

# MONTPELIER POLICE DEPARTMENT

<b>Internal Affairs/Citizen Complaints</b>	Related Policies: Whistleblower Policy, Duty to Intervene, Duty to Report, Use of Force (OIS)
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Applicable Vermont Statutes: 20 V.S.A. § 2401, 20 V.S.A. § 2351-2411	
CALEA Standard:	
Date Implemented: February 7, 2022	Review Date: April 5, 2023

- I. **Purpose:** The purpose of this policy is to ensure the integrity of Montpelier Police Department (MPD) members by establishing an effective internal affairs program to ensure prompt and thorough investigations of alleged or suspected misconduct. Such procedures will:
1. Clear the innocent;
  2. Provide early indicators of possible personnel issues;
  3. Establish guilt of wrongdoers;
  4. Facilitate prompt and just disciplinary actions;
  5. Uncover defective procedures or material; and
  6. Provide a mechanism for civilian review.
- II. **Policy:** Based on premise, discipline is a function of command, and a well-disciplined law enforcement agency is one which voluntarily and ungrudgingly conforms to policies and regulations. MPD will make every effort to facilitate the convenient, courteous, and prompt receipt and processing of complaints. Any member who interferes with, discourages, or delays the making of such complaint(s), impedes the inquiry or investigative processes, or discloses confidential information pertaining to any inquiry or the investigative processes shall be subject to disciplinary action up to and including termination.
- MPD will investigate all complaints against the agency or its personnel. Anonymous complaints can be difficult to investigate; however, the agency should carefully review each complaint for validation before disregarding it for lack of credibility. It shall be the responsibility of all department members to adhere to this policy.

### **III. Definitions:**

- A. Administrative Inquiry:** An administrative inquiry is a process of gathering initial information as a basis in determining the validity of a complaint of employee misconduct.
- B. Adjudication Report:** A final report completed by the Chief of Police or designee summarizing an internal affairs investigation or an administrative inquiry. This report contains information from other reports or investigative activities as attachments or exhibits.
- C. Complaint of employee misconduct:** A complaint is an allegation from any source of an act or omission by an agency employee, which, if proven true, would be considered misconduct or a violation of agency policies, rules, or regulations.

Note: Complaints regarding the validity of traffic citations or parking tickets are not considered complaints for this definition and the party should be referred to the proper court or process for resolution.

- D. Complaint of agency dissatisfaction:** A complaint from any source of dissatisfaction with an agency policy or practice.
- E. Confidentiality Agreement:** A confidentiality agreement for the assigned Internal Affairs investigator.
- F. Internal Affairs Investigation:** A formal investigative process where facts and relevant evidence is gathered after there is a determination that preliminary evidence may exist which indicates a potential violation of rules, law, or policy may have occurred. Internal Affairs investigations (IAs) may involve witness and subject interviews. IAs should also review any applicable existing policies, procedures, and patterns and practices of the department.
- G. Notice to Employees Form:** A form provided to department members who may be witnesses to an Internal Affairs investigation.
- H. Public concerns regarding law enforcement operations not amounting to a complaint:** A concern expressed by a member of the public which does not meet the agency's definition of a complaint but must be documented by the agency employee receiving the information from the member of the public.
- I. Public Service Report:** A report available to the public which allows them to file either a compliment on, or a complaint against, a department member or the department.
- J. Scope of Inquiry or Investigation:** Specifically defined parameters for an inquiry or investigation which also includes a review of relevant policies, procedures, and patterns and practices of the department (e.g., were policies followed by personnel for the incident in question and/or were policies contributing factors to an allegation or complaint).
- K. Subject:** The principle who is the subject of a complaint or allegation.
- L. Subject Advisement Form:** An advisement form provided to a subject of an Internal Affairs investigation.

