employee followed policy; acts were justified, lawful and proper.
      iv. FOUNDED, IMPROPER CONDUCT
         The investigation disclosed sufficient evidence to clearly prove the allegation in the report.
      v. Any recommendations, if appropriate, for revisions in existing policies and procedures.

4. All internal investigations shall be completed within 15 days of receiving the initial complaint. Extension notifications are to be made in writing to the Chief, with a copy to the affected employee, explaining the reason for the additional time needed.

5. The Chief has the discretion to relieve an employee from duty if the alleged misconduct or criminal act is serious enough to warrant such an action.

F. Witnesses with substantial knowledge or information of the incident under investigation will be interviewed. Interviews will take place at a location designated by the investigating
Interviews will be conducted at a reasonable hour, unless the urgency of the investigation dictates otherwise. All employees shall report for such an interview at the times, dates and locations specified.

G. At the direction of the Staff Operations Deputy Chief, certain laboratory or medical examinations may be required as part of an administrative investigation.

1. Any examination requested by the department will be conducted at the expense of the University.

2. Drug screening or blood alcohol level test will be based on "reasonable suspicion" as established in precedent court cases.

3. The use of employee photographs for the purpose of photo line-ups shall be in accordance with applicable federal and state laws and accepted police practices.

4. The department may require an employee to participate in a line-up for the purpose of investigation into employee misconduct.

5. Search and seizure law shall regulate the procurement of employee financial disclosure statements in cases applicable to the use of such evidence.

6. Polygraph examinations shall not be offered, as it is a violation of state law for the employer to request an employee to submit to a polygraph.¹

V. EMPLOYER/EMPLOYEE RESPONSIBILITIES

A. At an appropriate point in the investigation, the investigating supervisor shall issue a written statement to the employee under investigation stating s/he is the subject of an internal affairs investigation, outlining the allegations and the employee’s rights and responsibilities relative to the investigation. This statement will generally be issued when the employee is questioned or is asked for a statement in connection with the allegations.

B. Employees are required to be truthful at all times. In the investigation of administrative proceedings employees are required to answer questions, render called for materials and make relevant statements within the scope of his/her employment to the investigator when so directed. An employee is also required to immediately respond in writing if directed to do so.

C. The accused employee or his/her representative may contact the Staff Operations Deputy Chief to ascertain the status of the investigation for a complaint filed against him/her.

D. The investigating supervisor shall notify the employee and complainant, if applicable, in writing of the investigative conclusions promptly upon completion of the investigation.

VI. STAFF OPERATIONS BUREAU RESPONSIBILITIES

A. The Staff Operations Deputy Chief will have overall responsibility for the Internal Affairs function.

a. Reviewing and coordinating investigations of all complaints against employees, whether initiated by a community or department member;

b. Maintaining a complaint log of citizens’ complaints and assigning citizen complaint numbers;

c. Maintaining a secure and confidential central file for complaints, separate from employee personnel records, in compliance with applicable laws, university policies and union contracts.

d. Ensuring that the investigating officer keeps the complainant informed of the complaint progress including:

   i. Verifying in writing that the complaint was received;

   ii. Periodic investigation updates; and

   iii. Notification of the results of the investigation upon its conclusion.

¹ MCL §37.203
e. Conducting regular audits of complaints to ascertain the need for changes in training or policy.

f. Providing summaries of all complaints against sworn police personnel or the department to the Department of Public Safety Oversight Committee and the Campus Safety and Security Advisory Committee through the Chief.

g. Compiling annual statistical summaries of internal affairs investigations and making them available to the public and departmental personnel through annual reports.

B. False Reports

1. If it is determined through investigation that the complainant intentionally filed a false criminal complaint against an officer, criminal prosecution may be sought within normal warrant authorization procedures.

2. If it is determined through investigation that a University of Michigan student, faculty or staff member intentionally filed a false non-criminal complaint against an officer, appropriate University sanctions will be sought.
University of Wisconsin Madison

Police Commission: No Response

Internal Police Review Board
UW-Madison Police Department

Compliments-Concerns-Complaints

How may I compliment UW-Madison Police Department staff?

Police and security work is not always an easy job. Sometimes officers or other staff provide services that are requested and appreciated. On other occasions, officers interact with citizens in very stressful situations or hold people accountable for violations of the law. The officers and staff of the University of Wisconsin-Madison Police Department strive to serve in a professional, courteous and equitable manner that demonstrates the Department’s core values of Respect, Integrity, Compassion and Honor. UW-Madison Police Department staff frequently receives thanks from members of the community. It is always greatly appreciated when the public we serve takes time to commend officers or staff members for a compassionate act or job well done.

