SPRINGFIELD, MA POLICE DEPARTMENT

Internal Investigation Unit Manual

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INTERNAL INVESTIGATION UNIT MANUAL

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I. Purpose

The Internal Investigation Unit (IIU) of the Springfield Police Department (SPD) is operated out of a location separate from SPD Headquarters. IIU is tasked with the investigation and classification of reports and complaints regarding misconduct by department personnel (sworn and non-sworn). The IIU investigates complaints from the public regarding alleged misconduct and investigates reports of misconduct filed by SPD supervisory personnel. The authority to order an investigation by the IIU rests solely with the Department Agency Head[1].

II. Staffing

The IIU is to be staffed by sworn supervisory personnel who will report to the commander of the IIU, who shall be at the rank of Captain. The IIU Commander is ultimately responsible for direct oversight of the investigative work of the IIU and its function. The IIU Commander will report directly to the Department Agency Head.

[1] For the purpose of this manual, the Springfield Police Superintendent will be referred to as the Department Agency Head.

A command officer with experience and expertise in investigating officer misconduct and supervision of such investigations shall lead IIU. The IIU will also have an attorney who will advise and assist IIU as set forth in this manual.

III. Complaint Intake

SPD employees will treat all individuals with dignity and respect, and without preference or discrimination. SPD encourages any individual to file a complaint, even anonymously if that is preferred. All complaints, including anonymous complaints, against department employees will be accepted, as set forth in SPD's IIU Policy. No complaint will be rejected solely because it was filed anonymously, as anonymous complaints are often a valuable source of information and need to be considered on their individual merits. Care must be taken, however, to ensure that officers are not subjected to unjust, frivolous, or capricious complaints by individuals with improper motives. The process depends on the integrity and honesty of all participants. SPD officers and employees are required, as a condition of their employment, to provide truthful information. False statements can result in disciplinary action. For the system to work effectively, members of the public must not knowingly provide false information or file a complaint for malicious purposes. Persons who file a complaint verbally, either in person or via telephone, will be asked to fill out the written complaint form so that SPD may obtain all necessary information regarding their complaint, but a failure to complete a written complaint will not be the basis for rejecting a complaint or refusing to investigate it.

Any attempts by SPD to refuse a complaint from a community member or to dissuade a community member from filing a complaint shall constitute misconduct and be cause for disciplinary action. When applicable, community members who attempt to file a complaint with an officer in the field shall be referred to a SPD supervisor at least a rank above the officer who is the subject of the complaint. If the complaint alleges a potential crime (e.g., excessive force, biased policing) or a serious violation of policy (e.g., use of offensive and inappropriate language, serious neglect of duty, or dishonesty), the officer receiving the complaint will request a supervisor to respond to the scene to hear the complaint. If the complaint alleges a minor violation (e.g., minor rudeness, traffic and parking violations, or profanity not directed at an individual), the officer shall provide the complainant with a business card that sets forth information regarding where community members can file complaints, including a phone number, email, and address. It shall be the responsibility of the on-duty Watch Commander to ensure that any written complaint form that comes in during his/her shift is properly filled out, signed if the complainant agrees to sign the form, and placed in the IIU drop box located in the Squad Commander's Office at 130 Pearl Street, Springfield, MA. 01105. Community members may also drop off completed complaint forms at the Mayor's Office in Springfield City Hall, 36 Court Street, Room 214, Springfield, MA. 01103, and at the office of the IIU, at 299 Page Boulevard, Springfield, MA. 01104. A photocopy of the completed and signed, if applicable, complaint form shall be furnished to the complaining party at the time the written complaint is filed.

SPD prohibits all forms of retaliation, including discouragement, intimidation, coercion, or adverse action, against any person—community members or employees—who reports misconduct, makes a misconduct complaint or cooperates with an investigation of misconduct.

Any officer who observes any form of misconduct must notify their direct supervisor. If the observed misconduct is conducted by a supervisor, another supervisor or the watch commander will be notified. Failure to do so will be considered serious misconduct.

IV. Complaint Classification Protocol 52.2.1

When IIU receives a complaint alleging officer misconduct, IIU shall promptly notify the Department Agency Head. When an officer or Supervisor receives a complaint, they shall promptly notify the Department Agency Head or submit it to the Watch Commander's Office. When the Department Agency Head receives a complaint or report alleging officer misconduct, they shall promptly notify IIU.

