



# GENERAL ORDER

# Section 120-2

CHAPTER: <b>120 Internal Affairs</b>		ACCREDITATION REFERENCE STANDARD <b>14.4 / 25.1</b>	
SUBJECT: <b>Personnel Complaints</b>			
ISSUE DATE: <b>10/29/2020</b>	EFFECTIVE DATE: <b>10/29/2020</b>	REVISES/SUPERSEDES: <b>99/03</b>	PAGE: <b>1 of 10</b>

## PURPOSE

To improve the quality of police services and make uniform a Department-wide personnel complaint procedure to insure the fair, impartial and expeditious processing of complaints against members of this Department.

It is essential that the community have confidence in the administrative procedures of the Department designed to supervise the exercise of police power. If the integrity and efficiency of the Department is to be maintained, complaints of inadequate service and allegations of misconduct against members of the Department must be thoroughly and expeditiously investigated. At the same time, the Department recognizes that members are often subjected to intense pressures in the discharge of their duties. They are frequently required to remain neutral under circumstances that are likely to generate considerable tension, excitement and emotion. In such situations, words, actions, and events occasionally result in misunderstandings and confusion. It is to the advantage of each member of the Department that the Department have sound, internal procedures for the investigation of allegations arising out of such circumstances. The expeditious resolution of complaints in a fair and impartial manner will ensure that the high level of integrity and efficiency enjoyed by the Department is maintained.

## POLICY

The Bedford Police Department will accept and investigate all complaints of misconduct or wrongdoing from any citizen or Department member. Members of the Department shall encourage citizens to bring forward legitimate grievances regarding inadequate service or misconduct by members of the Department, and those complaints shall be received courteously and without delay.

## PROCEDURE

Members of the Department shall assist in the expeditious and impartial processing of citizen complaints in accordance with these procedures:

Complaints received by the Department that allege a Department member has used inappropriate behavior, has engaged in misconduct or has committed a violation of law will be treated as a personnel complaint.

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## Categories of Investigations

### 1. Category I

All complaints concerning members of this Department that allege:

- a. Unnecessary or excessive use of force.
- b. False arrest.
- c. Violation of a specific criminal statute.
- d. Corruption.
- e. Gratuities.
- f. Serious misconduct.
- g. Insubordination.
- h. Other complaints and allegations as directed by the Chief of Police.
- i. Bias Crimes

### 2. Category II

All citizens complaints relating to inadequate service, discourtesy, improper procedure, and any other allegations involving members of the Department that are not included in Category I.

## Complaints Defined

While it is generally obvious when a complainant alleges misconduct on the part of any employee, complaints concerning lack of service or improper procedures are sometimes more difficult to categorize.

In many instances, a citizen may be merely requesting information or clarification of a policy or procedure. In such cases, the citizen should be given a thorough explanation of the procedure or the legal issues involved in the situation that initiated the inquiry. In some cases concerning alleged violations of Category II offenses, the supervisor receiving a complaint may be able to resolve a complaint without filing a formal Personnel Complaint Form. Because of the fine line that occasionally exists between inquiries and minor complaints in Category II that can be resolved by a supervisor, if there is any question, it should be considered a formal complaint and forwarded for further action.

## Procedure for Anonymous and/or Unsigned Personnel Complaints

Anonymous complaints and/or complaints where the complainant refuses to sign a formal Personnel Complaint Form will be handled as follows:

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1. Category II Type Complaints:

If after a five (5) day period the person refuses to sign a formal complaint, he or she will be notified that **NO FURTHER ACTION WILL BE TAKEN ON THIS COMPLAINT** until the complaint is signed. If after two (2) months the person making the complaint or the anonymous person making the complaint does not sign the Personnel Complaint Form, the complaint shall be labeled "Closed by lack of Complainant" and filed in the Central Complaint Index.

2. Category I Type Complaints:

In this category of complaints, the Division Commander who receives the complaint will immediately meet with the Chief of Police for evaluation of the nature and source of the allegation. The depth of the investigation will depend upon factual information received.

Procedure for Accepting Personnel Complaints

Any personnel complaint, regardless of category, may be lodged at Headquarters Main Desk or with any member of the Department. Whenever possible, the supervisor in charge of the tour should receive the complaint. Complaints, regardless of their nature, can be lodged in person, by mail or by telephone at any time. Normally, when a complaint is received by mail or by telephone, the complainant should be required to sign a formal Personnel Complaint Form within five (5) days.