If you would like to compliment the conduct and/or actions of a UWPD officer or staff member, you may contact us by telephone, email, writing or in person. You may call us at 608-264-COPS (2677) and request to speak to the supervisor or OIC on duty. You may submit your compliment via email to uwpolice@mhub.uwpd.wisc.edu or by writing

How do I make a complaint against the UW-Madison Police Department?
Complaints are taken seriously by the UW-Madison Police Department and are viewed as opportunities to learn, to correct problems and to improve our service to the community.

During the contact:
If you believe a UW-Madison Police or Security officer has acted improperly during your contact, you may respectfully request to speak with an on duty supervisor, if available, or you may request the officer's name and badge number. Please do not get involved in a confrontation with the officer as you may address your complaint with a UWPD supervisor.

After the contact:
If you are the aggrieved person or a witness to an incident where you believe a UW-Madison Police Department staff person acted inappropriately, you are encouraged to speak with a UWPD supervisor. Please call 608-264-COPS (2677) and request to speak with a supervisor. Complaints can often be resolved at this level by providing a better understanding of the issue in a timely manner. In some instances you may not be satisfied with a resolution at this stage. You may file a written complaint.

Does making a complaint address my citation or arrest?
No, this is NOT a forum to challenge a citation or arrest. That must be done in a court-of-law utilizing the court date you were given at the time of the arrest or citation.

How do I make a written complaint?
Written complaints are accepted from the aggrieved person or a witness to the incident within ninety (90) days of the incident. You may (download a form here). You may call the UW-Madison Police Department at 608-264-COPS (2677) and request to speak with a supervisor to have a form mailed to you. You may come to the UW-Madison Police Department in person and request a form, request to speak to a supervisor or both. Written complaints require a full explanation of your encounter with the UWPD staff member including date, time and location. There should be a specific description of the alleged misconduct included. The identities and contact information for any witnesses with direct knowledge of the alleged misconduct should be provided. Completed written complaints that do not require notarization and signature may be emailed to uwpolice@mhub.uwpd.wisc.edu or mailed to:

University of Wisconsin Police Department
Attn: Personnel Lieutenant
1429 Monroe Street
Madison, WI 53711

When does a written complaint require a signature and notarization?
For written complaints involving use of excessive force, serious misconduct, violations of laws, ordinance, court orders or civil rights, you must sign the complaint before an official authorized to administer oaths such as a notary public. The Attestation and Notary form is included as part of the complaint forms. The completed Attestation and Notary form with the written complaint should be mailed to:

University of Wisconsin Police Department  
Attn: Personnel Lieutenant  
1429 Monroe Street  
Madison, WI 53711

For complaints such as discourtesy, verbal abuse or sarcasm or other similar misconduct, the Attestation and Notary form is NOT required. Is there a penalty for making a false complaint?  
Yes, Wisconsin State Statute 946.66 (link to it), provides that filing a false report of police misconduct with a law enforcement agency is a criminal offense. This state statute is not meant to inhibit the reporting of legitimate complaints. It is for the discouragement of intentionally bringing false complaints against law enforcement personnel.

How are written complaints resolved?  
The personnel lieutenant will review written complaints received and forward the complaint to the appropriate captain. The captain will review the complaint and assign the complaint for follow up as appropriate. The supervisor following up on the complaint will investigate the facts of the complaint and will likely interview you and any identified witnesses as well as the officer involved. The supervisor will also review other information available regarding the incident such as audio or video recordings and police reports. Upon completion of the investigation, the report is forwarded to the appropriate captain. The captain and appropriate assistant chief will review the report. For serious violations, the Chief of Police will also review the report. When appropriate, the internal disciplinary process will be used to preserve the employee's due process rights. A captain or higher level will communicate the findings of the complaint to you in writing.

It has been awhile and I have not heard from UWPD regarding my written complaint, how do I check the status?  
The University of Wisconsin-Madison Police Department tries to make sure we respond in a timely manner to complaints. If a significant amount of time has passed and you have not heard about the status of your complaint, please contact the Personnel Lieutenant by calling 608-262-4889.

I have a concern I want to make known to UWPD, how do I do that?
If you have an emergency, call 911 (i.e. a crime in progress, injured person, fires, serious threat to safety).