When a complaint is received, the IIU Commander will review the complaint and consult with the IIU Attorney, who will recommend that the complaint be classified under one of the following three designations:

1. **Administrative Inquiries (A.I.'s)**- Complaints that do not allege misconduct, handled by supervisory officers in the affected officer's chain of command and tracked by IIU.
   - An example of a complaint that would be properly classified as an A.I. would be a citizen who receives a traffic citation and files a complaint against the officer who issued the citation with no allegation of rudeness or other misconduct on the part of the officer.
   - At any point during the course of review, if it is determined that the complaint did rise to the level of misconduct, IIU will be notified for potential reclassification and will be investigated accordingly.

2. **Preliminary Investigations of an Employee (P.I.E.'s)**- Complaints that are investigated by a supervisor in the designated officer's chain of command with their squad or unit and tracked by IIU.
   - An example of a complaint that would be properly classified as an P.I.E. would be a complaint that alleges rudeness or minor violations of SPD Rules and Regulations, such as minor rudeness, traffic and parking violations, or profanity not directed at an individual.

3. **Special Orders (S.O.'s)**- Complaints that shall be investigated by IIU. All misconduct complaints involving any allegation related to a use of force will be classified as S.O.
   - Examples of complaints that would be properly classified as an S.O. include allegations of serious misconduct, such as the use of excessive force, corrupt acts, or an alleged violation of a community member's constitutional rights.
   - The IIU will investigate any custodial death of a prisoner, officer involved shooting, or departmental vehicle pursuit that results in death or serious bodily injury.
   - The above are provided as examples only and further categories of complaints may also be ordered to be investigated by the IIU per order of the Department Agency Head.

The IIU Attorney and the IIU Commander will conduct a review of each complaint and the IIU Attorney will make a recommendation to the Department Agency Head as to how the complaint should be classified. The Department Agency Head will review the IIU Attorney's recommendations regarding classification, make a final decision, and, where applicable, issue a S.O. If the Department Agency Head determines not to investigate an allegation of a use of force or decides to delay an investigation of an allegation of use of force, the Department Agency Head shall document the reasons for that decision in the file and immediately provide the file to the Compliance Evaluator.

V. Scope and Manner of IIU Investigations

In conducting investigations of alleged employee misconduct, all appropriate investigative techniques and methods should be employed, consistent with legal requirements and all necessary concern for the individual rights of employees, complainant(s) and witnesses. An internal investigation may inquire into a department employee's on-duty or off-duty conduct if such inquiry is reasonably and directly related to the employee's performance of duty, if such conduct affects the employee's fitness or ability to continue in the police service, or if it reflects discredit on the department. An internal administrative investigation is to be conducted with the same degree of professionalism as is devoted to a criminal investigation. IIU investigations shall be handled with an open and questioning mind, integrity, objectivity and fairness, and in a timely manner; rigorously testing the accuracy and reliability of information from all sources and presenting the facts and findings without regard to personal beliefs or concern for personal, professional or political consequences. The IIU Commander shall take appropriate steps to ensure that IIU investigators shall not be involved in cases where they have a conflict of interest, such as a case where a family member is involved as a subject or a witness.

IIU investigators will make thorough efforts to find and interview witnesses and exhaust all leads. IIU investigators are required to make at least three (3) attempts to contact complainants and potential witnesses. In the event no contact is made after three attempts, the investigator will leave a business card at the witness's residence or business address and with a request to contact the investigator. If no contact is made after a business card is left at the witness' residence or business, as a final attempt the IIU will send a letter via first-class mail requesting the individual to contact the IIU.

It is important that internal investigations be kept confidential in order to preserve the rights of the accused officer during the course of an investigation. Witnesses, both community members and SPD employees, shall be informed of the confidential nature of such investigations, and of the preference not to discuss the content of the investigation or interview with others.

