

GENERAL ORDER XXVI

SUBJECT: INTERNAL AFFAIRS

EFFECTIVE DATE: 01-01-06

REVIEW DATE: 01-13-12

NOTE: This rule or regulation is for internal use only, and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

I. PURPOSE

Self discipline is the cornerstone of success in every organization. As a group or team, this requires that all components function in harmony with due respect and concern for the established rules, guidelines and procedures of the organization. As individuals, we must recognize our personal roles within the organization with an awareness of our own responsibility for the welfare of each other and achievement of the organizational goals.

It is the purpose of this document to establish a standard method for processing and resolving allegations of inappropriate acts or omissions by employees of this Department and to ensure proper functioning of organizational components through staff inspections.

II. POLICY

The West Plains Police Department hereby establishes a procedure providing consistent and expeditious investigation of all complaints, both administrative and external. This is for internal use only; it does not enlarge the employee's criminal or civil liability. A violation can only form the basis of a complaint by this Department in an administrative setting.

Section 1: Internal Affairs Component

- A. It is incumbent of all supervisors of the management team to initiate, investigate and provide recommendations concerning alleged misconduct of Department employees. The Chief of Police may conduct, or have conducted, an investigation based upon a complaint against any member of the Department upon general information or belief that said member has violated any Departmental policies or any law.
- B. It is the policy of this Department, whenever possible, that complaints of

alleged misconduct shall be investigated by the immediate supervisor of the employee where misconduct is not a violation of criminal statutes.

- C. It is the policy of this Department to refer cases involving Department employees accused of criminal activities to the Chief of Police, or, if necessary, to an outside police agency.
- D. It is the policy of this Department to utilize supervisors (unless otherwise appointed by the Chief of Police) for investigation of allegations and/or administrative control over all investigations, administrative and external complaints, and for investigation and recommendation for system failure within the organization which impede the ability to meet Departmental objectives and goals.
- E. It is the policy of this Department to uphold and defend the legal rights of the employee as defined by the constitutional, statutory, and case law.
 - 1. It shall be the policy of the West Plains Police Department to maintain liaison with the prosecutor's office in investigations involving alleged criminal conduct by an employee.
- F. It is the policy of this Department to diligently and expeditiously investigate all complaints, to take corrective procedural action when necessary, and vindicate the employee when justified.
 - 1. It is the policy of this Department to maintain a record of all complaints against the Department or its employees.

SECTION 2: Reporting of Complaints

A. Administrative Complaints

- 1. Defined: Complaints originating within the Department and involving its personnel that are specific allegations of violations of Departmental rules, regulations or procedures, City of West Plains Personnel Rules and Regulations; or violations of law.
 - a. Interpersonal relationships, supervisory techniques, management and administrative processes may generate employee concerns.
 - b. Such concerns are appropriate for review and consideration of the proper supervisor when, by their nature, they are suitable for investigation as administrative complaints.
- 2. All administrative complaints as defined (except accidents) shall be recorded on the Department Memorandum Form.

3. At the time the employee is notified of the administrative complaint made against him/her, he/she will be directed to complete a Department Memorandum Form that provides the employee's version of the incident.
4. Administrative complaints may be assigned to a supervisor for investigation at the option of the Chief of Police..

B. External Complaints

1. Defined: All reasonable complaints originating from sources outside the Police Department, regardless of severity. All external complaints will be referred to the on-duty supervisor.
2. External complaints shall be recorded on a Citizen Complaint Report Form (Attachment No. 3). On this form, the complainant's name shall be requested, along with other pertinent data (phone number, DOB, address, etc.); however, such information shall not be mandatory for processing and investigating the complaint.
3. When a member of the Department receives a report from a citizen concerning lost or misplaced property resulting from custody, a Department Memorandum Form will be prepared. The report shall describe the details of the incident.

C. Duty to Provide Written Report

1. All personnel who receive information concerning misconduct by any member of this Department are directed to complete the appropriate report as soon as possible and forward it to the on-duty supervisor.
2. In the event the complaint concerns a Departmental procedure or legal technicality which the supervisor or officer can explain to the satisfaction of the complainant, this should be done; it will not be necessary to complete a Citizen Complaint Form (Attachment No.3). If there is any doubt as to the satisfaction of the complainant, the member should complete the Citizen Complaint Form.

D. General Exclusion

1. Those complaints which center around a difference of opinion between a police officer and a citizen over their guilt or innocence shall not be investigated. Complainants in such cases shall be

advised to pursue adjudication through the court system.

2. Record clerks and telecommunicators are exempt from taking complaints while on duty. They should transfer the call to the immediate supervisor.
3. Complaints will not be taken from person who are intoxicated or otherwise not in complete control of their decision making process. These persons will be instructed to return to the Department when they have regained full control of themselves and register their complaint at that time.