1. Where a non-ranking member of the Department receives a complaint against a member of the Department, he/she shall immediately request the presence of a supervisor who shall interview the complainant and record the complaint. When a supervisor is not working, the desk officer shall contact a Division Commander who will either respond him/herself, assign a supervisor to respond to the complaint, or direct the officer taking the report to complete the form.
2. The supervisor receiving the personnel complaint will take whatever immediate action is necessary and then file the report with his/her Division Commander who will submit the complaint to the Chief. After evaluating the complaint the Chief may decide to activate the Special Investigations Unit to investigate.
3. The Personnel Complaint Form is to be used to record complaints regarding personnel, services, or Department policy and procedures.
4. The person receiving a Personnel Complaint Form will note on the reverse side of the Personnel Complaint Form any conditions relating to the credibility of the complainant, (e.g. mental condition, apparent influence of drugs or intoxicants, evidence of visible marks of injuries.)

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### Routing of the Personnel Complaint

1. The original Personnel Complaint Form and any supplements should be forwarded to the appropriate Division Commander.
2. The Division Commander should forward the original Personnel Complaint Form and any supplements to the Chief.
3. The Chief should cause the complaint to be logged in the Central Complaint Index which will be maintained in the Chief's Office. On the occasion that the Chief of Police activates the Special Investigations Unit, the Chief should cause (1) one copy of the complaint and all supporting documentation to be made. The original will be filed in the Personnel Complaint file located in the Chief's Office. The copy will be given to the Special Investigation Unit Leader assigned to conduct the investigation. Additionally, if the personnel complaint is of a criminal nature, the Bureau Chief of the Westchester County District Attorney's Office serving the Town of Bedford will be made aware of the investigation by the Chief of Police. Additionally, the Chief will ensure that full cooperation is afforded to the District Attorney's Office in overseeing the investigation of the allegation(s) as circumstances may warrant.

### Central Complaint Index

1. The Office of the Chief of Police shall be responsible for maintaining a comprehensive central index of all citizen complaints received by the Department.
2. The responsibility of the Chief, in relation to the Central Complaint Index, shall include the following:
  - a. Maintain a numerical file of all citizen complaints recorded on Civilian Complaint Forms.
  - b. Coordinate and review internal investigations relating to citizen complaints.

### Confidentiality

The Chief will have the responsibility of maintaining the confidentiality of personnel complaints and internal affairs investigation(s) and maintaining such records. All personnel complaint records will be maintained in the Chief's Office and are to be considered confidential in nature to the extent permitted by law.

The Personnel Complaint File will be kept in the Office of the Chief of Police as long as the accused officer is an active member of this Department.

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### Procedures for Investigating Complaints

1. The Chief will have the primary responsibility for assigning and supervising the Special Investigation Unit, when necessary, to any Category I or II type complaint to be investigated. In any situation or incident of a critical or emergency nature, the person receiving the complaint shall immediately notify the Chief, who shall assume or assign the responsibility for the investigation.
2. Investigation of Category II cases will be assigned by the Chief, to the appropriate Division Commander who will assume or assign the responsibility for the investigation.
3. All complaints against personnel shall be investigated by officers of superior rank.
4. All investigations will be conducted promptly and shall be completed within a reasonable amount of time from the date the complaint was received by the Department.

### Investigative Procedure

Two types of investigations may take place: **ADMINISTRATIVE OR CRIMINAL**. Different rules govern interviews of employees in each case.

Interview for ADMINISTRATIVE PURPOSES: If the Chief of Police or designee wishes to compel an employee to answer questions directly related to his/her official duties and the Chief or designee is willing to forego the use of such answers in a criminal prosecution, the Chief of Police or designee, or supervisor assigned to investigate, shall advise the employee of the following:

1. The purpose of the interview is to obtain information to determine whether disciplinary action is warranted. The answers obtained may be used in disciplinary proceedings resulting in reprimand, demotion, suspension, or dismissal.
2. Any questions specifically related to employment must be fully and truthfully answered. Refusal to answer may result in disciplinary action.
3. No answers given nor any information obtained by reason of such statements may be admissible against the employee at any criminal proceeding.

The interviewer shall read, and the employee shall read to himself/herself, the following:

I WISH TO ADVISE YOU THAT YOU ARE BEING QUESTIONED AS PART OF AN OFFICIAL INVESTIGATION OF THE BEDFORD POLICE DEPARTMENT. YOU WILL BE ASKED QUESTIONS SPECIFICALLY DIRECTED AND NARROWLY RELATED TO THE PERFORMANCE OF YOUR OFFICIAL DUTIES OR FITNESS FOR OFFICE. YOU ARE GUARANTEED BY THE LAWS AND THE CONSTITUTION OF THE STATE OF NEW YORK AND THE CONSTITUTION OF THE UNITED STATES,

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INCLUDING THE RIGHT NOT TO BE COMPELLED TO INCRIMINATE YOURSELF. I FURTHER WISH TO ADVISE YOU THAT IF YOU REFUSE TO TESTIFY OR ANSWER QUESTIONS RELATING TO THE PERFORMANCE OF YOUR OFFICIAL DUTIES OR FITNESS FOR DUTY, YOU WILL BE SUBJECTED TO DEPARTMENTAL CHARGES WHICH COULD RESULT IN YOUR DISMISSAL FROM THE POLICE DEPARTMENT. IF YOU DO ANSWER, NEITHER YOUR STATEMENTS NOR ANY INFORMATION OR EVIDENCE WHICH IS GAINED BY REASON OF SUCH STATEMENTS CAN BE USED AGAINST YOU IN ANY SUBSEQUENT CRIMINAL PROCEEDINGS. HOWEVER, THESE STATEMENTS MAY BE USED AGAINST YOU IN RELATION TO SUBSEQUENT DEPARTMENTAL CHARGES.