All investigations of SPD misconduct complaints, including all supervisory reviews of the completed investigation, shall be thorough to reach reliable and complete findings. Specifically:

1. IIU investigators shall attempt to interview all witnesses, including officers witnessing or involved in an incident that becomes the subject of a personnel complaint, as described below;

2. IIU interviews will be audio-recorded.

    a. Community Members:
        i. If a community member refuses to submit to a recorded interview, the IIU investigator will document the refusal and obtain a written statement from the witness.
    b. Sworn Personnel:
        i. IIU will interview sworn personnel in compliance with the requirements of their respective Collective Bargaining Agreements [2].
        ii. Upon request from the IIU investigator, sworn personnel will provide a written statement.

3. SPD shall investigate every allegation of misconduct that arises during an investigation even if an allegation is not specifically articulated as such by the complainant;

4. Investigators will report and analyze all relevant evidence, including circumstantial, direct and physical evidence, as appropriate;

5. IIU reports shall clearly set forth each and every allegation of misconduct, the SPD policy or policies that governs each allegation of misconduct, and the evidence the investigation identified that bears on each allegation of misconduct; and

6. IIU reports shall be well-organized, not repetitive, clear, and easy to review and understand.

An investigation shall not be closed simply because the complaint is withdrawn. If the complainant or a witness is unable or unwilling to provide additional information beyond the initial complaint, the investigation will continue as necessary to resolve the original allegation(s) where possible based on the available evidence and investigatory procedures and techniques.

Upon completion of an IIU investigation of a complaint, IIU personnel will consult with the IIU Attorney to determine specifically which SPD Rules and Regulations/Policies are potentially at issue based on the facts of each case. A cover memo will be added to the case file detailing the applicable policies implicated in the investigation and the evidence related to each potential violation of policy.

[2] As of the date of this Manual's publication, the IBPO Collective Bargaining Agreement indicates that patrol officer interviews by IIU shall be audio recorded, not video recorded. The SPSA Collective Bargaining Agreement indicates Supervisor interviews by IIU, and at the discretion of the City, may have their interviews audio recorded, not video recorded.

At the conclusion of any IIU investigation, a comprehensive written report shall be prepared, known as the conclusion of facts. The conclusion of facts will be required for each allegation. The report will include the original complaint report, any additional statements taken from the complainant or statements taken from witnesses, any statements made or reports submitted by the department employee under investigation, and a summary of all evidence gathered, including but not limited to photographs, medical records, body worn camera video (BWC), private videos, audio recordings, and department records.

VI. Time Requirements for IIU Investigations 52.2.3

Internal and administrative investigations are required to be conducted in compliance with contractual language for both the International Brotherhood of Police Officers (IBPO) Local 364, which represents SPD patrol officers, and the Springfield Police Supervisor's Association (SPSA), which represents SPD Sergeants, Lieutenants and Captains. For investigations involving supervisors, investigators have (90) days from the date of the alleged event to complete the investigation and notify the accused officer. For investigations involving patrol officers, investigators have (120) days from the date of the alleged misconduct to complete the investigation and notify the accused officer. If a hearing is recommended, based on the review of the Board of Police Commissioners, a charge letter will be generated. A charge letter will outline all of the departmental charges and will formally be given to the officer of the alleged misconduct. Once a patrol officer has been formally notified that a hearing will be held on pending departmental charges, a hearing must be held within (60) days unless the officer who is being charged agrees to waive the sixty-day requirement. The 60-day hearing requirement does not apply to SPD supervisors.

VII. Notification to Officers and Interview Recording 52.2.5

When an investigation has been ordered, SPD will notify sworn personnel and the head of their collective bargaining unit in writing that they are the subject of an IIU investigation. Part of such notification will include: the allegation of misconduct, review of the investigative process, points of contact (e.g. IIU investigator, union representative) the officer's due process rights, and the officer's responsibilities relative to the investigation (e.g. interview, providing reports, statements, etc.). SPD requires sworn officers to cooperate with administrative investigations to the fullest extent permitted by law, including appearing for an interview when directed and providing all requested documents and evidence.

When an IIU investigator needs to interview a sworn officer of the department, the officer will receive written notice of the requirement to appear at the IIU to be interviewed. This written notice will notify the sworn officer of the date and time that the officer must appear at the IIU office. The written notice shall include language advising the officer that they may, if they so desire, have a union representative present with them during the interview. This written notification will be provided to the sworn officer no less than 72 hours prior to the interview date.