If you have information that needs to be dealt with immediately, please contact our communications center at 608-264-COPS (2677) (i.e. report a crime, suspicious activity, suspicious persons, threats, road problems, building lock outs).

If you have concerns regarding the actions or conduct of an UWPD employee, you are encouraged to call 608-264-COPS (2677) and request to speak to a supervisor. For issues that do not need to be addressed immediately you may also complete this form.
Western Michigan University

No Police Commission

Oversight Committee
WESTERN MICHIGAN UNIVERSITY
DEPARTMENT OF PUBLIC SAFETY - OVERSIGHT COMMITTEE
AUTHORITY, CHARGE, COMPOSITION, AND OPERATING PROCEDURES

AUTHORITY

The Department of Public Safety Oversight Committee ("Committee") has been established pursuant to Michigan law and the authority granted by the Board of Trustees of Western Michigan University.

CHARGE

The Committee shall receive and address grievances by persons against the public safety officers or the public safety department of the institution. The committee may recommend to the institution that disciplinary measures be taken by the institution against a public safety officer who is found responsible for misconduct in office.

COMPOSITION

Initially, the Committee shall be comprised of the following members, who shall be elected from the bodies of representatives elected by the faculty, students, and staff to represent them, unless or until an alternative election process has been put in place:

- 2 members of the faculty (elected by the Executive Board of the Faculty Senate)
- 2 Students (1 student elected by the Western Student Association (WSA) executive board and 1 graduate student elected by the Graduate Student Advisory Committee board)
- 2 members of the staff: 1 staff member elected by the Administrative Professional Association (APA) executive board and 1 staff member elected by the Professional Support Staff Organization (PSSO) board

Note: The University’s Vice President for Legal Affairs and General Counsel, or her/his designee, will attend meetings for the purpose of providing advice regarding compliance with the law and applicable collective bargaining agreements.

The chair of the Committee shall be elected by the members of the Committee. Membership shall generally be for the length of time designated by those who are electing the members, but if no term is specified, the term shall be one year. Vacancies shall be filled in accordance with applicable law.

OPERATING PROCEDURES

The Committee shall respond to grievances submitted in accordance with the following operating procedures:

- Grievances to the Committee on the Public Safety Oversight Committee Grievance Form shall be submitted on a form available on the Public Safety and Office of Business and Finance web sites or by hard copy in the Public Safety Department or Office of Business and Finance. Grievance forms are to be submitted to the Office of the Vice President for Business and Finance.
• The Committee shall meet on an as-needed basis determined by the chair, Vice President for Business and Finance, or their designees, based on grievances received and when a quorum of the committee can be convened based on the members’ schedules and availability. The chair shall generally preside over the meetings of the Committee. In the absence of the chair, the members of the Committee shall elect another member to serve as temporary chair.

• The Committee shall address the grievance by evaluating its merits, and shall determine whether to invite the grievant to address the Committee in person. The Committee has the authority to make recommendations to the University about the grievances through the Vice President of Business and Finance, but does not have authority to make decisions regarding outcomes. Further procedures and additional outcomes, if any, shall be in accordance with applicable collective bargaining agreements and law. Any recommendation shall be based on majority vote of the members of the Committee who are present at the meeting, either in person or by telephonic conference call concurrent participation in the meeting. A recommendation may be that the Committee believes further investigation is needed, in which case the Vice President for Business and Finance shall determine/coordinate next steps. The Committee will provide copies of relevant proceedings and/or recommendations to the Director of Public Safety, as appropriate considering all circumstances.

• If any grievance is about alleged misconduct of the Director of Public Safety, the grievance and any recommendations are to be submitted directly to the Vice President for Business and Finance.

• All Committee members must operate in accordance with all University policies and procedures as well as all collective bargaining agreements, contracts, and all other legal obligations of the University.

• If any Committee member has good faith reason to believe any other Committee member(s) should be removed from the Committee for cause, that Committee member should advise the Vice President for Business and Finance, who shall consult with the Office of the Vice President for Legal Affairs and General Counsel regarding appropriate steps to take in response, if any.

CONFIDENTIALITY

A grievance may be submitted anonymously. However, without sufficient information or a contact who can provide additional needed information, the Committee or University may not be able to be successfully determine appropriate recommendations or actions regarding the grievance. Grievances will be kept confidential except on a need-to-know basis and to investigate and take appropriate action in response to the grievance as determined by the University.

