

Personnel Complaints

1010.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Onalaska Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1010.2 POLICY

The Onalaska Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal rules and the requirements of any collective bargaining or employment agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

1010.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

1010.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the Shift Sergeant is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

Formal - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member as determined by the Chief or authorized designee, depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Chief or authorized designee, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

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1010.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor, human resources, or the City's legal department.
- (c) Supervisors shall report a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action to the Chief or authorized designee, human resources, or the City's legal department.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

1010.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1010.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained at the police facility and be accessible through the department website.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

[See attachment: Citizen Complaint Instruction Page.pdf](#)

[See attachment: Citizen Complaint Form.pdf](#)

1010.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

This department will investigate all false claims made against its law enforcement officers. Knowingly making a false complaint against an officer may subject the complainant to a Class A forfeiture (Wis. Stat. § 946.66; Wis. Stat. § 66.0511).

1010.5 DOCUMENTATION

Supervisors shall ensure that all formal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

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All formal and informal complaints will be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the Assistant Chief should audit the log and send an audit report to the Chief of Police or the authorized designee.

1010.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1010.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
 - 1. The original complaint form will be directed to the Chief or designee who will take appropriate action and/or determine who will have responsibility for the investigation.
 - 2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the Chief of Police or designee, who will initiate appropriate action.
- (b) Responding to all complaints in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
 - 1. When possible follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
 - 2. If the matter is resolved and no further action is required, the supervisor will note the resolution on the complaint form and forward the form to the Chief.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Assistant Chief and Chief of Police are notified via the chain of command as soon as practicable.
- (e) Promptly contacting either the City's legal department, Human Resources or the Chief of Police for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the Assistant Chief, who will determine whether to contact the complainant or assign the complaint for investigation.

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- (g) Informing the complainant of the investigator's name and the case number, if applicable, within three days after assignment.
- (h) Investigating a complaint as follows:
 - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
 - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused member are followed.
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.
- (k) Preserving any potential evidence, which includes adding "Internal Affairs" category tag to all relevant evidence in Evidence.Com.

1010.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Chief or authorized designee, the following applies to members covered by the Law Enforcement Officers' Bill of Rights.

- (a) Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty. If the member is off-duty, he/she shall be compensated.
- (b) Unless waived by the member, interviews of an accused member shall be at the Onalaska Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused member.
- (d) Prior to any interview, a member should be informed of the nature of the investigation (Wis. Stat. § 164.02(1)(a)).
- (e) All interviews should be for a reasonable time period and the member's personal needs should be accommodated.
- (f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
 - 1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Garrity* advisement. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).

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2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer should record all interviews of members and witnesses. The member may also record the interview. If the member has been previously interviewed, a copy of that recorded interview should be provided to the member prior to any subsequent interview, upon request.
- (i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview (Wis. Stat. § 164.02(1)(b)). However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (j) All members shall provide complete and truthful responses to questions posed during interviews.
- (k) No member should be compelled to submit to a polygraph examination, nor should any refusal to submit to such examination be mentioned in any investigation (Wis. Stat. § 111.37).
- (l) A member shall not be disciplined, retaliated against or threatened with retaliation for exercising their rights as described in this policy (Wis. Stat. § 164.03).

1010.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

Introduction - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

Synopsis - Provide a brief summary of the facts giving rise to the investigation.

Summary - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion - A recommendation regarding further action or disposition should be provided.

Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

1010.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

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Unfounded - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded.

Exonerated - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

Not sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

1010.6.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within six months from the date of discovery by an individual authorized to initiate an investigation.

1010.6.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

1010.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

1010.8 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons (which may result in the loss of concealed carry while off duty under law enforcement authority) and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.

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- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1010.9 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a different supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police should request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member shall not be administratively ordered to provide any information in the criminal investigation.

The Onalaska Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

1010.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review and include their comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action. Forms of discipline include, but are not limited to, training, counseling and punitive action.

1010.10.1 ASSISTANT CHIEF RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Assistant Chief shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Assistant Chief may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief of Police, the Assistant Chief may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Assistant Chief shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

1010.10.2 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Assistant Chief for further investigation or action.

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Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Chief of Police shall provide the member with a written notice and the following:

- (a) Except in rare circumstances where it is warranted for the safety of the complainant and/or witness(es), access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (b) An opportunity to respond orally and/or in writing to the Chief of Police within five days of receiving the notice.
 - 1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.
 - 2. If the member elects to respond orally, the presentation shall be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response, or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

The Chief of Police shall file a report with the Police and Fire Commission immediately upon issuing a suspension or discharge of a member (Wis. Stat. § 62.13(5); Wis. Stat. § 62.50(13)).

1010.10.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Chief of Police or the authorized designee should ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint.

