

# SELECT BOARD CIVILIAN COMPLAINT POLICY

## PROCESS FOR POLICE DEPARTMENT DISCIPLINE AND SELECTMEN'S REVIEW

General Order Number: 34.3

Effective Date: TBD

### I. — PURPOSE:

~~The purpose of this policy is~~ The purpose of this Policy is to provide efficient and effective civilian oversight by the Select Board of police actions that result in complaints by members of the public in order to encourage and enhance accountability and public confidence in, and cooperation with, the Police Department. This is done through the establishment of formal procedures for ~~acting upon~~ investigating allegations made by the public of misconduct by police officers or other Police Department employees, or of inappropriate policies.

All formal allegations of misconduct shall be construed as "complaints" and shall be processed as hereinafter described.

All complaints of misconduct of officers or employees shall be investigated in an efficient, fair, thorough, and timely manner, showing equal concern for the rights of both ~~citizens~~ members of the public and officers. All investigations of complaints shall strictly follow the guidelines in this ~~policy~~ Policy unless there is a good reason to deviate from these guidelines and such deviation does not compromise the fairness, completeness, and reliability of the investigation. If there is a deviation from these guidelines, the reason for such deviation shall be stated in the ~~investigation~~ investigative report.

### II. — OBJECTIVES:

#### 1. — A. PROTECTION OF THE PUBLIC:

———The public has the right to expect efficient, fair, and impartial law enforcement.  
———Therefore, any misconduct by Department personnel must be ~~detected~~ identified, thoroughly —investigated, and properly adjudicated to assure the maintenance of these qualities.

#### 2. — B. PROTECTION OF THE POLICE DEPARTMENT:

—The Police Department is often evaluated and judged by the conduct of individual ~~members, officers or employees.~~ It is imperative that the entire organization not be subjected to public censure because of the —misconduct by a few of its personnel. When an informed public knows that its police —department honestly and fairly investigates and adjudicates all allegations of police —misconduct ~~against its members, this, the~~ public will be ~~less~~more likely to ~~feel any need to raise a —cry— of indignation— over~~ alleged incidents of report misconduct— and to trust the outcomes of these investigations.

### **3. C. PROTECTION OF THE EMPLOYEE:**

—Employees must be protected against false allegations of misconduct. This can ~~only~~ be —accomplished only through a consistently thorough investigation process.

### **4. —REMOVAL OF UNFIT PERSONNEL:**

### **—D. CORRECTION OF EMPLOYEE MISCONDUCT:**

Officers or employees who engage in misconduct must be identified and have their conduct corrected. Correction of conduct may include: counseling, retraining, additional supervision, reassignment, or discipline up to and including termination of employment.

Personnel who engage in serious acts of misconduct or who have demonstrated that they —are unfit for law enforcement service must be removed for the protection of the public, ~~the Department and other police officers,~~ and the Department.

### **5. E. CORRECTION OF PROCEDURAL PROBLEMS:**

—The Department is continually seeking to improve its efficiency and the efficiency of its —personnel. Occasionally, ~~personnel~~civilian complaint investigations uncover or disclose faulty procedures —that would otherwise have gone undetected. These procedures can then be improved upon —or corrected.

## **III. —PROCEDURES:**

### **A. —1. —Internal Affairs/Staff Inspection Officer**

There shall be an Internal Affairs/Staff Inspection Officer with the rank of Deputy Superintendent or Lieutenant (IAO) in the Office of Professional Responsibility of the Department. The IAO shall be answerable only to the Police Chief and the Select Board. The IAO shall have responsibility for the investigation and processing of complaints under this Policy unless the Police Chief, in extraordinary circumstances, designates another superior officer to do so, in which case such superior officer shall fulfill the responsibilities of the IAO set forth in this Policy.