### **IV. Procedure:**

- A.** The Chief of Police or Designee is responsible for the administrative inquiries and internal investigation functions of the department. The Deputy Chief of Police or Designee will have functional responsibility for internal Affairs investigations and shall report directly to the Chief of Police or Appointing Authority. Where the Deputy Chief is the principle or subject of an inquiry or investigation, the Chief will oversee the inquiry or investigation. Where the Chief of Police is the principle or subject of an inquiry or investigation, the Deputy Chief will oversee the inquiry or investigation under the reporting authority of the City Manager, Assistant City Manager, or designee. In the event both the Chief and the Deputy Chief are both subjects of an inquiry or investigation, the City Manager or Assistant City Manager will oversee any inquiry or investigation and may solicit the services of outside agencies or qualified independent contractors. Complaints which rise to the level of an IA will be submitted to the Vermont Criminal Justice Council (VCJC) via the appropriate Act 56 forms.
- B.** The internal investigation function is responsible for:
1. Recording, registering, and controlling the investigation of complaints against members, or the agency itself;
  2. Supervising and controlling the investigation of alleged misconduct or corruption within the agency, and;
  3. Maintaining the confidentiality of professional standards investigations and records.
- C.** The internal investigative function shall not involve itself with any inadequacies of procedural matters, poorly written reports, matters of dress, or similar violations, except when such violations may be indicative of something more serious. Such concerns are the focus of supervisory staff. Internal investigations are concerned with complaints or information received of personal abuse, domestic or relationship violence or abuse, stalking, sexual assault, other illegal actions, matters of integrity, insubordination unethical and unprofessional conduct and policy failures generally classified as follows:
1. Commission of any crime defined by Vermont statute, or federal law as a felony or misdemeanor. Complaints shall be investigated by the Chief of Police or designee.
  2. The acceptance of gifts and gratuities, unprofessionalism, or rudeness, favored treatment, or any activity or conduct which is prejudicial to the policy rules and regulations, or to the good order and discipline of the Montpelier Police Department or the City of Montpelier. Complaints may be investigated by the Chief of Police or designee.
  3. In every instance, all complaints will ultimately be reviewed by the Chief of Police. A mechanism for review by the Montpelier City Council is required to be reported to the Vermont Criminal Justice Council. MPD shall report any IA investigations to the Vermont Criminal Justice Council through the Act 56 Intake and Completion forms, and with use of the Act 56 Checklist.
- D.** MPD will accept and document all complaints alleging employee or agency misconduct in Valcour using the public service report incident code and immediately notify the Human Resources Manager for the following reasons:

1. To ensure that complaints alleging employee or agency misconduct are accepted and investigated in a consistent and reasonable manner to uncover the truth of the allegations;
  2. To identify areas of misunderstanding by the complainant;
  3. To identify employees whose attitude, behavior and/or performance is in need of supervisory correction and intervention;
  4. To protect agency employees and the department from erroneous complaints, and;
  5. To identify departmental policies, training and/or practices in need of reevaluation, clarification, and/or correction.
- E.** A complaint can originate from any source (e.g., individual aggrieved person, third party, anonymous, department member or city employee, news media, other government agency, etc.). Complaints can be made through any outlet (e.g., in-person, telephone, email, letter, or online reporting system).
- F.** Whenever a department member becomes aware of any formal complaint or information against any department or city employee of potential administrative or criminal wrongdoing, the member shall immediately notify a supervisor or the acting officer or dispatcher in charge at the earliest moment during the member's respective shift to ensure follow-up to the complainant will not be delayed. Failure to make this notification may result in disciplinary action.
- G.** MPD will accept all complaints of alleged or suspected violations of law, ordinances, department rules, regulations, or policies, to include the City Personnel Plan. These may include, but are not limited to:
1. Those violations reported to any MPD member by other members of MPD, either orally or in writing; and
  2. Community members (including prisoners) in person, by telephone, or by other correspondence either signed or anonymous.
  3. Violations observed or suspected by supervising or command officers;
  4. Any alleged or suspected breach of integrity or case of moral turpitude from whatever source it may be reported or developed including observations of department members;
  5. Any situation in which a community member has been injured or killed by an officer whether on duty or not;
  6. Assisting any agency member by investigating cases of personal harassment, threats, false accusations, or continued situations, which may be harmful to an agency member;
  7. Any time a community member complaint or other investigation directed at a member requires the member to participate in a lineup, submit to a medical or laboratory examination, submit to a financial disclosure, provide photographs for a lineup, etc.;
- H.** Any department member assigned to conduct an administrative inquiry or assigned as an investigator to an IA shall be of a higher rank than the subject or principal. MPD

may solicit the services of an outside agency or contractor to perform an administrative inquiry or internal affairs investigation.