At the beginning of any recorded interview, a lead-in statement by the IIU investigator shall announce on audio the date, time, and location of the interview as well as the names and titles of every person present. In some, but not all cases, the recorded interview with the sworn officer will eliminate the need for a written report to be submitted by the sworn officer. Absent unusual circumstances, all IIU interviews with department employees should be scheduled during the employee's regular work hours.

All sworn department officers, when requested by the Department Agency Head or their designee, must respond fully and truthfully [3] to all questions regarding their performance of either their official duties or their off-duty conduct which affects their fitness or ability to remain in the police service. Any failure by the officer to answer completely and truthfully all such inquiries will be subject to appropriate disciplinary action, including dismissal from the department. In all misconduct investigations, prior to taking a statement from or questioning a subject officer, the officer shall be informed of their rights and potential consequences related to providing a voluntary or compelled statement and shall be required to sign a form indicating that the officer has been advised of these rights and potential consequences and indicating whether the statement is being compelled or provided voluntarily.

VIII. Investigation of Criminal Conduct

If during the course of an internal investigation any possible criminal conduct by a department employee is discovered, this information shall immediately be made known to the head of IIU and the Department Agency Head and documented appropriately. The Department Agency Head will then determine whether a separate criminal investigation is to be conducted by the SPD Detective Bureau or by an outside law enforcement agency. In any event the IIU will continue to conduct a separate administrative investigation with the stipulation that it does not unduly hamper or interfere with any prospective criminal investigation of the department employee. IIU will consult with the Commanding Officer of the Detective Bureau and representatives of the Hampden County District Attorney's office or applicable investigative agency and prosecutor's office for guidance to ensure any potential conflicts of interest will be avoided. In the event that an administrative investigation must be delayed pending any criminal inquiry of SPD personnel, the reasons for the delay will be noted in a written report and approved by the Department Agency Head.

Where an officer believes that providing an oral or written statement will be self-incriminating, they must affirmatively state this in writing at the time the request for the statement is made and before the statement is due, and will not be required to provide a statement unless formally compelled upon approval by the Department Agency Head, who will consult with the relevant prosecuting agencies as appropriate, in compliance with applicable laws and legal rulings (e.g.

[3] In reference to *United States of America v Springfield Police Department and City of Springfield Settlement Agreement: Paragraph 81:* SPD will require that every sworn officer, regardless of rank, be truthful at all times in spoken, written, or electronic communications, whether under oath or not, in all matters and official investigations relating to the scope of their employment.

Miranda warnings, Carney v. Springfield, Garrity v. New Jersey, NLRB v. Weingarten). If the officer objects to reducing their refusal to writing, the IIU investigator will document the refusal. Upon the approval of the Department Agency Head, or designee, an employee subject to an internal investigation (i.e. S.O.), may be asked to submit to tests, examinations and/or disclosures. These procedures may include, but are not limited to, the following: 52.2.6

1. Submit to a Medical or laboratory examination;
2. Submit to having photographs taken;
3. Participate in a line-up;
4. Submit to audio or video recordings; and/or
5. Submit to testing through instruments for the detection of deception.

Examinations and/or tests shall be:

1. Relevant and material to the subject of the investigation;
2. Specifically directed and narrowly related to such investigation; and
3. Completed within a reasonable time and according to professionally accepted standards.

In the State of Massachusetts, under MGL C 149 § 19B: a polygraph examination may only be used in investigations of criminal conduct.

A police officer's personal property, including their home, car, or other personal property is protected from unreasonable search and seizure under both the U.S Constitution and Massachusetts Constitution, including Article 14. Department property furnished to officers, such as desks, lockers, vehicles, BWC, computers, or cellular telephones, are owned by the department and therefore no expectation of privacy exists for SPD employees with respect to these items. Nor does the placing of a personal lock by an employee on either a department issued locker or desk create any such expectation of privacy. Any department issued desk, locker, vehicle, BWC, computer, cellular telephone or any other Department issued equipment may be searched by appropriate departmental supervisory personnel without a search warrant.

