

ARTICLE VI
Public and Internal Complaint Process

§ OP265-48. Policy.

- A. The following sets forth policy and procedure regarding the disciplinary process including investigation of allegations made by a citizen and internal complaints.
- B. A relationship of trust and confidence between the Department and the community is essential to effective law enforcement. Employees must be free to exercise their own judgment and take enforcement action in a reasonable, lawful, and impartial manner without fear of reprisal. It is therefore important to establish a disciplinary process that enables the Department to initiate positive, corrective action for improper conduct. At the same time, employees must be protected from unwarranted criticism for properly

discharging their duties. It is the policy of this Department to provide a thorough, fair and expeditious disposition of complaints regarding conduct of Department members.

§ OP265-49. Definitions.

As used in this article, the following terms shall have the meanings indicated:

CITIZEN COMPLAINT — An allegation of employee misconduct from any source outside the Department. Citizen complaints include, but are not necessarily limited to, allegations of violations of departmental policies, procedures, rules and regulations, and violations of federal, state or local laws.

EMPLOYEE — Any full-time, part-time, or temporary paid member of the Department; any individual acting under the authority of the Mamaroneck Village Police Department.

INTERNAL COMPLAINT — An allegation of misconduct against an employee from any source within the Department.

§ OP265-50. Individual employee responsibilities.

- A. All employees observing instances of serious misconduct or abuse shall intervene to stop the misconduct or abuse.
- B. Employees have a duty to assist any person who wishes to file a complaint by:
 - (1) Taking the complaint;
 - (2) Providing specific information to the complainant on where and how to file the complaint; or
 - (3) Immediately putting the complainant in contact with a supervisor or other individual who can assist them with filing their complaint.
- C. An employee who witnesses or becomes aware of misconduct or a complaint of misconduct shall, in all cases, take appropriate action to prevent aggravation of the incident or the loss of evidence that could prove or disprove misconduct.
- D. No employee shall interfere with, hinder, or obstruct a person from making a citizen or internal complaint.
- E. Each employee shall cooperate in a Department internal investigation of an allegation of misconduct when so directed by the Department, and shall truthfully answer questions and render complete, material and relevant statements, including all facts and circumstances surrounding the subject matter of the investigation, which may be known by the employee. Omissions of material fact shall be classified as failure to cooperate in an internal investigation.
- F. Whenever an employee submits a verbal or written statement as required by this Manual of Procedure, they should preface the statement with the following sentence: "This is a true and involuntary statement given by me in accordance with § _____ of the Mamaroneck Village Manual of Procedure."

- G. All employees are required to immediately report to their supervisor any of the following occurrences in any jurisdiction:
- (1) When they, or any of their subordinates, are the subject of a criminal investigation, criminal traffic citation, arrest, conviction, order of protection, restraining order, no-contact order and/or antiharassment order pertaining or related to domestic violence; or
 - (2) When there is any change to their New York driver's license status pertaining to expiration, revocation and/or suspension.

§ OP265-51. Supervisory and command responsibilities.

- A. Supervisory employees shall themselves take corrective action within the scope of their authority when they witness or become aware of employee minor misconduct. Examples of minor misconduct include, but are not limited to:
- (1) Lateness.
 - (2) Uniform and equipment violations.
 - (3) Personal appearance violations.
 - (4) Minor omissions in assigned duties.
 - (5) Minor violations of Department regulations concerned with job performance, efficiency, or employee safety.
- B. If misconduct or an internal complaint of misconduct is of a more serious nature or is repeated minor misconduct, the supervisor, shall report the matter by completing a Personnel Complaint Report. The Personnel Complaint Report and other related documents shall be forwarded to the Chief's Office.
- C. A supervisor may relieve a subordinate employee from duty for up to 24 hours (excluding weekends and holidays) when it appears from an allegation of misconduct that immediate relief from duty appears necessary to protect the Department, the employee, or the public. A copy of the Personnel Complaint Report regarding the alleged misconduct that caused the relief from duty shall be immediately forwarded to the Chief of Police. Time sheets shall be marked "AL" to indicate administrative mandatory leave.

§ OP265-52. Reporting complaints.

