

POLICY AND PROCEDURE

NO.500



Bureau of Professional Standards Investigations

Date Issued	Date Effective	Revision No.	No. of pages
February 25, 2021	February 25, 2021	13	23

1. MISSION STATEMENT:

The function of the Bureau of Professional Standards is important for the maintenance of professional conduct in a law enforcement agency. The integrity of the agency depends on the integrity and discipline of each employee. To a large degree, the public image of the agency is determined by the quality of the BOPS function in responding to allegations of misconduct by the agency or its employees. To promote these goals, it shall be the function of the Bureau of Professional Standards to ensure the integrity of the Worcester Police Department, and its personnel, sworn and non-sworn.

It is the goal of the Citizen Complaint Procedure that the rights of all citizens are protected and that police officers be free to exercise their best judgment and to initiate action in a reasonable, lawful, impartial manner without fear of reprisal. A proper relationship between the police and the citizens of Worcester, fostered by trust and confidence, is essential to law enforcement.

This system of complaint and disciplinary procedure not only subjects officers to corrective action when acting improperly, but also protects them from unwarranted criticism when discharging their duties properly.

2. WHAT SHOULD BE REPORTED AND INVESTIGATED:

Any person who believes he or she has knowledge of police corruption or misconduct is encouraged to use the Worcester Police Department Citizen Complaint Procedure. All superior officers who receive or initiate complaints against an employee for a violation shall strictly adhere to these internal procedures.

A complaint against the Worcester Police Department, or any of its civilian or sworn personnel, may be made by contacting the police department either in person, by mail, by e-mail, by fax (508-799-8695), or by phone (BOPS 508-799-8694, Chief's Office 508-799-8611). Citizen Complaint Forms are available in English, Spanish, and Vietnamese at several locations, including the Service Division (lobby of the police station), the Office of the City Manager, Mayor and City Council offices at City Hall, the Human Rights Commission, the ACLU, various neighborhood centers, or by telephoning the Bureau of Professional Standards directly. The complaint form can also be downloaded directly from the Worcester Police Department's website (www.worcesterma.gov).

Citizen Complaint forms shall be distributed to any member of the public upon request. **No person, at any time, shall be refused such a complaint.** Failure or refusal to file or sign a citizen's complaint form does not eliminate the requirement of an internal investigation.

Police behavior that should be subject to citizen complaints include, but are not limited to:

Corruption such as:

- Theft
- Bribery
- Acceptance of gratuities, etc.
- Other criminal acts

Misconduct such as:

- Physical - verbal abuse
- Unlawful arrest
- Harassment

3. COMPLAINT INITIATION AND INTAKE:

Anytime that a complaint, and/or information relating to a potential complaint, is given to any nonsupervisory, on-duty employee of this department, whether by phone, by mail, by e-mail, in person (orally or in writing), ***or by any other means, it shall be brought to the immediate attention of an on-duty supervisor*** from the division or unit where the employee receiving the information or complaint is assigned. It shall then be the responsibility of any on-duty supervisor, who receives said complaint or information from either a subordinate or by any other means, to ensure that the complaint and/or information is processed in strict compliance with the remainder of this policy. ***There shall be no exceptions to this practice either permitted or condoned.***

The above-information shall be included, as part of the instructions for filing a complaint, that are to be attached to each Citizen's Complaint Form. All complaints against the agency itself, or any of its personnel, shall be investigated to the extent necessary and/or possible, including anonymous complaints.

A. In Person Complaints

Under no circumstances shall any employee of this department, or anyone acting at his or her behest, attempt to dissuade anyone, by means of coercion, intimidation, and threats of retaliation, etc., from filing a written complaint.

B. Minor Allegations—Employee's Supervisor On-Duty.

If a person appears at police headquarters to file a citizen complaint, that person shall be given access to an on-duty supervisory official from Service Division. If the supervisory official from the service division determines that: 1) no criminal conduct or corruption is involved; 2) no death or serious bodily injury is involved; and 3) a supervisor of the accused

officer is currently on duty, then the accused employee's supervisory official shall be immediately contacted to confer with the complainant. After consultation with the supervisory official complainant may or may not elect to file a written complaint. Should the complainant elect to file a written complaint, the supervisory official shall provide any assistance required to complete the basic complaint form. (See written complaints below.) Should the complainant elect not to file a written complaint after having conferred with the supervisory official, it is the supervisory official's responsibility to notify the Bureau of Professional Standards of 1) the basic facts involved in the verbal complaint, 2) the name(s) of the accused officer(s), and 3) the measures implemented to mediate the complaint. The complainant's name, address and telephone number are also to be included in this report. At this point, the matter shall be considered resolved, pending the final approval of the commander of the Bureau of Professional Standards and /or the Chief of Police.

C. Minor Allegations—Employee's Supervisor Not On-Duty.

If a person presents him/herself to Police Headquarters for the purpose of filing a complaint against a department employee, and a supervisory official from the service division determines that 1) no criminal conduct or corruption or 2) no death or serious bodily injury are involved, and 3) that a supervisor of the accused officer is not currently on-duty, the citizen should be given a complaint form. The completed form should then be reviewed by the official-in-charge of the Service Division. The reviewing official shall ascertain the nature of the complaint. If there is clear indication that the employee did nothing improper, the official may attempt to resolve the complaint. If the Service Division official-in-charge handles the matter to the satisfaction of the complainant, the matter shall be considered resolved, pending the final approval of the commander of the Bureau of Professional Standards. It is the responsibility of the Service Division official-in-charge to notify the Bureau of Professional Standards, of 1) the basic facts involved in the verbal complaint, 2) the name(s) of the accused officer(s), and 3) the measures implemented to mediate the complaint. The complainant's name, address and telephone number are also to be included in this report. At this point, the matter shall be considered resolved, pending the final approval of the commander of the Bureau of Professional Standards.

D. Written Complaints.

When none of the above-listed conditions are applicable, the official-in-charge of the Service Division will provide the complainant with a copy of the citizen complaint form and allow the citizen to read and fill out the complaint form. After the form is completed, this official shall sign the complaint and provide the complainant with a photocopy of it. It shall then be the responsibility of that Service Division official-in-charge to forward the complaint to the Bureau of Professional Standards. The complainant may, at his or her discretion, take the complaint form and mail or deliver it at a later time directly to the Bureau of Professional Standards. Under no circumstances will a request for a written complaint form be either refused or discouraged.

