

	<b>KENOSHA POLICE DEPARTMENT</b>			
	<b>POLICY AND PROCEDURE</b>			
	<b>52.2 Citizen Complaint Procedure</b>			
<b>Effective Date:</b>	4/25/1980	<b>Revision Date:</b>	11/11/2003	
<b>Action:</b>	O-274	<b>Number of pages:</b>		4

**I. PURPOSE**

The purpose of this policy is to provide a specific procedure for processing and resolving a complaint by a person regarding the conduct of a law enforcement officer as provided in Wisconsin Statutes 62.13(5) and 66.0511(3); to maintain the quality of police services, to improve the relationship between the police and citizens; and to provide citizens with a fair and effective avenue for resolving legitimate grievances against law enforcement officers.

The objective is to protect the public and to maintain the integrity of the Department and the individual employee. An essential balance must be maintained to ensure fair and impartial treatment of the issues and parties concerned. Throughout these procedures the rights of the individual police officer and citizen must be acknowledged and not compromised.

**II. POLICY**

It is the policy of this law enforcement agency to accept, investigate, and resolve complaints by any persons regarding the conduct of law enforcement officers employed by the Kenosha Police Department.

**III. APPLICATION**

This policy and procedure is applicable to all department personnel and shall apply to complaints by a person regarding the conduct of law enforcement officers the Kenosha Police Department.

**IV. PROCEDURE**

**Administration; Authority and Responsibilities Regarding Internal Affairs Investigations  
Receipt of Complaint by Non-Supervisory Personnel**

When misconduct is observed or complaints of misconduct are received by non-supervisory personnel, such member shall immediately notify a supervisor of the matter. Complaints received by telephone or in person shall be referred to a supervisor. A complainant should be encouraged to file his/her complaint in person.

**Supervisory Personnel**

1. When misconduct is observed or complaints of misconduct are received by a supervisor, that person shall immediately initiate a preliminary investigation into the matter in accordance with this policy.
2. Upon initiation of the investigation, the supervisor shall notify the Chief of Police or his designee and the Internal Affairs Division as soon as practical.

## 52.2 Citizen Complaint Procedure

3. Supervisory personnel and/or the Internal Affairs Division shall complete a thorough investigation when directed to do so by the Chief of Police.

### **Chief of Police**

1. The Chief of Police shall review recommendations for disposition and will take such action, as he deems appropriate.
2. Nothing in this policy and procedure shall be construed to limit the prerogative of the Chief of Police or any other supervisory officer to take corrective action against subordinates whenever appropriate, nor to prevent the Chief of Police from taking disciplinary action against a subordinate under Wis. Stat. 62.13(5), irrespective of any complaint.

### **Citizen Complaint Procedures**

1. All employees of the Department are charged with the responsibility to courteously and willingly receiving any complaint regarding the conduct of an employee of the Kenosha Police Department. This shall include complaints made over the telephone or received by mail. Complaints received by telephone or in person shall be referred to the shift commander.
2. A complainant should be encouraged to file his or her complaint in person. All complaints should be documented on the Citizen Complaint Form and signed by the complainant.
3. The shift commander shall use the Citizen Complaint Form to determine further action regarding the complaint. In situations where the complaint can be immediately resolved through an informal inquiry, the Citizen Complaint Form shall serve as the only record of the complaint.
4. Upon completion of the investigation the shift commander will forward a completed complaint and all reports relating to the incident to the Chief of Police.
5. The Chief of Police will review the complaint and reports. If necessary the matter will be assigned for further investigation.
6. Disciplinary action taken by the Chief of Police on a citizen complaint shall be reported to the Chairperson of the Police and Fire Commission pursuant to 62.13(5).
7. At the time of filing a Citizen Complaint Form, the shift commander or their designee will advise the complainant that he or she may file the complaint directly with the Chairperson of the Police and Fire Commission.
8. The Citizen Complaint Form shall include the following:
  - a. Name and contact information of the person making the complaint, if known.
  - b. Date, time and location of the incident and when the incident is being reported.
  - c. Name of the employee(s) involved, if known, or action, policy, or procedure in question.
  - d. Specific details of the complaint including any witnesses.
  - e. Explanation of complainant's right to file his or her complaint directly with the Chairperson of the Police and Fire Commission.
  - f. Statement of appeal rights.

