





**POLICIES AND PROCEDURES MANUAL**

	<p><b>INTERNAL AFFAIRS AND CITIZEN COMPLAINTS</b></p>	
	<p><b>POLICY NUMBER: 26-5</b></p>	<p>ISSUING AUTHORITY</p> 
	<p><b>EFFECTIVE DATE: October 28, 2018</b></p>	

**I. GENERAL CONSIDERATIONS AND GUIDELINES**

A relationship of trust and confidence between the employees of the Northeastern University Police Department and the citizens of the University community is essential to the successful accomplishment of law enforcement objectives. This relationship depends, in large part, on a consistently high standard of conduct maintained by department members both on and off duty.

To promote these high standards the department supports an internal affairs function that receives, documents, investigates and responds to all allegations of misconduct. Through the Office of Professional Standards, the department will maintain a system of internal affairs that is transparent, fair and impartial.

The Office of Administration and Professional Standards will *direct* all activity in this regard, whether the infraction is minor in nature or more serious, and is responsible for maintaining the confidentiality of all investigations and records. The Deputy Chief of Police shall review these activities and appraise the Chief when necessary. This policy shall apply to all employees of the police department, whether sworn, non-sworn or civilian.

All alleged or suspected violations of law, University policies and procedures, or police department written directives will be investigated according to the procedures outlined for each. These include the following.

- A. All observed, suspected or perceived violations reported to the department's superior officers by other members of the department, either orally or in writing.
- B. Citizen complaints of alleged police misconduct that are made in person, by letter, by telephone, or social media including anonymous complaints and complaints made by detainees.

**II. POLICY**

It is the policy of the Northeastern University Police Department to:

- A. Investigate all complaints, including anonymous complaints, against the department or a member of the department, regardless of the source of such complaints, through a regulated, fair, and impartial Internal Affairs/Professional Standards Program that complies with relevant collective bargaining agreements; [26.2.1]
- B. Review all complaints to determine whether or not such complaints are valid understanding that anonymous complaints can be difficult to investigate without a credible complainant; and
- C. Take appropriate action.

### **III. PROCEDURES**

#### **A. Complaint Procedures**

1. The Lieutenant of Administration and Professional Standards shall be responsible for managing the internal affairs function and shall appraise the Deputy Chief of Police regarding all internal affairs matters when appropriate. In some cases, when the sensitivity and impact of internal affairs require that the Chief receive all pertinent information, the Lieutenant shall have access to and report such matters directly to the Chief. [26.2.3]
2. The Lieutenant of Administration and Professional Standards shall conduct an annual analysis and statistical summary, based upon records of internal affairs investigations, and shall appraise the Chief of Police of the findings. The yearly summaries shall be made available to the public and to department personnel on the Northeastern University Police Department website. [26.2.5]
3. Complaint Reports
  - a. All complaints (whether registered by a citizen, student, faculty, staff, detainee; initiated from within the police department; or forwarded by another governmental agency) shall be recorded and maintained by the Lieutenant of Administration and Professional Standards. Such records shall be kept confidential with access limited to authorized personnel only. [26.2.2]
4. Receiving and Recording Complaints [26.2.4]
  - a. General Procedures
    - (1) The shift supervisor at the time the complaint is made shall be responsible for the receiving and recording of any complaint of police misconduct made in person, by telephone, or in some cases by email.
    - (2) The utmost courtesy and cooperation should be extended to all persons registering complaints or otherwise inquiring about complaint procedures.
    - (3) The initial contact between a complainant and police authorities is an important stage in the process as the complainant may be tense, angry, or emotionally upset.

- (4) No person should be denied an opportunity to register a complaint, nor should any such person be directed to return or call back later.
- (5) Every complaint report form shall be given an identifying number, so that the processing of complaints can be carefully monitored. This identifying number will be assigned by the Lieutenant of Professional Standards.
- (6) If the substance of the employee misconduct warrants it, the shift supervisor may relieve the employee from duty (with pay) for the remainder of his/her shift pending notification of the Lieutenant of Professional Standards, the Deputy Chief and the Chief of Police. The employee shall only be relieved from duty at the direction of the Deputy Chief of Police or the Chief of Police in accordance with statutory and collective bargaining provisions. The following is a sample of circumstances that may result in an employee being relieved from duty. [26.3.7]
  - (i) Reporting for duty in an unfit condition.
  - (ii) Insubordination.
  - (iii) Leaving assigned duty location or refusing to perform assigned duties.
  - (iv) Criminal offense committed while on or off duty.
  - (v) Improper use of agency's property.
  - (vi) Falsifying a statement or record.
  - (vii) Abusing, destroying, damaging, stealing, or defacing property, tools, or equipment of the agency or that of others.