E. Civil Claims and Lawsuits.

Whenever the department receives notice of a civil claim or a lawsuit, there shall be a consultation between the Chief, the Bureau of Professional Standards and the Law Department with regard to: 1) when to initiate an internal investigation in those cases where no investigation was conducted previously; or 2) when further investigation of the underlying incident is warranted as a result of the claim or lawsuit.

F. Internally-Generated Complaints:

The Chief and/or his designee shall have the discretion of directing that an investigation be commenced in the following situations:

1. Whenever the Chief or his designee has determined that sufficient facts exist to warrant an investigation into alleged misconduct, in accordance with the department's Rules & Regulations, Policies & Procedures, Written Directives, and the "Management Rights" provisions contained in the contract with any union;
2. Upon the receipt of information from any supervisor relating to the job-performance or fitness for duty issues of any employee under his or her supervision or command;
3. Upon the receipt from any employee relating to allegations of official wrong-doing by any departmental personnel.

M.G.L. Ch. 6E, § 15 Duty to Intervene/ Duty to Report

(a) An officer present and observing another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances, shall intervene to prevent the use of unreasonable force unless intervening would result in imminent harm to the officer or another identifiable individual.

(b) An officer who observes another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances shall report the incident to an appropriate supervisor as soon as reasonably possible but not later than the end of the officer's shift. The officer shall prepare a detailed written statement describing the incident consistent with uniform protocols. The officer's written statement shall be included in the supervisor's report.

4. The officer(s) who uses such intervention shall notify the Bureau of Professional Standards as soon as practically feasible by emailing an IDC describing the incident in detail to WPDInternalAffairsEmailList@worcesterma.gov. The report shall list all persons present that may have witnessed visually or audibly the incident involving the use of force. The commander of the BOPS unit will notify the chief and respective deputy chief upon receipt of the Duty to Intervene Report. After the report has been reviewed by the chief, deputy chief, and BOPS commander a decision will be made on administrative action. BOPS shall perform an investigation into the use of force. Whenever it becomes apparent that the investigation involves the bona fide possibility of one or more criminal charges being filed against an employee, a separate, parallel

investigation will be initiated and conducted under the command of the Deputy Chief of the Investigative Bureau.

G. Complaint Administration:

Upon the receipt of any complaint in the Bureau of Professional Standards, it shall be the responsibility of the official-in-charge of the Bureau of Professional Standards to determine what degree or level of investigation into the complaint is required. Regardless of its nature, the commander of the Bureau of Professional Standards shall ensure that every matter is investigated.

At the outset of the investigation, the accused employee's record in the Bureau of Professional Standards shall be reviewed by the BOPS investigator. A copy of this record from the card file then shall be attached to a copy of the complaint and delivered to the Chief for his review. Also, whenever a complaint is assigned for a Commander's Investigation, the CO shall receive a copy of both the complaint and the accused employee's BOPS card file. Both of these documents shall be stamped, "Commander's Investigation—Confidential—Do Not Reproduce," with the CO's name entered in the space provided. All CO's shall be responsible for insuring that all such documents are not recopied or distributed further.

Each complainant shall be notified, in writing, that the complaint has been received and the status of the matter. Thereafter, the complainant may be informed periodically of the status of the investigation. Such notification may be done in person, by telephone, or in writing, at the discretion of the investigating official, who will make a notation in the file for each such notification that is made. All investigations shall be conducted in a reasonable and timely manner, and every effort will be made to complete investigations within 90 days of the receipt of the complaint. It should be noted, however, that legal and practical considerations might require that some investigations be prolonged beyond this time frame. When an investigation remains open beyond 90 days, the complainant will be contacted and notified of this occurrence.

All complaints or charges which may result in potential disciplinary action against any employee shall be brought by the City or the Police Department within six (6) months from the date of the completion of the investigation into said complaints or charges. For the purposes of determining when the aforementioned 6 month time period has begun, an investigation shall be deemed to have been completed after the investigatory report has been reviewed, signed and dated by the Chief of Police and/or his designee.¹ If, after the completion of an investigation, new evidence is discovered which has a significant impact on a complaint or charge, the City and the Police department shall have three (3) months from the date of its discovery in which to commence disciplinary action against an employee.

¹ In the case of the absence or disability of the Chief of Police, the investigatory report may be reviewed, signed and dated by the Acting Chief of Police, or by one of the Deputy Chiefs of Police. Should there be a possible discipline exceeding a 5 day suspension, investigatory completion will not be completed until after the City Manager or their designee has approved completion. This will be signified by service of a notice of a disciplinary hearing to the officer.

H. **Types of Investigations—Manner of Assignment:**

All citizen complaints shall be reviewed by the Commander of BOPS, or his designee, prior to assignment for investigation. The decision to assign the case for an “In-Office” or Commander’s investigation shall be at the discretion of the Commander of BOPS, in consultation with the Chief of Police or his designee whenever circumstances require. In general, an effort shall be made to assign cases in accordance with the following guidelines/conditions:

1. **“In-Office” BOPS Investigations:**

All complaints involving allegations of any of the following shall be conducted by an official assigned to the Bureau of Professional Standards:

- a) Death or serious bodily injury;
- b) Commission of a felony;
- c) Commission of a crime involving theft, bribery or corruption;
- d) Domestic A & B;
- e) Sexual harassment²;
- f) Discharge of firearms;
- g) Excessive force involving the use of a weapon;³
- h) Complaints involving allegations against individuals from two or more units or divisions; Investigations which are expected to require extra time, special equipment, or expertise;
- i) Any investigation that is expected, because of its nature, to require a heightened degree of confidentiality.
- j) Any complaint related to an off-duty assignment at a liquor establishment.