### **Complaints Against the Chief of Police**

Shift Captain receiving complaints directed against the Chief of Police and arising out of specified conduct on the part of the Chief of Police, shall file the complaint with the Chairman of the Board of Police and Fire Commissioners for investigation pursuant to Wis. Stat. 62.13(5) and the Rules and Regulations of the Board.

### **Guidelines to the Officer Being Investigated**

- a. Section 164.02 of the Wisconsin Statutes provides:

#### **164.02 Interrogation**

- (1) If a law enforcement officer is under investigation and is subjected to interrogation for any reason which could lead to disciplinary action, demotion, dismissal or criminal charges, the interrogation shall comply with the following requirements:
    - (a) The law enforcement officer under investigation shall be informed of the nature of the investigation prior to any interrogation.
    - (b) At the request of any law enforcement officer under interrogation, he or she may be represented by a representative of his or her choice who, at the discretion of the officer, may be present at all times during the interrogation.
  - (2) Evidence obtained during the course of any interrogation not conducted in accordance with sub.(1) may not be utilized in any subsequent disciplinary proceeding against the law enforcement officer.
- b. All questions asked of the employee under investigation that are specifically related to employment, must be fully and truthfully answered. Refusal to answer may result in disciplinary action.
  - c. No Miranda warnings are required if the investigation is for internal disciplinary purposes only. However, a Garrity Warning may be administered prior to the interview.

## **V. DISPOSITION**

### **Disposition of Complaints**

The Chief of Police shall make the final disposition of the complaint as may be appropriate. No disposition involving disciplinary action will be made without first confronting the employee involved with the results of the investigation and affording the employee an opportunity to respond. The Chief of Police or his designee shall inform the employee in writing of a disposition of the complaint.

The case disposition classifications shall be as follows:

1. **Unfounded.** Investigation indicates that the allegations are false.
2. **Not sustained.** Insufficient evidence to either prove or disprove the allegations.
3. **Sustained.** The allegations are supported by sufficient evidence to conclude they are true, and an appropriate departmental action was imposed.  
  
If sustained, the Chief of Police shall take such action against the employee as is appropriate, which may include disciplinary action against the employee pursuant to State Stat. 62.13(5).
4. **Exonerated.** Investigation indicates that the incident occurred, but was justified, lawful, and proper under the circumstances.

**Complainant Notification of Disposition**

The Chief of Police or designee shall inform the complainant named in the complaint in writing of the disposition and the reasons therefore within a reasonable period of time.

**Police and Fire Commission Notification of Disciplinary Action**

The Chief of Police shall notify the Chairperson of the Police and Fire Commission of any disciplinary action taken with respect to a citizen complaint.

**Complainant's Right to a Commission Hearing**

As part of the written notification of the disposition of the complaint, the Chief of Police or designee shall inform the complainant that if not satisfied with the results of the investigation, he/she may, within 30 days of the date of such notification, file a written request with the Chairperson of the Board of Police and Fire Commissioners, for a formal hearing on the complaint before the Board.

The Board of Police and Fire Commissioners shall review all investigatory reports of the incident and any supporting or conflicting documentation and in its discretion either schedule a formal hearing before the Board or place the complaint on file.

Filing of a complaint on Department's Citizen Complaint Form will be considered as a voluntary waiver by the complainant of his or her right to file a complaint directly with the Board of Police and Fire Commissioners.

**Employee's Right to a Commission Hearing**

A sworn law enforcement officer shall have the right to request a hearing before the Police and Fire Commission (pursuant to Wis. State. 62.13(5)(c)) regarding disciplinary action imposed by the Chief of Police.