- I. If the conduct alleged is of a criminal nature, may become criminal in nature, or there is evidence that a criminal or fraudulent act may have occurred, the Chief of Police or designee shall contact an outside agency to conduct an independent investigation separate from the internal investigation. Care should be taken as to what information is provided relating to a possible criminal investigation so to avoid violations of Garrity rights.
- J. Complaints from community members which are more than fourteen (14) days after the alleged incident will not be investigated except if the complaint involves alleged criminal activity, are of a serious policy violation, reveals a potential pattern of misconduct or violations, or if the complainant can show worthy cause for not coming forward sooner.
- K. The department shall investigate any situation involving the discharge of firearms by an officer with the following exception(s):
  - 1. Unintentional discharge of a non-department owned weapon which does not involve death, injury, or property damage.
  - 2. Euthanizing injured animals.
  - 3. Firearms training or other legitimate firearms events.
- L. Complaint forms community members can use to file a complaint regarding department members will be maintained at City Manager's Office, City Clerks' Office, the police department lobby, MPD Dispatch, and shift supervisor desks.
- M. Department members shall not take any complaint report forms where they are the subject of the allegation. The complainant should be directed to a supervisor. If a supervisor is not available, the complainant should be directed to another department member.
- N. Persons who wish to file a formal complaint against any member of MPD shall immediately be directed to a supervisor (preferably) or, if none is available, an on-duty member at the time the complainant appears. The supervisor or designated member will provide the complainant with their name, rank, and other appropriate contact information. All available information regarding the complaint as well as contact information of the complainant and any potential witness information shall be documented. Agency members who document complaints shall not discuss the matter with no one other than a supervisor and preferably only the Chief of Police, the Deputy Chief of Police, or a designee. It is preferred that internal complaints be discussed only with the Chief of Police or Deputy Chief of police so to maintain the integrity of any investigative or administrative inquiry process: the Chief of Police and/or Deputy Chief of Police shall immediately inform the City Manager and/or the Assistant City Manager of the internal complaint.
- O. Should the complainant, after speaking with a supervisor or documenting officer, and after being advised of the complaint procedure, insist on filing their complaint to a higher level of supervision, appropriate arrangements to refer the complainant to a higher level of supervision shall be provided.
- P. Following a verbal discussion as to the substance of a complaint, the complainant will be asked to complete the department's Public Service Report. If the complainant has

impediments to completing a written statement, the complainant shall be offered the opportunity to record the statement and/or for another person to write the statement on the complainant's behalf. It is preferred the complainant complete the form so to ensure the information is coming directly from the complainant so to not lose details or context. It is also preferred that a department member not complete the form for the complainant. A refusal to not complete a Public Service Report will not result in an automatic dismissal of the complaint: MPD shall conduct due diligence for any complaint so to verify any validity.