2. **Commander’s Investigations:**

All complaints, which do not involve one or more of the above-listed (1-9) factors, will, at the discretion of the Commander or Official-in-Charge of BOPS, normally be sent to the commanding officer of the respective officer’s division or unit, with instructions that the investigation will be conducted by the Commander or Lieutenant of that division. (The Commander or Official-in-Charge of BOPS may retain for “In-Office” investigation any complaint, when he believes that the department’s objectives will be better served by conducting the investigation from the office of BOPS.) Any recommendations and all conclusions drawn from the commander’s investigation are the responsibility of the

² All sexual harassment complaints shall be conducted in strict adherence to the City of Worcester’s Policy on Sexual Harassment.

³ This statement is not to be construed as prohibiting the assignment of a complaint, involving the use of an authorized piece of police equipment or weapon, for a Commander’s investigation. However, if it appears at the time that the complaint is received that there is the likelihood that a criminal complaint could be generated against the officer(s) involved, then the preference will be that the complaint be handled as an “In-Office” investigation.

appropriate Unit Commander, in consultation with the appropriate Deputy Chief of Police, and the Chief of Police, and not the investigating lieutenant.

3. Criminal Investigations:

Whenever it becomes apparent that an investigation involves the bona fide possibility of one or more criminal charges being filed against an employee, a separate, parallel investigation will be initiated and conducted under the command of the appropriate Deputy Chief of Police and the commander of the unit that conducts the criminal investigation.⁴ At the conclusion of this investigation, the appropriate Deputy Chief of Police and/or the appropriate Unit Commander shall submit a report to the Chief of Police. **Under no circumstances shall any such report include any analysis, opinion, finding, conclusion or recommendation**, as these functions are all within the exclusive province of the Chief of Police or his specifically chosen designee(s).

4. Outside Agency Investigations:

In the alternative, the Chief of Police or his designee may request that the criminal investigation be conducted by an appropriate outside agency. Under either of these two situations, the BOPS Investigation shall continue as a separate, parallel investigation, in accordance with the principles established by the Massachusetts SJC in *Michael P. Carney v. City Of Springfield & others*, 403 Mass. 604, 532 N.E. 2d 631 (1988).

5. Notification of City Manager:

The Chief of Police shall exercise his discretion in notifying the City Manager in regard to any pending investigation and/or disciplinary matter. However, in any matter that may involve a suspension for five (5) or more days or the potential for criminal charges, the Chief will notify the City Manager in a timely fashion.

I. Notification to Police Personnel of Investigation:

Any employee who is the subject of an investigation shall receive, as soon as practicable, written notification detailing the allegations that have been made against him or her, as well as the employee's rights and responsibilities relative to the investigation. This notification shall be made in the form of an IDC, or by means of another suitable form, as determined by the Chief of Police. The actual complaint form or a copy thereof, or any other form of communication serving in lieu of the complaint form, shall not be released to the employee; however, any employee who so desires may go in person to the BOPS office, and such employee will be afforded the opportunity to read the complaint or a copy thereof. At the discretion of BOPS, identifying information for the complainant and any witnesses may be redacted from the complaint.

⁴ The referred-to Deputy Chief will normally be the Deputy in charge of investigations. The referred-to commander will normally be the person that is charge of the unit conducting the investigation. Usually, it will be the commander of the Detective Bureau, the Family and Youth Services Division, or the Vice Squad. At the discretion of the Chief, a different Deputy Chief and/or commander may be assigned the criminal investigation.

Whenever the Bureau of Professional Standards conducts an investigation, if practicable, the specific unit commander of the accused officer shall be kept notified as to the progress of the investigation. Results of an investigation conducted by the Bureau of Professional Standards will be forwarded to the Chief of Police and, once approved by the Chief, the appropriate unit commander shall also be made aware of the conclusion of the investigation and the findings.

J. Employee Relieved From Duty Prior to Completion of Investigation:

At the discretion of the Chief of Police, or his designee, an employee who is the subject of an Internal Investigation may be relieved from duty, prior to completion of the investigation, if one or more of the following factors are present:

1. The nature of the allegations and the evidence presented indicate that there is a substantial likelihood that, if the employee were to remain on duty, he or she presents a serious threat of harm either to him/herself or to another;
2. The nature of the allegations and the evidence presented indicate that there is a substantial likelihood that the public trust has been violated by the employee, due to the probable commission of a felony, or other crime involving theft, bribery or corruption;
3. The employee is indicted or incarcerated;
4. The employee's apparent physical and/or mental condition has deteriorated to the point that the employee is unable to perform competently his or her duties;
5. The employee has failed a mandated drug test;
6. The employee is a sworn police officer or official who has been served with a valid and current "Abuse Prevention Order", issued by a court of competent jurisdiction, including but not limited to any division of the District, Superior or Probate Courts of the Commonwealth of Massachusetts, or the courts of any other sovereignty, which specifically prohibits said officer or official from carrying or having in his/her possession any firearms, unless a special provision is contained within the order allowing said employee to carry a firearm while on duty.

The Chief shall make a determination, in consultation with the City Manager, on a case-by-case basis, concerning in what status an employee who is relieved from duty will be placed.⁵

The possibilities are:

1. Administrative leave with pay;
2. Administrative leave without pay;
3. Injured on Duty;
4. Sick Leave;
5. Suspension with pay;
6. Suspension without pay;
7. Termination.

⁵ All relevant factors, including current state and federal laws and contract provisions, shall be considered in making such determinations.

K. Submission to Examinations:

Employees shall be required to submit to physical, mental, drug and polygraph examinations as follows:

1. Physical- pursuant to departmental Rule and Regulation #1414.1, "An officer or employee shall submit to a physical examination at any time, at the expense of the Department, when so ordered by the Chief of Police."
2. Mental-pursuant to departmental Rule and Regulation #1416.1, "An officer or employee shall submit to a mental examination, such as a personality profile or psychiatric examination, at the expense of the Department, when so ordered by the Chief of Police."
3. Drug Testing-shall only be administered in strict accordance with the collective bargaining agreement between the respective employee's union and the City, as well as in accordance with all pertinent legal requirements in effect at the time of the test.
4. Polygraph- shall only be administered in strict accordance with the collective bargaining agreement between the respective employee's union and the City, as well as in accordance with all pertinent legal requirements in effect at the time of the test.