IX. Notifications to Complainants 52.2.4

Once the office of IIU receives any complaint, a member of IIU shall make an effort to contact the complainant and verify all contact information (e.g. phone number, email, address, etc.). The complainant will be advised of the of the estimated timeline for the investigation to be completed and schedule an appointment for an interview, if not already done.

Within 21 days of receiving a complaint, IIU shall provide written notification to the complaining party (if known) that the department has received their complaint and whether an investigation into the allegations has been ordered. Within this notification, will include the investigation number (P.I.E. # or S.O.#). For cases where an IIU investigation has been ordered, prior to the end of the applicable time period for an investigation (90-days for SPSA or 120-days

for IBPO), IIU investigators will contact the complainant via telephone to provide the complainant with an update on the status of the investigation.

Once an investigation has been completed and adjudicated, either the IIU or the Board of Police Commissioners, as appropriate, will send written notification to the complainant person(s). This notification will include which disposition was reached on each allegation (Sustained, Not Sustained, Unfounded, or Exonerated, as set forth below). The written notification will also inform the complainant whether any disciplinary action was taken against the employee, without identifying the employee by name. Specific information regarding which type of disciplinary action (such as written reprimand, suspension, etc.) was taken will not be referenced in the notification. The IIU shall receive and maintain copies of all such notifications.

X. Disposition of Misconduct Complaints

Upon the conclusion of any case, one of the following four dispositions will be used:

1. **Sustained**- based upon a standard of preponderance of the evidence, the investigation shows that the alleged misconduct did occur and did violate the law or SPD policy.

2. **Not Sustained**- based upon a standard of preponderance of the evidence, the investigation is unable to determine whether the alleged misconduct occurred.

3. **Exonerated**- based upon a standard of preponderance of the evidence, the investigation determined that the alleged action did occur but did not violate the law or SPD policy.

4. **Unfounded**- the investigation determined, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject employee.

The procedure for making credibility determinations and findings on misconduct complaints will depend on certain details of the investigation, as set forth below. These procedures are consistent with collective bargaining agreements in place as of the date of this policy and may be subject to change.

Upon the disposition of any misconduct complaint, the affected officer(s) shall be notified, in writing, of such disposition.

XI. IIU Review of Complaints

Cases for which IIU Attorney Makes Recommendations

If, following a full investigation, the IIU Attorney recommends that an allegation of misconduct be Unfounded, Exonerated, or Sustained (*and* the SPD disciplinary matrix would

call for potential discipline of five (5) days suspension or less for the affected employee), IIU shall follow the following procedures:

1. The IIU Attorney, with in consultation with IIU (preferably in person), will make credibility determinations, as appropriate, including;

    a. Critically evaluating an officer's statement against other evidence. Misconduct investigators will not disregard a witness's statement solely because the witness has some connection to either the complainant or the officer or because the witness or complainant has a criminal history, but those factors should be considered along with other indicia of credibility;
    b. Making all reasonable efforts to resolve material inconsistencies between officer, complainant, and witness statements; and
    c. Making credibility determinations about civilian, officer, and witness statements based on independent, unbiased, and credible evidence.

2. The IIU Attorney, in consultation with IIU, shall make recommendations for a finding of Unfounded, Exonerated, or Sustained (if discipline is a five-day suspension or less) based upon the evidence that bears on the truth of each allegation. The IIU Attorney will have final review and approval of such recommendations.

3. The IIU Attorney will send the full file, along with the recommendations set forth in paragraphs 1 and 2, above, to the Department Agency Head for review. The Department Agency Head may ask questions of IIU and/or send the file back to IIU for additional investigation. The Department Agency Head shall then make a final determination as to disposition of each allegation.

Cases for Which the IIU Attorney Does Not Make Recommendations

If, following a full investigation, the IIU Attorney *cannot* recommend that an allegation of misconduct be Unfounded, Exonerated, or Sustained (*and* the Disciplinary Matrix would call for potential discipline (5) days suspension or less for the affected employee), IIU will send the investigative file directly to the Board of Police Commissioners for review, without including any recommendations regarding credibility determinations or findings. The IIU will also send the file to the Department Agency Head.