- A. The Department will accept complaints from any source including witnesses or other third parties, outside agencies, and anonymous sources. Complaints may be made in person, or by writing or phoning the Department.
- B. When a nonsupervisory employee becomes aware of a complaint by a member of the public, they shall notify a supervisor and refer the complainant to the supervisor. When a supervisor is not immediately available, the employee shall be responsible for receiving and documenting complaints and providing the information to a supervisor before going

off duty. The following pertinent facts and information shall be recorded whenever a complaint is received:

- (1) Nature of the alleged incident.
 - (2) Date of the alleged incident.
 - (3) Place where the alleged incident occurred.
 - (4) Name of employee involved or their badge number and other description.
 - (5) Name, address, and telephone number of the complainant, aggrieved party, and all known witnesses.
 - (6) A detailed summary of the complaint.
- C. Supervisors shall document the complaint by completing a Personnel Complaint Report. If the supervisor is the subject of the complaint, the complaint shall be referred to another supervisor.
- D. Supervisors shall notify the Detective Lieutenant or the Chief of Police in cases where immediate investigative action by the Detective Division may be necessary. **[Revised 4-8-2009]**
- E. When alleged misconduct involves unnecessary or excessive use of force, a supervisor shall photograph (if possible) any alleged injuries and areas where injuries are alleged but are not visible. The supervisor shall also report their observations regarding the presence, absence, nature, and extent of any injuries, and whether medical attention was received or sought.
- F. The reporting supervisor shall forward the Personnel Complaint Report with any related reports and documents directly to the Chief of Police before going off duty.
- G. The Chief of Police shall review all new complaints and classify them for the purpose of investigation:
- (1) Contact log complaints are not assigned for investigations but are referred to the employee's supervisor for review. Complaints involving conduct that would not constitute misconduct are generally classified as contact logs.
 - (2) Supervisory referrals are complaints that, even if events occurred exactly as described, signify a training gap instead of misconduct on the part of the involved employee. The information on the complaint is referred to the appropriate supervisor for review, counseling and the provision of any necessary additional training.
 - (3) Line investigations are complaints of minor misconduct investigated by the officer's chain of command.
 - (4) Internal investigations are more complex and involve more serious allegations, including all use-of-force allegations.

- H. The Chief of Police or his designee shall appoint an investigator from another entity within the Department for complaints directed against members of the Detective Division.
- I. Every investigation into an allegation of misconduct shall include a conclusion of fact.
- J. Unless governed by specific labor contract language, investigations into allegations of employee misconduct will generally be completed within 180 days of the receipt of a complaint. Extensions to the 180 days shall be permitted in the event of criminal investigations or investigations that are very complex. Involved employees will be notified in writing of extensions. A written justification for the extension will be provided upon request.
- K. The Chief of Police shall maintain a record of all complaints against the Department or any of its employees. This record, and any investigative files related to these complaints, shall be secured within the Chief's Office.

§ OP265-53. Public inquiries.

A dispute regarding the factual support for an arrest, citation, or the appropriateness of an established Department policy or procedure will not ordinarily be considered a public complaint. Further, it will not be subject to the public complaint reporting requirements of this section. However, people with inquiries of this nature should be given explanation of the Department policy, procedure or issues involved. If further explanation appears necessary, the person should be referred to a supervisor or the Department unit generally responsible for the subject matter of the inquiry. Employees are encouraged to document constructive public inquiries and suggestions and forward them through their chain of command.

§ OP265-54. Limitations.

- A. In the course of an administrative internal investigation, employees shall not be compelled to:
 - (1) Participate in a lineup.
- B. Employees may for good cause be required to:
 - (1) Undergo a medical or laboratory examination.
 - (2) Submit financial disclosure statements.
 - (3) Be photographed.
 - (4) Take a polygraph or other lie-detection test.
- C. If an internal investigation becomes a criminal investigation, these tests or conditions may be utilized in accordance with legal requirements, as in any other criminal investigation.

§ OP265-55. Administrative review.

Any employee who has received three or more investigated complaints of misconduct within a one-year period or four or more investigated complaints of misconduct within a two-year period or two or more lawsuits within a three-year period shall be subject to an administrative review. The review may include all investigated complaints, all contact log inquiries, and all lawsuits filed against the Village or employee where the employee's job-related conduct is questioned. The review may also include productivity, sick leave use, off-duty work approval, accident records, and performance evaluations. Following the review, a written report shall be prepared, including recommendations, which shall be forwarded to the Chief of Police. The recommendations may include training, additional evaluation, counseling, and other nondisciplinary measures intended to improve the performance of the employee and may specifically include a referral to the EAP program. The employee shall be notified of the results of the administrative review. The administrative review process is not intended to limit the discretion of supervisors to review performance with employees or to provide counseling and direction to the employee. The review shall be conducted by a committee consisting of the police lieutenants.