L. Minimum Requirements for Administrative [Non-Criminal] Investigation:

Regardless of whether the investigation is conducted by an official assigned to BOPS or the employee's unit or division, all investigations shall follow these basic steps:

1. Analysis of the complaint;
2. Accumulation of evidence;
3. Documentation of the evidence;
4. Preparation of a report to the Chief of Police that sets forth clearly all steps that were taken during the course of the investigation. Commander's investigation reports [i.e., reports prepared as result of administrative investigations conducted by officials assigned to the same unit as the subject officer(s) under investigation] **shall include a recommended finding from the appropriate Deputy Chief and Captain** as to how the investigation's outcome is to be classified officially. **No other official shall make such a written recommendation.** This requirement is in keeping with the principle that, whenever possible, discipline should be a function of command, particularly when it is related to the more routine issues of day to day job performance, about which the individual commanding officers are in the best position to exercise their judgment. Conversely, with respect to BOPS or "in-house" investigations, the issues under investigation almost always are more complicated and serious, with a much greater potential to impact issues of legal liability, the officer's reputation and employment, the department's reputation, and the safety and other concerns of individual complainants, as well as those of the general public. Therefore, under no circumstances shall any such BOPS generated investigative report include any finding, conclusion or recommendation; these functions shall remain within the exclusive province of the Chief of Police or his specifically chosen designee(s).

Prior to the imposition of any form of discipline that is listed on page 11 & 12 of this policy, in the section titled "Discipline," there shall be a discussion of the appropriateness

of such discipline between the commanding officer, the Chief and/or the appropriate Deputy Chief, and a representative of the Bureau of Professional Standards. All supervisors are advised that in any case or investigation which may result in discipline to an employee, the employee must be afforded an opportunity to make a statement, prior to the imposition of the discipline, as part of the official record of the case.

4. SPECIFIC INVESTIGATORY PROCESS:

The investigating official shall accumulate all available, relevant evidence, including but not limited to: departmental reports; audio and video tapes; photographs; weapons; medical records; statements of civilian witnesses; statements of police witnesses.

All witness statements shall be obtained only in accordance with all applicable constitutional, statutory, and case law, as well as contractual agreements. The preferred form of an interview with a non-departmental personnel/civilian witness will be in person; interviews via telephonic means may be used, however, when time, distance or other expediencies may so require. Any such witness statement, which is not audio-recorded, should be memorialized in writing. Civilian witnesses may also submit an affidavit or other form of written statement. All written statements from departmental personnel shall be rendered in the form of an IDC.

Because police officers and officials are not legally authorized to administer oaths, and, further, due to the intimidating and “chilling” effect that being formally sworn can impart, witnesses and complainants are not required to submit statements under oath or affirmation. In accordance with this precept, every reasonable effort should be made so that every witness and complainant is not made to feel uncomfortable, by placing them in as non-threatening of an environment as is possible. The interview with a witness, therefore, should not be implied to be a formal legal forum, which might discourage the witness from speaking freely. The foregoing statement notwithstanding, it is still important to keep in mind that both officers and civilian witnesses are bound by M.G.L. C. 268 §1 (prohibiting perjury, defined as willfully affirming or swearing falsely in a matter material to the issue or point in question, during a judicial proceeding, or in a proceeding in a course of justice); and by M.G.L. C. 269 §13A (prohibiting the making a false report of a crime to a police officer). Additionally, officers are bound by M.G.L. C268. §6A (prohibiting the making of false written reports by public officers or employees), and by Worcester Police Department Rule & Regulation #1402.1, which requires truthfulness on the part of any officer or employee who participates in any departmental or other official investigation, trial, hearing or proceeding. All departmental personnel are required to be familiar with the above-mentioned state laws and departmental rule.

All police personnel, whether they are an accused or merely a potential witness, may be required to complete IDC reports or to participate in interviews in person, or both. Interviews in person *shall* be conducted with police personnel under the following circumstances:

- A. Whenever the Chief or his designee so directs;
- B. Whenever the officer or employee requests an interview.

If the accused person properly asserts any right secured to him or her by the United States Constitution or the Massachusetts Declaration of Rights, with respect to self-incrimination, then the accused person shall not be coerced into providing a statement until one of the following apply:

1. A grant of transactional immunity has been obtained pursuant to the ruling in *Michael P. Carney v. City Of Springfield & others*, 403 Mass. 604, 532 N.E. 2d 631 (1988);
2. The criminal charges against the accused person have been resolved.

Interviews shall be conducted only in accordance with all applicable constitutional, statutory, and case law, as well as contractual agreements. All interviews conducted by the Bureau of Professional Standards with departmental personnel shall be audio-recorded, unless the employee's union's contract with the City prohibits this practice.

A. Investigatory Report:

At the conclusion of the investigation, once the investigatory report is completed it is to be forwarded to the Chief of Police directly. **The Chief, upon reviewing the investigatory report, shall make the final determination as to any finding, conclusion or recommendation**, as these functions are all within the exclusive province of the Chief of Police or his specifically chosen designee(s).

At his discretion, the Chief may send the report back to the Bureau of Professional Standards or the appropriate commander with instructions for further investigation.

B. Disposition:

The official investigatory findings shall correspond to one or more of the following categories:

1. **Unfounded/Resolved at Intake**– the investigation indicates that the act or acts complained of did not occur, or they did not involve police department personnel.
2. **Exonerated** – act(s) did occur but the actions of the officer were justified, lawful and proper.
3. **Not Sustained** – the investigation fails to discover sufficient evidence to clearly prove or disprove the allegations made in the complaint.
4. **Sustained** – the investigation disclosed sufficient evidence to clearly prove the allegations made in the complaint.
5. **Sustained Other**-investigation proved that the officer committed a violation other than the one named in the complaint.
6. **Policy Failure**-the allegation is true, but the P.O. was acting in a manner consistent with policy, which indicates a policy revision is required.
7. **Exceptionally Cleared**-a factor external to the investigatory process, such as the complainant's refusal to provide essential information, or failure otherwise to cooperate with the investigation, results in the inability to properly conduct and complete the investigation.