If an investigation involves multiple allegations and one or more of the allegations falls into this category (Cases for Which the IIU Attorney Does Not Make Recommendations), the IIU Attorney shall refrain from making any recommendations and send the investigative file to the Board, as set forth above.

Cases Reviewed by the Board of Police Commissioners

Notwithstanding the provisions of the above paragraphs, the Department Agency Head can designate any case for Board of Police Commissioners (BOPC) review and determination, and

the BOPC has authority to require a hearing on any allegation of misconduct which has not yet been adjudicated.

Any recommended disposition (either by the Department Agency Head or IIU) will be removed from the file prior to sending it to the BOPC.

IIU shall provide each member of BOPC access to the full investigative files of cases to review no less than twenty-one (21) calendar days before the Board meets to decide whether to hold a hearing on the particular matter.

IIU shall make the full investigative files available electronically and in-person to facilitate maximum BOPC access to the files. IIU will also ensure that IIU files remain secure from inappropriate dissemination or disclosure. IIU will develop appropriate protocols with the BOPC to ensure the necessary security for IIU files.

The full investigative file that the BOPC members will review will include:

- A cover letter summarizing the complaint, investigation, and a list of the documents in the file;
- The complaint;
- IIU's full report, including but not limited to incident reports, duty reports, and field reports;
- Audio, visual, and/or transcripts of interviews of witnesses or parties to the incident;
- Body-worn camera and/or in-car video and other physical evidence associated with the investigation; and
- An IIU memo setting forth the applicable policies implicated in the misconduct investigation and the evidence related to each potential violation of policy.

IIU to File Summary of All Complaints with BOPC

IIU will send the BOPC a comprehensive summary of all complaints filed with IIU on a bi-weekly basis, including PIEs and S.O.s, with details of allegations using case numbers but not employee names, so that the Board has a sense of the overall number of complaints filed, the types of complaints filed, and the status of those complaint investigations.

Disposition of P.I.E.s

For all P.I.E. investigations, the completed investigation file and cover memo summarizing the complaint, investigation, and a list of the documents in the file will be reviewed by the officer's Commanding Officer and Deputy Chief. In the event that the affected officer's Commanding Officer or Deputy Chief filed the administrative complaint against said officer, the Department Agency Head shall assign another supervisor of equal rank to review the case. The officer's Commanding Officer and Deputy Chief will then issue a written analysis of their findings to the Department Agency Head, who will then make a recommendation or issue the final disposition.

XII. Records 52.1.2

The SPD will electronically store and maintain Internal Investigation Records within a secure server, only accessible to individual employees with granted access.

The Springfield Police Department shall follow Massachusetts Retention Laws.

As addressed in MGL, as set forth in Section 2, Chapter 253 of the Acts of 2020; GL c. 4, § 7(26)(c), state law prohibits the withholding of records related to a law enforcement misconduct investigation as a public records exemption. However, a public records request must be properly filed and the investigation must be complete before dissemination.

XIII. Departmental Notifications to MA. Division of Peace Officers Standards and Training (POST) 52.2.9

The SPD shall only submit complaints, alleging misconduct by a police officer, to POST that fall under the criteria outlined within 555 CMR 1.00/1.01(1)(a). Such complaints shall be submitted within two (2) business days of receipt. This notification shall include the following information:

1. The name and Commission certification identification number of the involved officer;
2. The date and location of the incident;
3. A description of the circumstances that form the basis of the complaint; and
4. 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 (except for minor matters such as discourtesy, grooming violations, tardiness, inattention to detail);
   c. Involved excessive, prohibited, or deadly force; or
   d. Resulted in serious bodily injury or death.

Upon the conclusion of an S.O. or P.I.E., that was conducted pursuant to a complaint, the SPD will provide notification to P.O.S.T. of the findings of that investigation and the final disposition of each case. If applicable, this notification will include whether the disciplinary action imposed consisted of retraining, suspension, or termination of the officer.

If the Department needs to request an extension, such requests shall be completed electronically through the P.O.S.T. Portal.

The SPD allows access to the POST Commission's Division of Police Standards to audit all records related to complaints, investigations and investigative reports, and personnel records pursuant to the rules and regulation to be promulgated by POST.

P.O.S.T. may start their own investigation, up to one year, upon receiving the Agency's completed investigation.