INTERPRETATIONS/CLARIFICATIONS

The President or Vice President for Business and Finance, or their respective designee(s), is authorized to enact additional procedures the Public Safety Oversight Committee to make interpretations and clarifications regarding the scope of authority and procedures in accordance with applicable law; University collective bargaining agreements; and other policies, rules, and requirements applicable to the University. Nothing herein shall be interpreted to preclude anyone from reporting criminal matters to law enforcement agencies or exercising any reporting rights protected by applicable law.
WESTERN MICHIGAN UNIVERSITY
DEPARTMENT OF PUBLIC SAFETY - OVERSIGHT COMMITTEE
GRIEVANCE FORM

*NAME: ____________________________

*ADDRESS: ____________________________

*TELEPHONE: ____________________________

*EMAIL: ____________________________

*RELATIONSHIP TO UNIVERSITY: _________________

DATE(S) OF EVENT(S) GIVING RISE TO GRIEVANCE:

________________________________________, 20___

PUBLIC SAFETY OFFICERS INVOLVED (IF KNOWN):

________________________________________

________________________________________

PLEASE PROVIDE A NARRATIVE STATEMENT OF YOUR GRIEVANCE:
(ATTACH ADDITIONAL SHEETS IF NEEDED)

________________________________________

________________________________________

________________________________________

________________________________________

________________________________________

________________________________________

________________________________________

________________________________________

MAIL OR EMAIL FORM TO: Office of Business and Finance, Western Michigan University,
Seibert Administration Building, Kalamazoo, MI 49008-5203

* A grievance may be submitted anonymously. However, without sufficient information or a contact who can provide additional needed information, the Committee or University may not be able to be successfully determine appropriate recommendations or actions regarding the grievance. Grievances will be kept confidential except on a need to know basis and to investigate and take appropriate action in response to the grievance as determined by the University.
Police Chief Magazine

Just Cause Checklist

Standards of Cause
JUST CAUSE CHECKLIST

• Was the employee adequately warned of the consequences of his/her conduct?
  □ Yes ________________________________
  □ No __________________________________

• Was the County’s rule or order reasonably related to efficient and safe operations?
  □ Yes ________________________________
  □ No __________________________________

• Did management investigate before administering the discipline?
  □ Yes ________________________________
  □ No __________________________________

• Was the investigation fair and objective?
  □ Yes ________________________________
  □ No __________________________________

• Did the investigation produce substantial evidence or proof of guilt?
  □ Yes ________________________________
  □ No __________________________________

• Were the rules, orders, and penalties applied evenhandedly and without discrimination?
  □ Yes ________________________________
  □ No __________________________________

• Was the penalty reasonably related to the seriousness of the offense and the past record?
  □ Yes ________________________________
  □ No __________________________________

NOTES:
____________________________________________________________________
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____________________________________________________________________
The Department of Commerce's *Statistical Abstract of the United States* (1991) reports that 18 million persons are employed in 82,000 governmental organizations at the local, state, and federal levels.¹ Meaningful, effective, procedural due-process protections for these employees create a feeling of fairness in the workplace; promote confidence and positive morale; breed an environment of collegiality, efficiency, and esprit de corps; and prevent demoralization of valuable employees as well as abusive management conduct. The result is that the public employer and the general public are also better served when procedural due-process protections are provided.²

The Fifth and Fourteenth Amendments of the U.S. Constitution both address the right of all citizens to due process. The Fifth Amendment has an explicit requirement that the federal government not deprive any individual of life, liberty, or property without the due process of law. The Fourteenth Amendment explicitly prohibits states from violating an individual's rights of due process and equal protection.

Due-process protection requires that employees have a fair procedural process before they are terminated if the termination is related to a liberty or property interest. Thus, the threshold question that must be answered before procedural due-process rights are triggered is whether a liberty or property interest is at risk.

**Property Interest**

A property interest in a job is created when an employee has a reasonable expectation of continued employment. Property interests are not created by the Constitution but rather by existing rules or understandings that stem from an independent source such as state law.³ The following can create this expectation:

- A collective-bargaining agreement that requires the employer to have just cause or an articulable reason to discipline an employee
- A government ordinance or charter that requires just cause for discipline
- An employer operations manual that requires just cause for discipline
- A civil-service rule that requires just cause for discipline
- A state or federal statute that requires just cause for discipline
- Any oral promises that could create a reasonable expectation of continued employment⁴
- The employer's past practice and custom of requiring just cause even though not required by law, ordinance, operation manual, or oral statement⁵

**Just Cause**

The court in *Baldwin v. Sisters of Providence* defined just cause as "honest cause or reason, regulated by good faith on the part of the party exercising the power."⁶ A discharge for just cause is one that is not
for any arbitrary, capricious, or illegal reason and that is based on facts both supported by substantial evidence and reasonably believed by the employer to be true.