- Q.** The complainant should be encouraged to fill out the entire Public Service Report, especially notation of the date and time the incident occurred and the date and time the complaint was received. Once a statement is provided to a department member, the member shall notate and record a brief but descriptive comment relative to the complainant's apparent rationality and demeanor. Should it be suspected the complainant is under the influence of an intoxicant, or is suffering from a psychological disorder, or evidence of any other trait or condition bearing on the complainant's credibility, these conditions and descriptions shall be noted together with any other pertinent remarks. Should the complaint be received over the phone, the call should be recorded whenever possible.
- R.** After reviewing all available material pertaining to the complainant, the department member shall indicate the name of the member(s) who is (are) the subject(s) or principle(s) of the complaint together with their rank and current assignment.
- S.** Whether there is a formal complaint or not, when a supervisor becomes aware of a complaint, allegation, or an incident which will likely result in a formal complaint, administrative inquiry, or internal investigation, the supervisor shall gather and preserve all preliminary information relevant to the incident (e.g., body or car camera footage, applicable call log or phone recordings, determine potential witnesses to include their contact information, physical evidence).
- T.** Should an allegation not amount to a complaint consistent with the agency definition of a complaint, the supervisor will advise the party that any dissatisfaction the complainant may have will be documented and forwarded for agency review by the Chief of Police or designee. If it is determined by the Chief or designee the complaint rises to the level of an administrative inquiry or internal investigation, the complainant shall be notified by the Chief or designee.
- U.** Complaints shall be appropriately documented in Valcour and any physical documents shall be maintained in a secured file. The Complaint Form and applicable pages, and other applicable information shall be scanned and attached to the complaint in Valcour and marked confidential.
- V.** MPD has a duty to disclose exculpatory information. In cases alleging criminal conduct or any conduct of integrity related to potential impeachment of a department member's credibility, the Chief of Police or designee shall advise and/or provide the Washington County State's Attorney's Office, Vermont Attorney General's Office and/or any other appropriate Department/Agency of the complaint, the investigation, collected information, and the findings. The Chief of Police or designee will maintain liaison with the Washington County State's Attorney's Office, Vermont Attorney General's Office and/or any other appropriate Department/Agency and may seek legal advice and assistance.

- W.** The record activity in Valcour is a function of the internal investigations component and is an exception to personnel records to the extent by law. This information is to be filed separately and will be under the control of the Montpelier Police Department.
- X.** Department members may request, at any time, whether the department has received any formal complaints against them. In such instances, the department shall provide members with a summary of any allegation(s), results, findings, or dispositions, as well as the date(s) in which the incident was alleged to have occurred.
- Y.** Any internal reports, to include those conducted from an outside agency or contractor, for an administrative inquiry or internal affairs investigation shall be considered draft reports and not final until all investigative due diligence is completed/exhausted, and a final Adjudication Report is compiled and completed by the Chief of Police or designee.
- Z.** To maintain confidentiality, records pertaining to internal investigations shall be properly secured by the individuals responsible for the internal investigations function.
1. After a complainant has contacted MPD regarding an alleged violation, the Chief of Police or designee will respond to the complainant, acknowledging the complaint has been received and is being investigated. This responsibility lies with the Chief of Police.
  2. Whenever practical and possible, the Chief of Police or designee shall provide the complainant with periodic status reports pertaining to the progress of the investigation.
  3. At the completion of the investigation, the Chief of Police or designee will advise the complainant of the findings:
    - a. Sustained: The allegation/investigation is supported by sufficient evidence to sustain findings that justify a reasonable conclusion of a violation of law or department regulation(s) occurred based on a standard of the preponderance of evidence.
    - b. Not-Sustained: Insufficient evidence exists to either prove or disprove the allegation/investigation.
    - c. Unfounded: All information firmly supports the allegation is false. The member involved is totally cleared/absolved of any misconduct.
    - d. Exonerated:

*Proper Conduct: The incident occurred but was lawful and proper. The member is totally exonerated of any misconduct.*

*Policy Failure: The incident occurred but was lawful and proper in accordance with policy and procedure, however a review of such policies and/or additional training may be necessary to prevent future allegations of misconduct. The department member is totally exonerated of any misconduct.*

*Misconduct Not Based upon the Complaint, Sustained: Substantiated misconduct not alleged in the complaint.*

- AA.** Those assigned to conduct an internal affairs investigation will sign a Letter of Confidentiality and shall evaluate the allegations contained in the Public Service Report, listen to the tape recording of the complainant, if available, and consult with

the person accepting the complaint or learning of the allegation(s) as appropriate. The person shall also obtain all police reports, communications/dispatch records, MDT transmissions, video recordings, and other applicable documents. The investigator shall determine the specific allegations of the complainant and identify any other possible agency violations, whether alleged by the complainant or not, in a Scope of Inquiry report. The investigator may conduct interviews in the following sequence: Complainant(s), witnesses, subject. There may be situations in which follow-up interviews with either the complainant, witnesses or subject may be necessary for cases where additional context is needed, or to gather specific information relevant to the investigation. Such follow-up interviews may be required due to subsequent information or evidence acquired by the assigned investigator.