#### 5. Types of Complaints

##### a. In Person Complaints

- (1) Citizens making complaints in person should be requested to read their completed report, to make any necessary corrections or additions and to sign the complaint.
- (2) If a complainant refuses to sign a complaint, a notation to that effect should be made on the complaint form.

##### b. Telephone Complaints

- (1) Complaints received by telephone shall be documented and referred to an appropriate supervisor. No telephone complaint should be refused or rejected because the complainant does not wish to be identified.

##### c. Complaints Received by Mail/Electronic Mail or Social Media

- (1) Complaints received by mail or e-mail, shall be forwarded to the Lieutenant of Administration and Professional Standards for review. In some cases, complaints may be received directly by Command Staff who will review the complaints prior to forwarding them to Professional Standards.

- (2) If the information so received is insufficient or incomplete, the complainant shall be contacted, if possible, for additional information.

d. Departmental Complaints

- (1) Formal departmental complaints of misconduct or performance against a department employee shall be forwarded to the Lieutenant of Professional Standards for review and or investigation.

e. Complaints by Prisoners

- (1) Any prisoner who alleges misconduct or mistreatment by a department employee shall be advised by the shift supervisor of his/her right to submit a complaint report form in the usual manner and such complaints shall be investigated and processed in the same manner as other citizen complaints.

f. Complaints from Governmental Agencies

- (1) When information is received or obtained from other governmental agencies alleging specific acts of misconduct by a department employee, this information shall be recorded by filing a report and an investigation initiated.

g. Street Complaints

- (1) If an officer on the street is approached by a citizen regarding a complaint of alleged misconduct against an employee of the police department, the officer shall be advised to direct the complaint to the shift supervisor and shall provide directions to the police station.

h. Verification of Receipt [26.3.4(a)]

- (1) Every person making a complaint against a department employee shall be notified by email or phone verifying that such complaint has been received, if contact information is available.

i. Periodic Status Reports

- (1) In all cases of reporting, except anonymous reports, the complaining party shall periodically receive information regarding the status of the investigation, if appropriate. [26.3.4(b)]

B. Investigative Procedures

1. Categories of Complaints

- a. Complaints to be investigated by a shift supervisor or officer-in-charge may include, but are not limited to: [26.3.1(a)]
  - (1) disputes regarding parking violations;
  - (2) tardiness;
  - (3) other matters that do not rise to the level of an IA investigation and can be easily resolved.

- b. Complaints to be investigated by Professional Standards include, but are not limited to:  
[26.3.1(b)]
    - (1) corruption; brutality; use of excessive force;
    - (2) violation of civil rights; criminal misconduct;
    - (3) unprofessional conduct; and
    - (4) any other matter as directed by the Chief of Police.
  - c. Reports of investigations conducted by shift supervisors shall be forwarded and reviewed by the Lieutenant of Administration and Professional Standards.
2. Immediate Resolution of a Complaint
- a. In some cases a complaint can be resolved to the complainant's satisfaction at the time by the shift supervisor or officer-in-charge, in which case this fact should be reported in writing to the Lieutenant of Administration and Professional Standards.
  - b. This immediate resolution can often be accomplished if the incident is clearly not of a serious nature, or arises from a misunderstanding or lack of knowledge of the law or of the limitation of a police officer's authority.
  - c. Under no circumstances, however, will a justifiable complaint be refused, delayed, or otherwise rejected in this manner.
3. Investigation of Complaints
- a. The Lieutenant of Administration and Professional Standards shall be responsible for conducting Internal Affairs investigations and has the authority to report directly to the Chief of Police. [26.2.3]
    - (1) The affected employee shall be provided a written statement of the allegations against him/her in a timely manner unless it is determined that disclosure might jeopardize an investigation. [26.3.5]
      - (i) NOTE: If the employee was not notified, [s]he must receive written notification prior to any interrogation or administrative or criminal hearing.
    - (2) The Lieutenant of Administration and Professional Standards shall be responsible for providing the Chief of Police or designee with status reports on the progress of the investigation every seven (7) days. These reports shall contain all pertinent information relating to the progress of the investigation and may be verbal or in writing.
    - (3) If the substance of a complaint, if proven, would be of a grave nature or is an accusation of a serious crime and immediate action is deemed necessary, the Chief, or the ranking officer designated by the Chief, shall be notified forthwith in order that an investigation can be initiated without delay. [26.3.2]