Section 3: Complaint Processing and Investigations

- A. The Assistant Chief will maintain staff control over all complaints and investigations, unless redirected by the Chief of Police, and shall be responsible for reporting directly to the Chief of Police concerning the investigation.
- B. The Chief of Police will be notified immediately of any internal or external complaints.
- C. When a citizen complaint is received, the immediate supervisor will make a preliminary inquiry or investigation during his shift, if the complaint involves a member on his shift. In any case, the on-duty supervisor will complete and forward the necessary reports to the Assistant Chief by the end of his shift.
- D. The Chief of Police has the authority to reclassify any complaint or redirect that case for reinvestigation.
- E. All employees of this Department shall receive a copy of this order and any updates whenever changes are published.
- F. It shall be the policy of this Department to disseminate information to the public on procedures to be followed in registering a complaint.

Section 4: Notification of the Involved Employee

- A. Except in those cases involving special circumstances (e.g., criminal violation, corruption, etc.) the investigating officer or immediate supervisor is directed to provide him/her with a copy of either Attachment 1,2, or 3, notifying the involved officer/employee in writing, of the following:
 1. A formal complaint has been reported

2. Involvement (in general terms)
 3. An investigation is underway and a statement from the employee may be requested.
 4. When a final determination is made, the involved employee will be notified of the disposition.
- B. Upon completion of the investigation, the supervisor in charge of the investigation will forward the completed report to the Chief of Police. The supervisor will make suggestions and recommendations to the Chief of Police.
- C. After the Chief of Police has received all of the facts surrounding the alleged offense(s), the involved employee shall be notified of the following, if a policy or rule has been violated:
1. The particular rule, policy or procedure allegedly violated.
 2. The above information will be provided to the employee during a formal hearing held by the Chief of Police.
 - a. In the absence of the Chief of Police, the above information will be provided to the employee during a formal hearing with the Assistant Chief.

Section 5: Classification of Finding

- A. Upon completion of the investigation, the Chief of Police will classify the case as one of the following:
1. Unfounded - Allegation is false or not factual.
 2. Not involved - Employee was not present at the time of the alleged misconduct occurred.
 3. Exonerated - Incident complained of occurred, but action(s) of employees were lawful and proper.
 4. Founded - The allegation is supported by sufficient evidence.

Section 6: Recommendation for Disciplinary Action

- A. Beginning with the employee's immediate supervisor, each supervisor following the chain of command may be requested to make recommendations as appropriate for disciplinary action.

1. Acting supervisors will not be required to submit recommendations for actions.
- B. The Chief of Police may require additional statements if necessary.

Section 7: Use of Polygraph in Internal Investigations

- A. Any employee may, at any time, be ordered by the Chief of Police to submit to a polygraph examination which is directed specifically and narrowly to an internal investigation. However, when a complaint from a citizen is the basis for the investigation, the infraction is non-criminal and no corroborating information has been discovered, the employee shall not normally be required to submit to a polygraph examination unless the citizen first submits to such examination.
- B. Results of the polygraph examination will not be usable in any subsequent criminal proceeding, but may be used to determine disposition of administrative cases.

Section 8: Other Testing

- A. Departmental employees may not refuse to submit to other non-testimonial (i.e., breathalyzer, medical examination, lineups and photographs) examination, regardless of whether the case is criminal or administrative. In criminal cases, the accused may have counsel present where provided by law.
- B. Refusal to submit to a non-testimonial examination where required by a direct order from the Chief of Police or his designee may be grounds for dismissal.
- C. As may be directed by the Chief of Police, the following tests may be required:
1. Medical or laboratory examinations
 2. Photographs taken
 3. An employee may be directed to participate in a photo line-up
 4. An employee may be required to submit financial disclosure statements.

Section 9: Statements

- A. Employees are required to answer all questions concerning an internal/administrative investigation and may not refuse to answer any

question.

- B. Refusal to cooperate fully with the internal/administrative investigation of a complaint could be grounds for dismissal.

Section 10: Searches

- A. An employee's personal property shall be afforded that protection as provided by law.
- B. Departmental property or personal property authorized by the Department to be used in connection with official duties may be inspected at any time, even if assigned to or used exclusively by an individual employee.

Section 11: Disclosure of Information

- A. All information and releases concerning an investigation of misconduct by any member of the Department shall be authorized only by the Chief of Police.
- B. News media personnel should be referred to the office of the Chief of Police.
- C. All records pertaining to internal affairs investigations will be maintained in a secure file cabinet in the office of Human Resources of West Plains City Hall..

Section 12: Final Responsibility

- A. Final responsibility for discipline with the Department is placed upon the Chief of Police. This Special Order is merely a guideline which shall be followed as closely as possible. The Chief of Police shall retain the discretion to alter the normal procedure when, in his judgment, the circumstances warrant or compel an unusual approach.

AUTHORITY

- A. This policy is issued by the authority of the Chief of Police. Any policy additions, deviations or revisions shall be made only at the direction of the Chief of Police.

By Authority of:

Charles Brotherton, Jr., Chief of Police