## **B. RECEIVING COMPLAINTS**

1. ~~A.~~ Any person having a complaint against an officer or ~~policy~~ employee, or a Policy of the Police Department, may register such complaint in person, in writing on a Citizen/Civilian Complaint Form or otherwise, or by telephone, electronic mail, Police Department website, or other means, as follows:

a. ~~1.~~ To the Internal Affairs Officer in the Office of Professional Responsibility (hereinafter referred to as the “IAO”) or, if the IAO is unavailable, to the highest ranking a superior officer available at the Police Station ~~exclusive of the~~ (“~~Officer in Charge~~”),<sup>2</sup> who shall forward the complaint to the IAO as soon as possible.

b. ~~2.~~ To the Selectmen's/Select Board's Office at Town Hall— or the Chief Diversity Officer's (CDO) Office in the Public Health Building. The Selectmen's/Select Board's Office or CDO's Office shall forward the complaint as soon as possible to the IAO. -If the complainant reports to the Selectmen's files at the Select Board's Office or CDO's Office, the complainant shall be informed of the following:

i. ~~a.~~ The IAO, or another ranking officer designated by the ~~Police~~ Chief, is available to be present at the complainant's ~~interview.~~

ii. ~~b.~~ The complainant shall also be given the option of recording his/her/their statement.

iii. ~~c.~~ The complainant may decline both Ai and Bii and give a ~~statement to a representative of the Selectmen's/Select Board's Office~~ or the CDO's Office only.

a.c. ~~3.~~ Submit complaints in writing and on-line via the Police Department's website, which complaints shall be forwarded as soon as possible to the IAO.

~~B. In some cases a~~

d. The Police Department will endeavor to ensure that members of the public who are not fluent in English are able to access the Policy and the complaint form in their primary language.

2. A complaint may be informally resolved to the complainant's satisfaction immediately by the IAO/~~Officer in Charge~~ another supervisor taking such complaint. -In such a case, this type of resolution shall be reported in writing by the IAO/~~Officer in Charge~~ supervisor taking the complaint and submitted to the ~~Chief of Police~~ Chief (and to the IAO, if the person taking the complaint is not the ~~Officer in Charge~~ IAO), and if possible, acknowledged in writing by the complainant. -Some situations where a complaint may be immediately resolved are the following:

a. 1. The incident is clearly not of a serious nature, or arises from a misunderstanding or lack of knowledge of the law or extent of ~~limitations in~~ a

police officer's authority.

~~2.~~

~~b.~~ The complainant declines to participate in the formal complaint process. No formal investigation will be undertaken without the initiation of a formal complaint. Under no circumstances shall a complaint be delayed, rejected or refused if the complainant wishes to ~~initiate~~proceed with a formal complaint.

~~c.~~

When a supervisor is unable to resolve a complaint to the satisfaction of the complainant, that supervisor must explain the procedure by which the complainant can file a formal complaint.

3. All Town employees shall render prompt, courteous assistance to any person wishing to register a complaint. Any employee who is informed by a ~~citizen~~member of the public of information that could be construed as a complaint shall immediately refer the complainant to the IAO or, if the IAO is unavailable, to ~~the Officer in Charge~~a supervisor, who shall forward the complaint as soon as possible to the IAO.

4. ~~D.~~ ~~The IAO or, if the IAO is unavailable, the Officer in Charge~~The IAO/supervisor shall observe the following procedures and take the following actions relative to receiving a complaint:

a. ~~1.~~ If the complaint is made in person, provide a private area in which to receive the complaint. If necessary, the ~~employee~~department shall offer the complainant transportation so that ~~he/she~~they may make the complaint in person.

b. ~~2.~~ The complaint may be taken over the telephone.

~~3.~~

~~a-c.~~ Ascertain the nature of the complaint.

5. ~~4.~~ If the complainant is present in person or on the telephone, advise ~~him/her~~them of the procedures to be followed in processing ~~his/her~~their complaint, including the complainant's option of registering such complaint with the ~~Selectmen's~~Select Board's Office, anonymously, and to be accompanied by a representative of ~~his/her~~their choosing during the interview, and provide the complainant (if in person, but in any event no later than five business days after the filing of the complaint) with a copy of the ~~Citizen~~Civilian Complaint Form and a brochure explaining the steps that will be followed in the complaint process.