*Just cause, justifiable cause, proper cause, obvious cause, and cause* are often-used terms that all mean the same thing: they exclude discharge for mere whim or caprice.²

**Liberty Interest**

A liberty interest is created when the disciplinary action taken has the effect of making it likely that the employee will be unable to continue in the profession in the future.³ For example, a police officer terminated for an offense that would result in the revocation of the officer’s state certification would find it impossible to obtain another police officer position in a different department in that state because certification was revoked.

**At-Will Employees**

The employment-at-will doctrine, simply stated, says that either party may terminate at any time any employment relationship that is not in writing and is for an indefinite period of time, for any reason or no reason at all.³ Generally, police chiefs, fire chiefs, appointed sheriffs, part-time employees, probationary employees, and reserve officers are not afforded due process, as they are considered at-will employees. However, federal statutes (see the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and the Age Discrimination in Employment Act of 1988 as examples) and many states provide protections to employees from discriminatory practices. Of course, any termination of an at-will employee contrary to a state or federal statute is illegal. In addition, several states (California, Connecticut, Delaware, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, New Hampshire, New York, Oklahoma, Oregon, Rhode Island, Texas, Washington, and Wisconsin, and possibly others) have statutes to protect employees from retaliation for reporting management wrongdoing, that is, whistleblowing.

**Historical Determination of Just Cause**

Courts have generally agreed that the issue of whether or not the reasons asserted for an adverse employment action constitute just cause is a question of fact that should be left for the jury to decide.⁴ Although a matter for the jury, employment lawyers, scholars, and arbitrators have been attempting to identify the standards for the determination of just cause over the past 30 years. In the appendix to a 1966 arbitration decision, arbitrator Carroll R. Daugherty first articulated the factors that have in employment literature since then been called the seven tests of just cause.⁵ Daugherty asked the following seven questions:

- Did the employer provide the employee forewarning or foreknowledge of the possible or probable consequences of the employee’s conduct?

- Was the employer’s rule or managerial order reasonably related to

  - the orderly, efficient, and safe operation of the employer’s business and
the performance that the company might properly expect of the employee?

Did the employer, before administering discipline to the employee, make an effort to discover whether the employee did in fact violate a rule or order of the employer’s management?

Was the employer’s investigation conducted fairly and objectively?

At the investigation, did the judge obtain substantial evidence or proof that the employee was guilty as charged?

Did the employer apply its rules, orders, and penalties evenhandedly and without discrimination to all employees?

Was the degree of discipline administered by the employer in a particular case reasonably related to

- the seriousness of the employee’s proven offense and
- the record of the employee in service with the employer?

Daugherty’s decision explained that an answer of no to any one or more of the seven questions normally signifies that just and proper cause did not exist.

The U.S. Supreme Court, in the 1987 case of United Paperworkers Union, AFL-CIO, et al. v. Misco, Inc., provided eight tests for the determination of just cause as follows:

- Was the employee’s position reasonable?
- Was notice given to the employee?
- What was the timing of the investigation?
- Was the fairness of the investigation considered?
- What was the evidence against the employee?
- Was there a possibility of discrimination?
- Was the nature of the offense considered?
- Was the employee’s past record considered?^{12}

Contemporary Determination of Just Cause

In determining today whether an employee was properly discharged and whether the discharge was supported by the required just cause, the following criteria for just cause are likely to be considered:^13

Have the charges against the officer been factually proven? Courts and arbitrators across the United States have utilized a variety of standards of proof in analyzing disciplinary decisions, varying from
preponderance of the evidence in actions less than discharge to the higher standard of clear and convincing evidence in discharge cases, to proof beyond a reasonable doubt in cases that involve criminal allegations. However, the proof generally required, in cases involving the revocation of a professional license, is the standard of clear and convincing evidence. In cases involving the termination of a career service employee, the standard of preponderance of evidence is normally applied. In the termination of an employee not involving the loss of license or the protection of career service, the standard of proof required must be supported by competent, substantial evidence.