C. Discipline:

If the *Confidential BOPS Investigatory Report* contains one or more sustained violations of departmental rules, regulations or procedures, the specific unit commander and the

commander of the Bureau of Professional Standards shall confer with the Chief of Police, and/or one or more deputy chiefs of police, as to the appropriate mode of discipline. The commanders shall review the accused officer's disciplinary record, housed in the Bureau of Professional Standards, prior to this conference on discipline. *No discipline shall be administered without first obtaining the express authorization of the Chief of Police or, in his absence, his designee.* After obtaining authorization to implement discipline, the unit commander and his command staff shall administer the agreed upon level of sanction in accordance with this department's Rule and Regulation #130, "Discipline of Employees," and the most recent edition of the "City of Worcester's Procedural Manual for the Discipline of City Employees." The Discipline shall be administered through one of the following:

1. Criticism;
2. Counseling Session;
3. Oral Reprimand;
4. Written Reprimand; 5. Extra or Punishment Duty; 6. Suspensions:
 - a. Five days or Less-Chief can impose;
 - b. More than 5 days- City Manager must approve;
5. Termination—City Manager must approve.

The Bureau of Professional Standards shall be notified of any discipline imposed so that a record of its occurrence can be entered in the file. Similarly, a record of any internally generated complaint and subsequent discipline shall be reported to the Bureau of Professional Standards for record keeping purposes.

5. NOTIFICATIONS/CONFIDENTIALITY:

The complainant(s) as well as the police personnel involved shall be notified of the disposition as soon as possible following the completion of the investigation. When discipline is imposed, information released to the complainant regarding its form shall be limited to the statement that "Appropriate administrative action has been taken."

All complaints, as well as all information gathered in the course of a BOPS Investigation, shall be retained in the offices of the Bureau of Professional Standards. These records shall be kept in accordance with the Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth. Entry into those records shall be closely regulated, with access available only as follows: to personnel assigned to the Bureau of Professional Standards; to personnel assigned to the Chief's office; to personnel assigned to the City of Worcester Executive Office of Human Resources (including any outside attorneys retained to handle matters pertaining to Human Resources); to personnel assigned to the City of Worcester Law Department; to commanding officers as authorized by this policy, or when otherwise specifically authorized by the Chief of Police, or his designee; and, when otherwise required by statutes or court decisions.

An original notice of the discipline imposed shall be given to the employee. Copies of this notice shall be placed in/sent to: the employee's "201" or personnel file in the Office of the Chief; the employee's personnel file at City Hall; the Office of the City Manager; the Bureau of Professional

Standards case file; and, in cases involving termination, resignation or suspension, the department's payroll office.

6. ANNUAL STATISTICAL SUMMARIES:

The commander or official-in-charge of BOPS will compile an annual statistical summary. The annual summary will be published as part of the Annual Departmental Report, which is made available to the public

7. SUBMISSION OF DISCIPLINARY RECORDS TO POST

- A.** On or before September 30, 2021, the Worcester Police Department shall provide to the Massachusetts Peace Officer Standards and Training Commission, (POST) in a form to be determined by the commission, a comprehensive disciplinary record for each officer, including but not limited to:
 - 1. Every complaint of which the officer was the subject of during the course of their employment with the agency; and
 - 2. All disciplinary records of the officer, including the final disposition of a complaint if any, and any discipline imposed.

- B.** On or before December 1, 2021, the commission shall provide to the Worcester Police Department a list of each officer currently employed in the commonwealth, and each agency shall provide to the commission, in a form to be determined by the commission, a comprehensive disciplinary record for each officer previously employed by the Worcester Police Department or a transferor agency for which the agency is the transferee agency, including but not limited to:
 - 1. Every complaint of which the officer was the subject of during the course of their employment with the agency; and
 - 2. All disciplinary records of the officer, including the final disposition of a complaint if any, and any discipline imposed.

8. MGL CH. 6E, § 8 - DIVISION OF POLICE STANDARDS

- A.** There shall be within the commission a division of police standards. The purpose of the division of police standards shall be to investigate officer misconduct and make disciplinary recommendations to the commission.

B. (1) The head of an [law enforcement] agency shall transmit any complaint received by said agency within two (2) business days to the division of police standards, in a form to be determined by the commission;

- provided, that the form shall include, but shall not be limited to:
 - (i) the name and commission certification identification number of the subject officer
 - (ii) the date and location of the incident;
 - (iii) a description of circumstances of the conduct that is the subject of the complaint;
 - (iv) whether the complaint alleges that the officer's conduct:
 - (a) was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level;
 - (b) was unprofessional;
 - (c) involved excessive, prohibited or deadly force; or
 - (d) resulted in serious bodily injury or death; and
 - (v) a copy of the original complaint submitted directly to the agency; provided, however, that the commission may establish a minimum threshold and streamlined process for the reporting or handling of minor complaints that do not involve the use of force or allegations of biased behavior.

(2) Upon completion of the internal investigation of a complaint, the head of each [law enforcement] agency shall immediately transmit to the division of police standards an investigation report in a form to be determined by the commission;

- provided, that the form shall include, but shall not be limited to:
 - (i) a description of the investigation and disposition of the complaint;
 - (ii) any disciplinary action recommended by internal affairs or the supervising officer; and
 - (iii) if the recommended disciplinary action included retraining, suspension or termination, a recommendation by the head of the agency for disciplinary action by the commission including, retraining or suspension or revocation of the officer's certification.

(3) Upon final disposition of the complaint, the head of each agency shall immediately transmit to the division of police standards a final report in a form to be determined by the commission;

- provided, that the form shall include, but shall not be limited to:
 - (i) any disciplinary action initially recommend by internal affairs or the supervising officer;
 - (ii) the final discipline imposed and a description of the adjudicatory process; and
 - (iii) if the disciplinary action recommended or imposed included retraining, suspension or termination, a recommendation by the head of the agency for disciplinary action by

the commission including, retraining or suspension or revocation of the officer's certification.

(4) If an officer resigns during an agency investigation, prior to the conclusion of an agency investigation or prior to the imposition of agency discipline, up to and including termination, the head of said agency shall immediately transmit to the division of police standards a report in a form to be determined by the commission; provided, that the form shall include, but shall not be limited to:

- (i) the officer's full employment history;
- (ii) a description of the events or complaints surrounding the resignation; and
- (iii) a recommendation by the head of the agency for disciplinary action by the commission, including retraining or suspension or revocation of the officer's certification.