- (i) The Chief of Police will be notified immediately upon receipt of a complaint of criminal activity, excessive force, or any action that could bring substantial discredit to the University.
  - (ii) Those complaints for which notification to the Chief can be delayed include performance and code of conduct violations.
- (4) Before a department employee is questioned or directed to submit a report regarding a complaint, and unless the Chief determines that disclosure might jeopardize the investigation, such employee shall be issued a written statement of the allegations and in either case the employee will be advised of his/her rights and responsibilities relative to the investigation. [26.3.5]
- b. Any Internal Affairs investigation must be commenced immediately upon receipt of the complaint and must be completed within thirty (30) days. [26.3.3]
  - (1) If extenuating circumstances preclude completion within thirty (30) days, the Lieutenant of Professional Standards shall request an extension from the Chief of Police in writing, and provide written notification to the employee (if previously notified of the complaint and investigation) and complainant of the delay.
  - (2) If the investigation is not completed within thirty days, the complainant shall be provided a progress report every thirty days until the completion of the investigation. The complainant shall be notified at the conclusion of the investigation.
- c. An internal administrative investigation may inquire into a department employee's on-duty or off-duty conduct if such inquiry is reasonably and directly related to the employee's performance of duty, if such conduct affects the employee's fitness or ability to continue in the police service, or reflects discredit on the department.
- d. Criminal Proceedings: If it is determined, after a preliminary investigation, that allegations against a department employee could result in a criminal prosecution, the accused employee must be granted all applicable constitutional and statutory rights.
  - (1) Prior to being questioned regarding alleged personal involvement in criminal activity, a department employee shall be given the Miranda warnings, including the right to have an attorney present during any such questioning, prior to custodial interrogation.
  - (2) After Miranda warnings have been given, any voluntary statement made thereafter could be admissible in a criminal proceeding, and it may otherwise be used for departmental disciplinary purposes.
  - (3) A department employee, who is being questioned about alleged personal involvement in criminal activity that could result in a criminal prosecution, cannot be discharged or otherwise penalized, solely for invoking the right to remain silent as guaranteed by the Fifth Amendment or for refusing to sign a waiver of immunity.<sup>1</sup> However, as discussed below, an employee may be compelled to

answer questions narrowly and specifically defined regarding the performance of police department duties, professional responsibilities and fitness to perform those duties and may be disciplined, including discharge, for failure to answer truthfully.

- e. Departmental Disciplinary Action: If it is determined as a result of a preliminary investigation, that allegations made against a department employee could result in departmental disciplinary action, the accused employee is entitled to a fair, objective, and lawful investigation and resolution of the charges made.
- (1) All department employees, when requested by the Chief, or by a superior officer designated by the Chief, must respond fully and truthfully to all questions regarding their performance of official duties or their off-duty misconduct which affects their fitness or ability to remain in the police service, and any failure to answer completely and truthfully to such inquires may be punished by appropriate disciplinary action, including dismissal from the department.<sup>2</sup>
    - (i) If the employee or his/her counsel or representative asks, the official conducting the interrogation must specify, at the time of the interrogation, the precise repercussions (i.e., suspension, discharge, or the exact form of discipline) that will result if the officer fails to respond.<sup>3</sup>
  - (2) When a department employee, after declining to do so voluntarily, is ordered to submit a report or to answer questions under a threat of the penalty of discipline, that employee is entitled to and shall receive transactional immunity from criminal prosecution for any offenses to which the compelled testimony relates.
    - (i) The Supreme Judicial Court has held that Article 12 of the Massachusetts Declaration of Rights requires "transactional" immunity to supplant the privilege against self-incrimination when a public employee is being compelled to answer questions concerning possible criminal activities connected with his employment. Transactional immunity grants "immunity from prosecution for offenses to which compelled testimony relates."<sup>4</sup> Whereas University police have the authority to criminally charge a suspect, transactional immunity applies to University police officers even though they are agents of a private institution.
  - (3) If the questions specifically, directly, and narrowly relate to the employee's performance of official duties or his/her off-duty conduct which affects his/her fitness or ability to remain in the police service, and if such employee receives a statewide grant of transactional immunity from criminal prosecution, [s]he must answer or face disciplinary action, including dismissal from the department, for refusing to answer such questions.
  - (4) The Chief of Police shall secure a written grant of transactional immunity from the Attorney General's Office and all District Attorneys. An employee may decline to answer questions in a criminal investigation until such documentation is received