- BB.** Witnesses who are city employees, including department members, shall be provided with a Notice to Employees Form.
- CC.** Members who are witnesses or subjects to internal investigation shall not discuss the matter with any individuals except the assigned investigator(s) and supervisors who have a direct involvement in the inquiry process. Members should not inquire as to any progress or status of any administrative inquiry or IA investigation, nor shall members try to gain access to any records relating to an administrative inquiry or internal affairs investigation without a valid need to know. Those in violation are subject to disciplinary action which could include termination.
- DD.** Any member who is aware of an internal issue and possesses relevant information to that inquiry is required to bring it to the attention of their supervisor or the assigned investigator(s). A failure to do so, even if not specifically asked for, may result in significant disciplinary action which could include termination.
- EE.** Matters subject to an internal investigation shall only be discussed with subject members, witnesses, and supervisors with an authorized involvement in such matters.
- FF.** All information, documents, recordings, and other materials relevant to an internal investigation are property of MPD and shall be considered confidential and privileged. The assigned investigator(s) shall take all reasonable and necessary precautions to maintain the confidentiality of such items and ensure that it's provided only to supervisors with the chain of command who have a direct and authorized involvement in the internal investigation process.
- GG.** Members shall not share or discuss any information relevant to any administrative inquiry or internal investigation with the subject or principal, nor shall members share or discuss any relevant information with other witnesses, potential witnesses, personnel to include persons outside the department. Violations may result in significant disciplinary action which may include termination.
- HH.** MPD shall maintain liaison with the Washington County State's Attorney's Office, Vermont Attorney General's Office or other appropriate agency/department in investigations involving alleged criminal conduct on the part of a member. No action may be taken by members conducting such an inquiry that in any way interferes with or compromises a criminal investigation or administrative-based investigation.
- II.** Supervisors have a responsibility to discover inefficiencies or misconduct at the earliest stages and should not rely on a higher authority in the department when issues are within the scope of their own authority.

**JJ.** The Chief of Police or designee shall notify the involved member of a complaint and/or internal investigation or administrative inquiry unless such notification could compromise the investigation or inquiry. At the time of the notification, the subject or principal member shall receive in writing a statement of the allegation(s) and their rights and responsibilities relative to the investigation. When it is determined the notification should be made, it must be determined whether the member will receive administrative or constitutional rights.

1. When a member is advised of administrative rights, via a Compelled Advisement Form, the member is required to answer all questions fully and truthfully, and disciplinary action, including dismissal, may be imposed for a refusal to answer. The member will be given a copy of the Compelled Advisory Form before, during, or after the interview based on their preference. Any refusal to sign the Compelled Advisement Form may constitute a refusal to cooperate in the investigative process.
2. In cases where MPD desires to have the option of using any statements made by the member in a subsequent criminal proceeding, then:
  - a. The member must be advised of their Miranda rights;
  - b. The member must be advised no adverse disciplinary or administrative action will be taken based upon refusal to answer questions;
  - c. In any case where the option to use incriminating statements must be retained, the investigating authority shall have the member complete a Miranda Warning;
  - d. Voluntary statements or confessions made by an employee while being questioned would be admissible in criminal proceedings.

**KK.** Subjects to an investigation shall be given a written notice of intended interview and will normally be allowed a reasonable period of time prior to the actual interview. The member shall have the right to an attorney or representative retained by the police officer present at all hearings or proceedings regarding the written accusation; (Weingarten Rule). Member's rights guaranteed by Federal Constitutional Standards and Vermont Law shall be respected (i.e., Miranda/Garrity). The member shall have the right to be heard and to present evidence at any hearing or proceeding on the written accusation. The member's attorney or representative may make this presentation. The member has the right to record any proceeding or hearing on the accusation. The member shall have the right to appeal any decision reached by the hearing in accordance with the City's Personnel Plan or contractual labor agreement as appropriate. Members shall not be required to produce or disclose personal financial records except pursuant to a valid search warrant or subpoena. Collective Bargaining provisions relating to internal investigations and discipline shall be adhered to during any administrative-based investigation.