(5) Notwithstanding any general or special law or collective bargaining agreement to the contrary, nothing shall limit the ability of the head of an agency to make a recommendation in their professional judgment to the commission relative to the certification status of an officer, after having followed the agency's internal affairs procedure and any appeal therefrom.

C. (1) The division of police standards shall initiate a preliminary inquiry into the conduct of a law enforcement officer if the commission receives a complaint, report or other credible evidence that is deemed sufficient by the commission that the law enforcement officer:

- (i) was involved an officer-involved injury or death;
- (ii) committed a felony or misdemeanor, whether or not the officer has been arrested, indicted, charged or convicted;
- (iii) engaged in conduct prohibited pursuant to section 14 {Use of Force};
- (iv) engaged in conduct prohibited pursuant to section 15 {Failed to Intervene}; or
- (v) the commission receives an affirmative recommendation by the head of an appointing agency for disciplinary action by the commission, including retraining or suspension or revocation of the officer's certification.

(2) The division of police standards may initiate a preliminary inquiry into the conduct of a law enforcement officer upon receipt of a complaint, report or other credible evidence that is deemed sufficient by the commission that the law enforcement officer may have engaged in prohibited conduct.

All proceedings and records relating to a preliminary inquiry or initial staff review used to determine whether to initiate an inquiry shall be confidential, except that the executive director may turn over to the attorney general, the United States Attorney or a district attorney of competent jurisdiction evidence which may be used in a criminal proceeding.

(3) The division of police standards shall notify any law enforcement officer who is the subject of the preliminary inquiry, the head of their collective bargaining unit and the head of their appointing agency of the existence of such inquiry and the general nature of the alleged violation within 30 days of the commencement of the inquiry.

- D.** The division of police standards may audit all records related to the complaints, investigations and investigative reports of any agency related to complaints of officer misconduct or unprofessionalism, including, but not limited to, personnel records. The commission shall promulgate rules and regulations establishing an audit procedure; provided, however, that said rules and regulations shall not limit the ability of the division of police standards to initiate an audit at any time and for any reason.
- E.** The division of police standards shall create and maintain a database containing information related to an officer's:
- (i) receipt of complaints and related information, including, but not limited to: the officer's appointing agency, date, a description of circumstances of the conduct that is the subject of the complaint and whether the complaint alleges that the officer's conduct:
 - (a) was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level;
 - (b) was unprofessional;
 - (c) involved excessive, prohibited or deadly force; or
 - (d) resulted in serious bodily injury or death;
 - (ii) allegations of untruthfulness;
 - (iii) failure to follow commission training requirements;
 - (iv) decertification by the commission;
 - (v) agency-imposed discipline;
 - (vi) termination for cause; and
 - (vii) any other information the commission deems necessary or relevant.
- F.** The division of police standards shall actively monitor the database to identify patterns of unprofessional police conduct. Upon identification of a pattern of unprofessional police conduct, the division of police standards may recommend the evidence in its possession for review in a preliminary inquiry.
- G.** The division of police standards shall be a law enforcement agency and its employees shall have such law enforcement powers as necessary to effectuate the purposes of this chapter, including the power to receive intelligence on an applicant for certification or an officer certified under this chapter and to investigate any suspected violations of law.

9. MGL CH. 6E, § 9 - SUSPENSION OF AN OFFICER'S CERTIFICATION

- A.** (1) The commission shall immediately suspend the certification of any officer who is arrested, charged or indicted for a felony.
- (2) If, after a preliminary inquiry pursuant to paragraph (1) of subsection (c) of section 8, the commission concludes by a preponderance of the evidence that a law enforcement officer has engaged in conduct that could constitute a felony and upon a vote to initiate an adjudicatory proceeding of said conduct, the commission *SHALL* immediately suspend an officer's certification.

(3) The commission *MAY*, after a preliminary inquiry pursuant to paragraph (1) of subsection C of section 8, suspend the certification of any officer who is arrested, charged or indicted for a misdemeanor, if the commission determines by a preponderance of the evidence that the crime affects the fitness of the officer to serve as a law enforcement officer.

(4) The commission *may*, pending preliminary inquiry pursuant to paragraph (1) of subsection (c) of section 8, suspend the certification of any officer if the commission determines by a preponderance of the evidence that the suspension is in the best interest of the health, safety or welfare of the public.

(5) A suspension order of the commission issued pursuant to this subsection shall continue in effect until issuance of the final decision of the commission or until revoked by the commission.

B. The commission shall administratively suspend the certification of an officer who fails to complete in-service training requirements of the commission within 90 days of the deadline imposed by the commission;

- provided, however, that the commission may promulgate reasonable exemptions to this subsection, including, but not limited to, exemptions for:

- (1) injury or physical disability;
- (2) a leave of absence; or
- (3) other documented hardship.

- The commission shall reinstate the certification of an officer suspended pursuant to this subsection upon completion of the in-service training requirements of the commission.

C. The commission shall administratively suspend the certification of an officer with a duty to report information to the commission pursuant to section 8 who fails to report such information.

- The commission shall reinstate the certificate of an officer suspended pursuant to this subsection upon completion of said report.

D. A law enforcement officer whose certification is suspended by the commission pursuant to subsection (a), (b) or (c) shall be entitled to a hearing before a commissioner within 15 days. The terms of employment of a law enforcement officer whose certification is suspended by the commission pursuant to said subsection (a) (b) or (c) shall continue to be subject to chapter 31 and any applicable collective bargaining agreement to which the law enforcement officer is a beneficiary.

