POLICY AND PROCEDURE NO. 206

Duty to Intervene/ Anti-Retaliation Protections

Massachusetts Police Accreditation Standards:
26.0.4

Date Issued: April 24, 2023
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1. PURPOSE:

It is the purpose of this policy to reinforce Worcester Police departmental integrity by providing an environment that is free of hostile treatment of fellow employees or civilians who have reported infractions of departmental policy, procedure, directives, or rules & regulations. Retaliatory conduct or action against employees or civilians is strictly prohibited.

2. DEFINITIONS:

A. Affirmative Duty

The personal responsibility and obligation of an employee to report wrongdoing rather than to provide such information only when requested. Officers shall verbally or physically intervene with other officer(s) in order to prevent the abusive conduct or excessive force. MPAC 26.0.4

B. False Report

A report that is not made in good faith and is based on information that is known or reasonably likely to be inaccurate; intentionally or negligently ignores exculpatory or mitigating information; or is made with the purpose of harassing or wrongly incriminating another.

C. Good Faith Report

A report that provides allegations concerning an employee who is reasonably believed to have purposely committed a serious violation of departmental policy, procedures, rules, or laws.

D. Retaliatory Conduct

Conduct or action designed to serve as retribution against an employee or individual who, in good faith, has reported or otherwise provided information regarding misconduct against another employee. In the context of this policy, retaliatory conduct includes any deliberate, purposeful actions or failures to act directed against employees or civilians that cause or that could reasonably be expected to cause physical harm, property damage, significant emotional stress, or other serious negative effect on another employee or civilian; designed to ridicule or embarrass; or could seriously impair the efficiency, safety, or effectiveness of that employee or civilian, or this department. Such conduct may take many forms, including but not limited to bullying; persistent offensive comments, threats, or intimidation; false accusations;

isolation; ostracism; posting of secure or personal information on the Internet; or acts that malign or disparage an individual's reputation.

3. POLICY:

It is the policy of the Worcester Police Department to prohibit retaliatory conduct against or interference with an employee or civilian who reports, assists, or seeks to report breaches of department policy, procedures, or rules or engages in activities protected by whistleblower statutes.

4. PROCEDURES:

A. Duty to Report Misconduct

All employees of this department have an affirmative duty to report acts of misconduct deployed or about to be deployed by a fellow officer, regardless of tenure or rank. Failure to report shall result in corrective or disciplinary action. MPAC 26.0.4

Acts of misconduct should be reported to the complaining employee's immediate supervisor. If the supervisor is suspected of involvement in the misconduct, the report should be made to the next higher-ranking official in the chain of command.

In situations involving highly egregious offenses or illegality that may have serious or broader implications, a complaint may be made directly to the Chief. Examples include, but are not limited to, broad-based corruption, conspiracy among employees, or offenses involving or including high-ranking officers or members of government.

All officers and officials have an affirmative duty to cooperate fully during the investigation of any allegation of employee misconduct whether conducted by this department or another authorized authority.

B. Duty to Intervene

Officers shall receive duty to intervene training initially at the student officer level and annually thereafter. MPAC 26.0.4

According to MGL Part I, Title II, Chapter 6E, Section 14 & 15: Use of physical force and deadly force training shall be conducted initially at the student officer level and annually thereafter. Training will include techniques for proper and legal use of physical and deadly force. All officers shall participate in physical force and deadly force training. MPAC 1.1.1 & MPAC 1.1.2

Per MGL Part I, Title II, Chapter 6E, "Officer involved injury or death" is any event during which an officer: MPAC 26.0.4

a. Discharges a firearm, as defined in section 121 of chapter 140, actually or proximately causing injury or death to another;

b. Discharges any stun gun as defined in said section 121 of said chapter 140, actually or proximately causing injury or death to another;

c. Uses a chokehold, actually or proximately causing injury or death of another;

d. Discharges tear gas or other chemical weapon, actually or proximately causing injury or death of another;

e. Discharges rubber pellets from a propulsion device, actually or proximately causing injury or death of another;

f. Deploys a dog, actually or proximately causing injury or death of another;

g. Uses deadly force, actually or proximately causing injury or death of another;

h. Fails to intervene, as required by section 15, to prevent the use of excessive or prohibited force by another officer who actually or proximately causes injury or death of another; or

i. Engages in a physical altercation with a person who sustains serious bodily injury or requests or receives medical care as a result.

MGL Part I, Title II, Chapter 6E, Section 15(a) states, "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 other identifiable individual." MPAC 26.0.4

MGL Part I, Title II, Chapter 6E, Section 10(a) states, "The POST Commission shall, after a hearing, revoke an officer's POST certification if the commission finds by clear and convincing evidence that: (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." MPAC 26.0.4

MGL Part I, Title II, Chapter 6E, Section 10(d) states, "The POST Commission may, after a hearing, order retraining for any officer if the commission finds substantial evidence that the officer: (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)." MPAC 26.0.4

Duty to Intervene Reporting Requirements: 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, including any observations made, to an appropriate supervisor or directly to the Officer in Charge as soon as reasonably possible but not later than the end of the officer's shift. MPAC 26.0.4

Failure to intervene may subject officers to disciplinary action, civil liability, and/or criminal prosecution. MPAC 26.0.4

C. Retaliatory Conduct

Retaliatory actions against employees or civilians who make good faith complaints or disclosures of misconduct against an employee are forbidden. Such acts will form the basis for charges of misconduct, resulting in serious disciplinary action. Any complaint of retaliatory conduct shall be submitted to the complaining employee's supervisor. If the supervisor is the subject of, or is involved in the complaint, an employee shall submit the complaint to the next higher-ranking employee in the chain of command. A civilian may make their complaint to the Bureau of Professional Standards or the Chief.

Retaliation against any employee who observes and reports an instance of using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances to include the discharge of the employee, any change to 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 agency and/or to POST or testifying in any agency, POST, or court proceeding is prohibited. MPAC 26.0.4

Employees who have been subjected to retaliatory conduct by fellow employees are encouraged to seek assistance through personal counseling or other services, as available from this department's employee assistance/stress program or the Human Resources Department.

Per:

Paul B. Saucier
Chief of Police

Revisions:

[Date]–

Reformatted to ADA-compliant policy template. No substantive content changes. Added section numbering. Added MPAC standard citations to header block. Added metadata fields and revisions page.

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