and the employee has been afforded a reasonable opportunity to have it reviewed by counsel.

- f. Double jeopardy: No double jeopardy exists when a department employee is found not guilty in court of criminal charges and is then found guilty of departmental charges after a disciplinary hearing, as the department charges are administrative in nature and can be sustained by a "preponderance of the evidence" rather than the criminal court standard of "beyond a reasonable doubt."
- g. In conducting internal administrative investigations, in the absence of a requirement in a collective bargaining agreement, there is no legal obligation for the police department to provide department employees with an opportunity to consult with an attorney before being questioned on work-related matters.<sup>5</sup> However, a request for an attorney or an employee representative to be present will be granted if the investigation is not thereby unduly delayed.
  - (1) Except in unusual situations, any interview or questioning should take place during the employee's regular duty hours.
  - (2) Any interview or questioning should not be prolonged without reasonable rest periods and the opportunity for meals and such other personal necessities as are reasonably required.
  - (3) A department employee shall not be improperly harassed or threatened during this period of questioning.
- h. In conducting investigations of alleged employee misconduct, all appropriate investigative techniques and methods should be employed, consistent with legal requirements and all necessary concern for the individual rights of the accused employee.
  - (1) An internal administrative investigation should be conducted with the same degree of professional competence as is devoted to a criminal investigation.
  - (2) Upon orders of the Chief of Police or designee and as specified in the CBA, an employee may be required to submit to a medical or laboratory examination, at the department's expense, which may include drug and/or alcohol testing and psychological examination. Such examinations must be specifically directed and narrowly focused to a particular internal affairs investigation being conducted by the department.<sup>6</sup> [26.3.6(a)]
- i. Identification: A police officer may also be required to be photographed and can be compelled to stand in a lineup for identification in connection with an internal affairs investigation resulting from criminal charges, and a refusal can be the basis for an additional disciplinary charge of refusal to obey a lawful order. Such a lineup should be constructed in accordance with the provisions as outlined in the policy on *Eyewitness Identification*. [26.3.6(b)(c)]
- j. Searches



- (1) A police officer's personal property, including his/her home, car and other property, is protected from unreasonable search and seizure under the Massachusetts Constitution, and it is possible that any evidence illegally obtained may not be used as evidence in an administrative proceeding.<sup>7</sup>
  - (2) Department property furnished to the officer, such as desks, lockers, or vehicles, phones and computers, in which it is clearly understood in advance that an officer has no expectation of privacy may be searched without a warrant.
- k. Financial disclosure: A police officer may be compelled to submit a financial disclosure statement as part of an internal affairs investigation provided such statement is narrowly focused and material to the investigation being conducted.<sup>8</sup> [26.3.6(d)]
  - l. Under the provisions of M.G.L. ch. 149 §19B, police officers may be required to submit to a polygraph or other lie detector test if such test is conducted by a law enforcement agency in the course of a departmental investigation of criminal activity, and officers may face disciplinary action for refusal.<sup>9</sup> [26.3.6(e)]
  - m. Recording interviews: If appropriate, the complete interview with an employee in all internal administrative investigations should be recorded mechanically or by a qualified stenographer.
  - n. Withdrawn complaints: If during the progress of an internal investigation, the complainant indicates a desire to withdraw the complaint, effort should be made to allow for a voluntary decision, and a signed statement to this effect should be obtained from the complainant.
    - (1) Even though a complaint is withdrawn, a full report of the investigation to date should be prepared for the Chief and his/her approval obtained for the termination or continuation of the investigation.
    - (2) Any attempt, directly or indirectly, on the part of a department employee to obstruct any internal investigation or to threaten or persuade any complainant to withdraw or abandon his/her complaint, is prohibited and will be treated most severely.
- C. Report of Investigation
1. At the conclusion of any administrative investigation, a full written report shall be prepared for submission to the Chief, which shall include the following.
    - a. The original complaint report.
    - b. Any additional statements taken from the complainant or statements obtained from witnesses.
    - c. Any statements made or reports submitted by the department employee under investigation.
    - d. A summary of all evidence gathered.
    - e. Any mitigating circumstances; and