10. MGL CH. 6E, § 10 - REVOCATION OF AN OFFICER'S CERTIFICATION

A. The commission shall, after a hearing, **REVOKE** an officer's certification if the commission finds by clear and convincing evidence that:

- (i) the officer is convicted of a felony;
- (ii) the certification was issued as a result of administrative error;
- (iii) the certification was obtained through misrepresentation or fraud;
- (iv) the officer falsified any document in order to obtain or renew certification;

- (v) the officer has had a certification or other authorization revoked by another jurisdiction;
- (vi) the officer is terminated by their appointing agency, and
 - any appeal of said termination is completed,
 - based upon intentional conduct performed under the color of their office to:
 - obtain false confessions;
 - make a false arrest;
 - create or use falsified evidence, including false testimony or
 - destroying evidence to create a false impression;
 - engage in conduct that would constitute a hate crime, as defined in section 32 of chapter 22C; or
 - directly or indirectly receive a reward, gift or gratuity on account of their official services;
- (vii) the officer has been convicted of submitting false timesheets in violation of section 85BB of chapter 231;
- (viii) the officer knowingly files a written police report containing a false statement or commits perjury, as defined in section 1 of chapter 268;
- (ix) the officer tampers with a record for use in an official proceeding, as defined in section 13E of chapter 268;
- (x) the officer used force in violation of section 14;
- (xi) the officer used excessive use of force resulting in death or serious bodily injury;
- (xii) the officer used a chokehold in violation of said section 14;
- (xiii) the officer engaged in conduct that would constitute a hate crime, as defined in section 32 of chapter 22C;
- (xiv) the officer engaged in the intimidation of a witness, as defined in section 13B of chapter 268;
- (xv) the officer failed to intervene, or attempt to intervene, to prevent another officer from engaging in prohibited conduct or behavior, including, but not limited to, excessive or prohibited force in violation of section 15;
- (xvi) the officer is not fit for duty as an officer and the officer is dangerous to the public, as determined by the commission.

B. The commission *may*, after a hearing, *suspend or revoke* an officer's certification if the commission finds by clear and convincing evidence that the officer:

- (i) has been convicted of any misdemeanor;
- (ii) was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level in their conduct;
- (iii) has a pattern of unprofessional police conduct that commission believes may escalate.
- (iv) was suspended or terminated by their appointing agency for disciplinary reasons, and any appeal of said suspension or termination is completed; or
- (v) has repeated sustained internal affairs complaints, for the same or different offenses.

- C. The commission may reinstate the certificate of an officer suspended pursuant to subsection (b) at the expiration of the suspension, if the commission finds that all conditions of the suspension were met.
- D. The commission may, after a hearing, order retraining for any officer if the commission finds substantial evidence that the officer:
- (i) failed to comply with this chapter or commission regulations, reporting requirements or training requirements;
 - (ii) was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level in their conduct;
 - (iii) used excessive force;
 - (iv) failed to respond an incident according to established procedure;
 - (v) has a pattern of unprofessional police conduct;
 - (vi) was untruthful, except for a statement or action that mandates revocation pursuant to subsection (a);
 - (vii) was suspended or terminated by their appointing agency for disciplinary reasons, except those reasons which mandate revocation pursuant to said subsection (a);
 - (viii) fails to intervene to prevent another officer from engaging in prohibited conduct or behavior, except a failure to intervene in conduct that mandates revocation pursuant to said subsection (a); or
 - (ix) would benefit in their job performance if retrained.
- E. The commission shall immediately notify the officer and the head of the appointing agency of the officer who is decertified, suspended or ordered to undergo retraining of the order.
- F. The commission shall conduct preliminary inquiries, revocation and suspension proceedings and hearings, and promulgate regulations for such proceedings and hearings, pursuant to sections 1, 8 and 10 to 14, inclusive, of chapter 30A. Any decision of the commission relative to a preliminary inquiry, revocation and suspension proceeding shall be appealable pursuant to chapter 30A. No adverse action taken against a certification by the commission pursuant to this section shall be appealable to the civil service commission established under chapter 31. No employment action taken by an appointing authority that results from a revocation by the commission pursuant to subsection (a) shall be appealable to the civil service commission established under chapter 31.
- G. The commission shall publish any revocation order and findings. The commission shall provide all revocation information to the national decertification index. No officer may apply for certification after that officer's certification has been revoked pursuant to this section.
- H. An appointing agency shall complete an internal affairs investigation into officer misconduct and issue a final disposition within one year of receiving a complaint or notice from the commission of the complaint being filed.

- The commission may, upon a showing of good cause, extend the time to complete the investigation. The commission shall not institute a revocation or suspension hearing pursuant to this section until the officer's appointing agency has issued a final disposition or 1 year has elapsed since the incident was reported to the commission, whichever is sooner.
- If the officer notifies the commission that the officer wishes to suspend such hearing pending an appeal or arbitration of the appointing agency's final disposition, the commission shall suspend the hearing. Any such suspension of the hearing shall not exceed 1 year from the officer's notice to the commission; provided, however, that at any time during which the hearing is so suspended and upon a showing of good cause by the officer, the commission shall further suspend the hearing for a period of not less than 6 months and not more than the commission determines is reasonable; provided, however, that any delay in instituting a revocation or suspension hearing shall not exceed 1 year from the officer's request. If the officer notifies the commission that the officer wishes to suspend such hearing pending the resolution of criminal charges, the commission shall suspend the hearing; provided, however, that the officer's certification shall be suspended during the pendency of any delay in such hearing. This subsection shall not impact the commission's authority to suspend a certification pursuant to section 9.

11. MGL CH. 6E, § 11 - DECERTIFIED OFFICERS NOT ELIGIBLE FOR EMPLOYMENT

Neither any agency, nor a sheriff, nor the executive office of public safety nor any entity thereunder shall employ a decertified officer in any capacity, including, but not limited to, as a consultant or independent contractor.

12. MGL CH. 6E, § 12 – PROTECTIONS FOR TESTIFYING AGAINST POST

No officer or employee of the Commonwealth or of any county, city, town or district shall discharge an officer or employee, change their official rank, grade or compensation, deny a promotion or take any other adverse action against an officer or employee or threaten to take any such action for providing information to the commission or testifying in any commission proceeding.

13. STRUCTURE OF THE BUREAU OF PROFESSIONAL STANDARDS:

Staffing will consist of a sufficient number of police officials to handle the investigative workload, and the other duties that are assigned to BOPS. The official-in-charge of the unit, preferably a police captain, shall report directly to the Chief of Police. All complaints involving death or serious physical injuries to either police personnel or civilians, and all complaints involving allegations of criminal conduct or corruption on the part of police personnel, shall be brought to the immediate attention of the Chief of Police, or his designee, by the official-in-charge of BOPS.

A. Qualifications and Training for BOPS Officials:

The importance of the BOPS function, as stated above, requires that only highly qualified individuals be entrusted with this assignment. This is also true because of the specialized nature of the work involved. Candidates for this unit should, therefore, possess training, education and experience beyond the minimum character and skill qualifications required for effective police work.