**LL.** When criminal allegations involving a member of the agency are identified, the Chief of Police and designated internal affairs officer (the Deputy Police Chief) shall be notified immediately. MPD will request assistance from an outside police agency to investigate any incident that does/may involve a criminal action. Any administrative investigation conducted is not dependent on the conclusion of any criminal investigation. Normally, the initiation of a personnel complaint and the start of an

administrative investigation will proceed concurrently with the outside criminal investigation.

**MM.** MPD shall not release the photograph of a member who is the subject of an investigation without the written permission of the member. The department/investigator may display a member's photograph to a witness or prospective witness as part of an investigation and may release the member's photograph to an investigating individual for the same purpose.

**NN.** No member shall become involved in any investigation or inquiry in any manner unless expressly requested to do so by the Chief of Police or designee.

**OO.** Supervisors may impose an emergency suspension against a member when there are indications that the member has been consuming alcohol and/or is under the influence of other drugs. An emergency suspension under their authority would be considered a temporary administrative action due to a member's physical or psychological fitness for duty. NOTE: Any person so suspended shall be instructed to report to the Chief of Police or designee as soon as reasonably practical unless circumstances dictate a different course of action. The supervisory member imposing or recommending the emergency suspension will report at the same time. MPD shall adhere to collective bargaining agreements as applicable in this matter.

**PP.** Supervisory personnel may recommend and take the following disciplinary measures (subject to Collective Bargaining Agreements):

1. Oral reprimand;
2. Written reprimand;
3. Emergency suspension, and;
4. Written recommendations for other penalties.

**QQ.** Authority and responsibility in imposing discipline rests with the Chief of Police or designee. MPD retains the prerogative and right to sanction or withhold any disciplinary action until such time as any appeal has been concluded (subject to any collective bargaining agreements).

**RR.** An on-duty supervisor is required to direct a member to submit to an evidentiary breath test when there is reason to believe a level of inebriation exists which may be a factor directly related to duty performance or to operating a department vehicle.

**SS.** An accused employee may request breath tests or polygraph tests if they believe such tests would be beneficial to their defense in any administrative-based inquiry or investigation.

**TT.** At the direction of the Chief of Police or designee, and the expense of the department, members may be required to submit to tests or disclosures when it is specifically directed and narrowly related to an internal affairs investigation regarding the member. Failure to follow a direct order of this nature may result in a separate disciplinary action against the member to include termination. Examples of specific requests that may be made of members during an investigation include, but are not limited to a combination of the following:

1. Medical, psychiatric, fitness for duty, or laboratory examinations, including chemical tests
2. Photographs

3. In-person line-up
4. Submission of financial disclosure or other personal papers
5. Search of equipment used by the employee regarding the performance of their official duties

**UU.** A member's designated workspaces and department equipment (e.g., lockers, desks, storage, cabin mates, computers, phones, etc.) are the property of the City of Montpelier and the Montpelier Police Department, and as such, no grant of property right or privacy is expressed or implied. All department owned areas and items whether assigned or unassigned may be subject to search.

**VV.** Except in exigent circumstances, only the Chief of Police or designee may authorize a search of an individual employee's assigned workspace or equipment. During any authorized search, at least one supervisory member shall be present, along with the investigating member and the employee who has been assigned the workspace or equipment if possible.

**WW.** All interviews will be conducted while members are on duty, unless the seriousness of the investigation is of such a degree an immediate interview is required.

**XX.** Accused members or witnesses being interviewed shall not be subjected to offensive language or threatened with transfer, dismissal, or disciplinary action. No promise or reward shall be made as an inducement to answer any questions.

**YY.** Members will be afforded an opportunity for appropriate representation relative to the complaint(s) made prior to being interviewed, and collective bargaining agreements shall be adhered to.