Was the punishment imposed by the employer disproportionately severe under all circumstances? Although there is no universally accepted protocol for the determination of the appropriateness of punishment, the U.S. Merit Systems Protection Board (MSPB), in the case of Douglas v. Veterans Administration, provided the following factors for consideration in determining the appropriateness of punishment:

- The nature and seriousness of the offense and its relation to the employee’s duties, position, and responsibilities, including whether the offense was intentional, technical, or inadvertent; was committed maliciously or for gain; or was frequently repeated
- The employee’s job level and type of employment, including supervisory role, contacts with the public, and prominence of the position
- The employee’s past disciplinary record
- The employee’s past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability
- The effect of the offense upon the employee’s ability to perform at a satisfactory level and its effect on the supervisor’s confidence in the employee’s ability to perform
- The consistency of the penalty with those imposed on other employees for the same or similar offenses
- The impact of the penalty on the agency’s reputation
- The notoriety of the offense or its impact on the agency’s reputation
- The clarity with which the employee was aware of any rules that were violated in committing the offense or had been warned about the conduct in question
- The potential for the employee’s rehabilitation
- The presence of mitigating circumstances surrounding the offense, such as unusual job tension, personality problems, mental impairment, harassment or bad faith, or malice or provocation on the part of others involved in the matter
- The adequacy and effectiveness of alternative sanctions to deter such conduct in the future
Did the employer conduct a thorough investigation into the incident? The investigation should, at the minimum, include examining all investigatory leads and interviewing all witnesses. 18

Were other employees who engaged in conduct similar or identical to that of the officer treated as harshly by the employer? Commonly referred to as the disparate treatment defense, this question focuses on the employer’s preexisting pattern of discipline imposed in identical or similar cases.

Was the officer’s misconduct the product of action or inaction by the employer? Any claims that the employee was inadequately trained and therefore could not perform the assigned ask satisfactorily, or a supervisor ordered the employee to perform the act or contributed to the employee’s misconduct by not previously enforcing the rules, can affect a ruling of just cause.

Did the employer take into consideration the officer’s good or exemplary work history? Generally speaking, the longer the work history and the higher the work performance evaluations, the less the punishment.

Did the employer take into consideration mitigating circumstances? For example, was the employee suffering from a physical ailment at the time of the misconduct, or was the employee provoked into committing the misconduct?

Was the officer subjected to progressive or corrective discipline? The theory of progressive discipline is that punishment should occur in ever-increasing severity to modify behavior. Corrective discipline is based on the theory that an employee may not know how to perform the job tasks properly (perhaps due to inadequate training) and that punishment will not result in the ability to perform the tasks.

Was the employer motivated by antiunion bias? This defense is raised most frequently when the disciplined employee is an active member in a labor organization or is attempting to garner support for a labor organization or when there has been a poor working relationship between a labor organization and the employer.

Are the employer’s rules clear and understandable? A rule should not be open to more than one reasonable interpretation. In addition, all rules should be widely disseminated to ensure that all employees are aware of the behavior expected of them in the workplace. Rules that seem broad, such as those that forbid the use of excessive force or obscene language are enforceable if the employer can show that the rule is readily comprehensible to the average employee in the organization. 19

Is the officer likely to engage in similar misconduct in the future? In cases of termination, arbitrators and judges will often consider whether the employee would be likely to repeat the offense or whether the conduct was an aberration from the employee’s normal conduct. 20

Was the officer accorded procedural due process in the disciplinary investigation? Essentially, procedural due process requires that a meaningful opportunity to be heard must be afforded to public employees who have a property or liberty interest in their employment. What is the process that is due an employee? The courts generally apply a three-part balancing test. 21 The factors balanced include the employee’s interest in retaining the job, the employer’s interest in the expeditious removal of an
unsatisfactory employee and the avoidance of administrative burdens, and the risk of an erroneous
decision.\textsuperscript{22}

Conclusion

The Fifth and Fourteenth Amendments to the U.S. Constitution provide for due-process protection for
employees accused of employment rule violations. Due-process procedures benefit not only employees
but also employers and the public.

The requirement for due process is triggered through an expectation of continued employment
(property interest) or when employees are unlikely to be able to continue in their profession because of
the disciplinary action (liberty interest).

The determination of whether individuals are entitled to due process through a property interest in their
jobs is generally made through the concept of just cause. Just cause means essentially that employees
cannot be discharged from their jobs for mere whim or caprice. What constitutes just cause has been
developed over the past 30 years from numerous arbitration and court decisions. Today, a set of
established questions must be answered in the affirmative before a discharge can be classified as
appropriate.\textsuperscript{1}

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