4. In any interview for administrative purposes, no Miranda rights are required. Further, the foregoing rules are inconsistent with Miranda in that the employee's statements cannot be used as evidence in a criminal prosecution.

#### Interviews for Criminal Investigative Purposes

If the Chief of Police or designee believes criminal prosecution is a possibility and wishes to use statements against the employee in a criminal proceeding, or at least wishes to maintain the option of their use, the Chief or designee shall:

1. Give the employee Miranda rights.
2. Advise the employee that if he/she asserts his/her right not to answer questions, no adverse administrative action will be taken based upon the refusal.
3. If the employee decides to answer questions at this point, the responses may be used in both criminal and disciplinary proceedings.

#### Adjudication of Personnel Complaint

1. The results of the investigation shall be recorded in a supplemental report on Departmental stationary.
2. The reviewing supervisor or if activated, the Special Investigations Unit, shall note the disposition classification on the supplemental report heading. Dispositions are classified as follows:
  - Substantiated- The accused employee committed all or part of the alleged acts of misconduct.
  - Unsubstantiated - The investigation produced insufficient information to clearly prove or disprove the allegations.

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- Exonerated - The alleged act occurred but was justified, legal and proper.
  - Unfounded - The alleged act did not occur.
  - Misconduct noted- Acts of misconduct were discovered during the investigation that were not alleged in the original complaint.
3. The Special Investigations Unit will forward the completed investigation, including all support materials, if any, or any copies of the investigation report to the appropriate Division Commander. The Division Commander shall review the investigative report and submit a written recommendation concerning disciplinary action if appropriate to the Chief of Police. The Chief of Police will make these reports available to the Westchester County District Attorney's Office if the complaint is of a criminal nature.
  4. In all complaints investigated, the officer(s) involved will be notified in writing, via the chain-of-command, of the results of the investigation and its completion.

Board of Police Commissioners' Review

All Personnel Complaints and Internal Affairs Investigations will be made available to the Board of Police Commissioners (Supervisor & Members of the Town Board, as a body) for review after they have been closed or resolved. The Town Board who act as the Board of Police Commissioners hearing board, if formal charges are preferred against an officer, may not review or receive any facts of a complaint prior to its being closed or resolved unless a release is received from the officer accused.

This policy encourages the Board of Commissioners Police Liaison to periodically review the nature, investigation and resolution of the Personnel Complaints being filed against officers.

# BEDFORD POLICE DEPARTMENT

## PERSONNEL COMPLAINT FORM

DATE REPORTED	TIME REPORTED AM PM	HOW COMPLAINT WAS RECEIVED <input type="checkbox"/> IN PERSON <input type="checkbox"/> U.S. MAIL <input type="checkbox"/> TELEPHONE <input type="checkbox"/> OTHER	OFFICER RECEIVING REPORT	CENTRAL INDEX #
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COMPLAINANT'S NAME (LAST, MIDDLE)                      FIRST,	COMPLAINANT'S ADDRESS	HOME PHONE #
COMPLAINANT'S EMPLOYER                      OCCUPATION	EMPLOYER'S ADDRESS	BUSINESS PHONE #
REPRESENTATIVE/INTERPRETER	REPRESENTATIVE/INTERPRETER ADDRESS	TELEPHONE #

NAME OF MEMBER WHO COMPLAINT IS AGAINST; IF UNKNOWN - DESCRIPTION:
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DATE OF OCCURRENCE	TIME AM PM	LOCATION
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WITNESS'S NAME (LAST, MIDDLE)                      FIRST,	WITNESS'S ADDRESS	RELATIONSHIP	HOME TELEPHONE #
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**DETAILS:** (In complainant's handwriting if possible, use reverse side, if needed. Complainant should be very specific, stating details of facts as to what the member did, or did not do.)

**NOTICE:** *A signed, falsely written statement, may be used in a criminal or civil court action against the person making said complaint.*



SIGNATURE - COMPLAINANT	DATE	SIGNATURE - WITNESS	DATE
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**PERSONNEL COMPLAINT FORM**

CENTRAL INDEX #

PAGE #2  
DETAILS CONTINUED FROM PAGE #1.

**NOTICE:** *A signed, falsely written statement, may be used in a criminal or civil court action against the person making said complaint.*

SIGNATURE - COMPLAINANT

DATE

SIGNATURE - WITNESS

DATE