1010.11 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written and/or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.

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- (e) The employee may thereafter have the opportunity to further respond orally and/or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

1010.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

1010.13 POST-DISCIPLINE APPEAL RIGHTS

A non-probationary employee may have the right to appeal the imposition of a disciplinary suspension, transfer, demotion or termination as provided in a collective bargaining agreement, local ordinance or police commission rule (Wis. Stat. § 62.13(5)(i); Wis. Stat. § 62.50(13); Wis. Stat. § 59.26(8)(b)(6)).

1010.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and members other than non-probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy. However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their names through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

Any probationary period may be extended at the discretion of the Chief of Police in cases where the individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate.

1010.15 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in the following manner:

- (a) Complaints that are substantiated will be placed in the employee's personnel file, including all investigatory documents relevant thereto.
- (b) All non-substantiated complaints shall be placed in the "general" complaint file maintained by the Chief of Police.
- (c) All investigations relating to unsubstantiated complaints will be maintained in the department's general complaint files. As a general rule, these internal affairs files shall be maintained for a period of seven (7) years.

Attachments

Citizen Complaint Instruction Page.pdf



Police Department

City of Onalaska^{WI}

Citizen Complaint Procedure

The Onalaska Police Department treats all complaints regarding the service provided by the department, and the conduct of its members, with the utmost importance. This department will accept and address all complaints of misconduct in accordance with departmental policy and applicable federal, state and local law. It is the policy of this department to ensure community members can report misconduct without concern for reprisal or retaliation.

Your complaint may be resolved informally or formally:

Informal Complaints: Informal complaints will normally be handled and resolved as soon as practical by the employee's supervisor speaking with the employee and expressing your concerns to them. If you wish for your complaint to be handled informally, you are encouraged to contact the Onalaska Police Department and request to speak with a supervisor. This can be done in person at the Police Department or by phone at (608) 782-7575.

Formal Complaints: Citizens wishing to file a formal complaint are asked to complete and sign the attached form. An investigation will be conducted. The Onalaska Police Department will attempt to complete most investigations within thirty (30) days, however depending on the nature of the complaint some investigations may take longer. Upon completion of the investigation, the complainant will be provided a written disposition (i.e., sustained, not sustained, exonerated, unfounded) from the Chief of Police or their designee.

If the complaint is not resolved to the satisfaction of the complainant, the complainant may request a meeting with the Chief of Police or file written charges with the Police and Fire Commission.

Contact Information:

Chief Charles E Ashbeck
Onalaska Police Department
415 Main Street
Onalaska, WI 54650
(608) 781-9550

Onalaska Police & Fire Commission
Attn: President of Police & Fire Commission
415 Main Street
Onalaska, WI 54650

Citizen Complaint Form.pdf



Citizen Complaint Form

ATTENTION: Chief C. Ashbeck

PLEASE BE ADVISED:

1. This complaint form is intended to investigate possible violations of the rules and regulations of the Onalaska Police Department. This form does not address alleged violations of State or Local laws pending against you or anybody else.
2. You have the right to pursue any complaint through a private attorney or directly to the Onalaska Police & Fire Commission.
3. This complaint form is an official record of the Onalaska Police Department, and false statements or allegations contained herein may be subject to prosecution under Wisconsin State Statutes.
4. If probable cause is found to charge an officer based upon this complaint, you may be required to appear as a witness at a subsequent hearing before the Onalaska Police & Fire Commission and/or a court of law.

For any questions regarding this form, please call the Onalaska Police Department at: (608) 781-9550.

CITIZEN COMPLAINT FORM

Please complete the following steps:

1. Complete the complaint form (below). Fill in all blanks: If you don't know the answer, write UNK. If question is not applicable, write N/A.

Return all forms to: **Onalaska Police Department**
 ATTN: Chief of Police
 415 Main St.
 Onalaska, WI 54650

Complainant Information		
Name:	_____	_____
	(Last)	(First)
		(Middle Initial)
Address:	_____	
Home phone:	_____	Cell phone: _____
		Work phone: _____
Date of Birth:	_____	Email: _____
		Work hours: _____

Employee Involved		
Name:	_____	Badge #: _____
		Rank/Title (if known): _____
If above unknown, description of employee: _____		

Incident Information		
Date: _____	Time: _____	Case # (if known): _____
Location: _____		

Witness Information		
<i>(Additional witness names can be added to the back of the form)</i>		
Name:	_____	_____
	(Last)	(First)
		(Middle Initial)
Address:	_____	
Home phone:	_____	Cell phone: _____

Name:	_____	_____
	(Last)	(First)
		(Middle Initial)
Address:	_____	
Home phone:	_____	Cell phone: _____