- f. An evaluation of the complaint, a conclusion of facts, and a definitive statement as to whether the charges made by the complainant were: [26.3.8]
    - (1) *Sustained*: The complaint was valid and supported by sufficient evidence;
    - (2) *Not Sustained*: There was inadequate or insufficient evidence to either prove or disprove the complaint;
    - (3) *Unfounded*: The allegations were baseless and without foundation; or
    - (4) *Exonerated*: The complaint was unjustified or unwarranted as the actions of the accused department employee were in compliance with law or in accordance with department policy and procedure.
  2. Upon receipt of the report of investigation, the Chief should take further action as is necessary based upon findings in the particular case.
  3. The subject of the investigation shall be promptly notified of the final results of the investigation. If the department employee is cleared of the charges made, [s]he shall be officially exonerated in writing.
  4. Every person who has filed a complaint against an employee may be notified, if appropriate, as to the final results of the investigation, personally if possible, or otherwise by phone, email, or mail. [26.3.4(c)]
    - a. If a disciplinary hearing is deemed necessary, the complainant shall be notified that his/her testimony may be required at that time.
- D. Confidentiality of Internal Affairs
1. In order to provide for the lawful protection of the individual rights of officers who are the subject of an Internal Affairs investigation, all materials relevant to that investigation shall be kept strictly confidential and secured by the Lieutenant of Professional Standards. The Lieutenant shall maintain the records of all complaints against the agency or its employees separate from personnel and the centralized records system for a period to be determined by the Chief of Police. [26.2.2]
  2. Internal Affairs investigators should note in their reports any instances where witnesses refused or were reluctant to speak with them unless they were assured that their statements would be kept confidential, at least to the extent legally allowed.
  3. No statement regarding an Internal Affairs investigation will be made or issued to the public or media unless the charges have been sustained and action has been taken or initiated against the officer or employee.
  4. A copy of the completed investigation summary should be kept in a summary file as directed by the Chief of Police and will be the only source of public information about citizen complaints, other than the statistical log which may be prepared and published annually by the Chief of Police.
- E. Liaison with District Attorney

1. Any Internal Affairs investigation which may, or does, result in criminal charges being brought against an officer shall require the District Attorney's or Attorney General's office to be apprised of the case for the purpose of advising on legal issues and ultimately prosecution if necessary.

<sup>1</sup> *Uniformed Sanitation Men Ass'n, Inc. v. Comm. of Sanitation of New York*, 392 U.S. 280, 8S.Ct. 1917(1969); *Gardner v. Broderick*, 392 U.S. 273, 88 S.Ct. 1913 (1968).

<sup>2</sup> *Carney v. Springfield*, 403 Mass. 604, 532 N.E.2d 631 (1988).

<sup>3</sup> *Carney v. Springfield*, 403 Mass. 604, 532 N.E.2d 631 (1988).

<sup>4</sup> *Carney v. Springfield*, 403 Mass. 604, 532 N.E.2d 631 (1988).

<sup>5</sup> *NLRB v. Weingarten*, 420 U.S. 251, 95 S.Ct. 959 (1975).

<sup>6</sup> *Johnson v. Dept. of Police*, 615 So.2d 1064 (La. App. 1993)

<sup>7</sup> *Board of Selectmen of Framingham v. Municipal Ct. of City of Boston*, 373 Mass. 783, 369 N.E.2d 1145 (1977).

<sup>8</sup> *O'Brien v. Mun. Court*, 10 Mass. App. Ct. 851, 407 N.E.2d 1297 (1980).

<sup>9</sup> M.G.L. c. 149, §19B.