Toward this end, all persons assigned to the Bureau of Professional Standards should have attained, at a minimum, the rank of sergeant. In addition, all such persons should have acquired at least a Bachelor of Arts or Bachelor of Science degree from a fully accredited, degree-granting college or university.⁶ Preference may also be given, at the discretion of the chief of Police, to individuals who possess the following additional qualifications and/or experience:

1. Law Degree (J.D. or L.L.B.)
2. Master's Degree (Academic Disciplines such as English, any of the Social Sciences, Psychology, Law Enforcement, Criminal Justice, etc.)
3. Ten or more years total experience at the rank of Police Officer
4. Three or more years total experience as a Police Official (Sergeant or higher)
5. Demonstrated exceptional writing and speaking ability
6. Current, prior specialized training in BOPS techniques and procedures
7. Recent, prior, relevant experience (such as conducting BOPS, personnel, background, or other types of administrative investigations).
8. Whenever it is practicable, newly promoted sergeants and lieutenants will be assigned to the BOPS on a temporary basis in order that they will gain exposure to the overall operation of the department's internal, investigatory and disciplinary procedures.

As soon as is practical, all officials who are newly-assigned to the Bureau of Professional Standards shall receive specialized training in the operational and legal issues that pertain to the performance of duties required in this unit. Such training shall include, at a minimum, in-house instruction conducted by a senior, qualified member of the Bureau of Professional Standards, on all relevant operational, legal and technical issues. In addition, whenever other, appropriate training is available through an outside agency or organization, the Chief of Police shall assign such officials, from the Bureau of Professional Standards, that it has been determined will benefit most from the particular level of training that is being offered. Such assignments shall be contingent on both current staffing needs and availability of funding.

B. Release of Information:

Under **no circumstances** shall anyone except the Chief, his designees and the BOPS staff be allowed direct access to any files in the BOPS office due to confidentiality and security concerns. This requirement applies to all index cards, case files, and information stored in any electronic format.

⁶ These requirements may be waived under exceptional circumstances when, in the opinion of the Chief of Police, a particular individual's overall character, training, education and experience demonstrate that he or she is most likely well-suited for the assignment.

It is the policy of this department to discuss issues relating to the operation of the department with another agency, such as the Human Rights Commission or the American Civil Liberties Union, in the appropriate forums. Such forums may include regularly scheduled commission meetings, special meetings, or public forums. The Chief and/or such other personnel as he or she may designate shall be responsible for engaging in these discussions.

Whenever the disclosure of specific documents and/or information is requested from the department by anyone, it shall be the policy of this department to release information relating to Bureau of Professional Standards investigations and files consistent with the existing and relevant federal and state laws,⁷ as well as the relevant contracts between the City of Worcester and its employees' unions.⁸

All requests for records will be processed as quickly and efficiently as possible. All applicable charges and costs associated with requests, and which are allowable by law, will be assessed to the requesting parties. All such costs and charges must be paid in full prior to the release of any information under this section.

Per:


Steven M. Sargent
Chief of Police

Amendments 02/25/21

Sec. 3 subsection F, MGL Ch. 6E, Section 15 Duty to Intervene/ Duty to Report, and F. 4 added.

Footnote 1, Completion of investigation when the city manager reviews it, added.

Sec. 5 paragraph 2 Municipal Records Schedule of the Public Records Division of the Commonwealth of Mass, removed.
Act of Relative...in the Commonwealth, added.

Sec. 6 "and a quarterly" and "The quarterly reports will be made available to individuals and/ or groups only with the express approval of the Chief of Police, removed.

Sec.'s 7-12 added.

Sec. 13 subsection B, All officer index cards and case files shall be logged...as indicated in the file drawer, removed.

Amendment 03/14/19 page 8 Section L4, "analysis, opinion" removed.

⁷ These include statutory and case law. The primary sources in Massachusetts for determining whether public records must be released are M.G.L. c. 66 § 10, the "Public Records Law," and M.G.L. c. 4 § 7, c.1.26th, which lists the exemptions applicable to the "Public Records Law's" general requirement that all records that are deemed to be public must be available for inspection and/or release to the public. Although also included here are court orders and subpoenas, the focus of this section is public records requests pursuant to M.G.L. c. 66 § 10.

⁸ Most notably, the police officer's and police official's respective bargaining units, and the civilian clerks' association.

Amendment 02/08/17 to Section III, H paragraph 2, “to conduct” removed, “that the investigation will be conducted by the Commander or Lieutenant of that division.” added, “or sergeant” removed.

Amendment 02/08/17 to Section III, L paragraph 4, “and Captain” was added to Deputy Chief.

Amendment 02/08/17 to Section IV, paragraph 2, “preferably on WPD Bureau of Professional Standards FORM W -1 4/99 or similar.” was removed.

Amendment 02/08/17 to Section IV, paragraph 3, chapters “269” and “268” corrected.

Amendment 02/08/17 to Section V, paragraph 2, “permanently” was removed and “These records shall be kept in accordance with the Municipal Records Schedule of the Public Records Division of the Commonwealth of Massachusetts.” was added.

Amendment 10/19/15 to **Section III, E Civil Claims and Lawsuits**, “whether” changed to “when”.

Amendment 09/24/14 to **Section III, L paragraph 4**, “Commander” was removed; “written” was added to recommendation.

Amendment added 02/28/11 to Section III, L,

Paragraph 3, Sub-section (A) was removed and face-to-face interviews replaced with interviews in person. Paragraph 4, first sentence was removed. Paragraph 1 and 5 tape-recorded replaced with audio-recorded.

Amendment added 02/28/11 to Section IV, paragraph 3 and 4 as follows:

Paragraph 3, Sub-section (A) was removed and face-to-face interviews replaced with interviews in person. Paragraph 4, first sentence was removed. Paragraph 1 and 5 tape-recorded replaced with audio-recorded.

Amendment added 7/27/09 to Section L #4: **a recommended finding from the Commander to the appropriate Deputy Chief as to how the investigation’s outcome is to be classified officially. No other official shall make such a recommendation.**

Previously Revised July 1, 2008, October 19, 2005