**ZZ.** Consistent with existing departmental policy, the investigator assigned to a complaint is authorized to employ all recognized investigative methods in conducting a meaningful investigation of a complaint filed against a member of MPD. MPD reserves the right to have both an investigator and an attorney both conduct witness or subject interviews.

**AAA.** The Investigator shall complete a Report of Investigation which summarizes the investigation and outlines the information or evidence gathered as they relate to the elements of the applicable allegation(s). This report is not considered final until an Adjudication Report is completed by the Chief of Police as additional investigative due diligence may be required. The Investigator shall also report any "Policy Failures" in a separate part of the investigative report. If there are identified policy failures, the Investigator shall specify:

1. The specific policy or policies involved;
2. The harm done to the complainant, witnesses, or department or the problem that was caused;
3. Any recommended changes to the existing policy to prevent future problems of the same nature.

**BBB.** If the Chief of Police or designee concurs with the Investigator's conclusions regarding a policy failure, the Chief or designee shall assign a person to be responsible for preparing the appropriate policy change. The Chief of Police is primarily responsible for all the agency's policies.

**CCC.** The impact of an internal investigation on both MPD's integrity and on employee morale necessitates a speedy resolution. The investigator and the Chief of Police or designee are responsible to facilitate and/or complete assigned investigations as quickly as possible and with a goal of thirty (30) days of assignment. Status reports to the Chief of Police or designee by the assigned investigator are required at a minimum of a weekly basis. MPD recognizes numerous factors may affect the time investigations will be completed such as availability of the subject and/or witnesses, availability of outside agency or contracted investigators, awaiting documentation, consultations, vacations and training obligations, staffing and caseloads. As such, there are exceptions to completing the thirty-day goal as approved by the Chief of Police or designee and reasoning as to extensions will be documented.

**DDD.** The Chief of Police or designee will complete an Adjudication Report based on the Investigator's Report of investigation. The burden of proof for a finding of an internal affairs or administrative investigation is a preponderance of evidence. The Chief of Police or designee will conclude the Adjudication Report with one of the following categories:

1. Sustained: The investigation is supported by sufficient evidence to sustain findings that justify a reasonable conclusion that a violation of law or department regulation(s) occurred based on a standard of the preponderance of evidence.
2. Not Sustained: Insufficient evidence exists to either prove or disprove the allegation/investigation.
3. Unfounded: All information firmly supports the allegation is false. The member involved is totally cleared/absolved of any misconduct.
4. Exonerated:

*Proper Conduct: The incident occurred but was lawful and proper. The member is totally exonerated of any misconduct.*

*Policy Failure: The incident occurred but was lawful and proper in accordance with policy and procedure, however a review of such policies and/or additional training may be necessary to prevent future allegations of misconduct. The department member is totally exonerated of any misconduct.*

*Misconduct Not Based upon the Complaint, Sustained: Substantiated misconduct not alleged in the complaint.*

**EEE.** When the act complained of is a crime and the evidence is such that had the action been by a private person would have resulted in arrest, the investigating member will explain the circumstances to the Chief of Police or designee and request a decision as to whether:

1. The accused member should be arrested forthwith, or;
2. A warrant for arrest should be applied for, or;
3. Whether criminal action should be delayed pending further investigation and consultation with the State's Attorney's Office and/or the Attorney General's Office.

**FFF.**After due consideration of all information pertaining to the complainant and investigation, including any recommendations by the investigator, the Chief of Police or designee shall decide upon the disposition of the complaint and report to the Assistant City Manager, the City Manager, and the City Council for notification and review as applicable.

**GGG.**The Chief of Police or designee will notify the investigated member and other appropriate persons of the adjudication and disposition.

**HHH.** The Chief of Police or designee will also the complainant of the disposition.

**III.** The Chief of Police or designee shall prepare an annual summary of internal investigations at the end of each calendar year for the City Council and for public consumption. The report shall be statistical in nature and shall not identify any member by name. The summary report shall contain information relating to:

1. The number of investigations;
2. The adjudication of those investigations;
3. Disciplinary action;
4. Any other pertinent information.