6. ~~5.~~ When a complaint is received regarding the actions of an officer or employee, the Internal Affairs Officer (IAO) or other supervisor will conduct an investigation into the complaint. In most cases, the IAO/supervisor will meet with the subject officer or employee at some point in the investigation. During the meeting, there will be a discussion of the complaint alleged. Also during the investigation, the supervisor of the officer or employee will be made aware of the nature of the complaint. Upon completion of the investigation, the final determination is to

be made known to the officer or employee and their supervisor. At the discretion of the Police Chief, Superintendent and/or the IAO, a meeting may take place between the IAO, the subject officer or employee and the officer's or employee's supervisors. If further action is deemed necessary, input is to be received from all present regarding the necessary steps to be taken to ensure that any identified misconduct does not re-occur in the future.

7. If the complaint unquestionably alleges only Class C issues (see III(3)(C) below), the IAO/Officer in Charge that do not question the conduct of any officer or employee, but rather raise issues relating to the appropriateness of Department procedures or policies, the IAO/supervisor shall briefly explain the Town policies in question, and offer to initiate an investigation pursuant to this ~~policy~~Policy only if the complainant, after such explanation, chooses to proceed with the complaint in accordance with this ~~policy~~Policy.

8. ~~6.~~ If it is the ~~Officer in Charge~~ a supervisor who receives the complaint, the ~~Officer in Charge~~ supervisor shall forward the complaint to the IAO as soon as possible for investigation and processing pursuant to this ~~policy~~Policy.

a. ~~E.~~—All complaints, including anonymous or third-party complaints, shall be processed in the same manner so long as there is sufficient information to warrant an investigation.

b. ~~F.~~—Any officer or employee who has information or evidence of another officer's or employee's misconduct shall convey it to the Police Chief or to the IAO.

c. ~~G.~~—Although the complaint shall be received, it shall not be further processed if received more than six months after an alleged incident, unless either the Police Chief or a majority of the Select Board of Selectmen finds extraordinary or compelling circumstances, such as ~~Class A~~serious complaints that appear conducive to a productive investigation notwithstanding the passage of time or newly available evidence.

d. ~~H.~~—The IAO, as soon as practicable, shall notify the ~~Chief of Police~~ Chief verbally or in writing of all complaints ~~in the nature of Class A and Class B complaints against departmental employee(s), officers or employees.~~

## 2. — CITIZEN

### C. CIVILIAN COMPLAINT FORMS

1. ~~A.~~—To the extent possible, all complaints by the public shall be taken on an official CitizenCivilian Complaint Form.

2. ~~B.~~—The IAO ~~or, in the event the IAO is not available, the Officer in Charge/supervisor~~ who takes the complaint shall:

- a. 1.—Attempt to obtain all information sought on the form, to the extent available ~~to~~from the complainant, along with any other information ~~which~~that could potentially assist in a subsequent investigation.
- b. 2.—If the complainant's primary language is not English, provide the form and the brochure in their primary language. When it is not possible to provide the information in the primary language, the information should be provided in that person's primary language as soon as possible through an interpreter.
- c. Forms and other materials, once translated, shall be retained for possible future use in other cases.
- d. Ask the complainant to specify any information included in the complaint that the complainant considers private and wishes the Department to maintain confidentially, to the extent doing so is permissible under the law.
- e. 3.—If the identity of the accused officer or employee is not certain, facilitate a fair identification procedure. If a description, together with ~~intradepartmental~~an investigation, does not identify an officer or employee, the complainant shall be given a prompt opportunity by the IAO/supervisor to view up-to-date photographs of any officers or employees who had an opportunity to participate in the alleged incident, said photographs to be inserted in a reasonable array.
- f. 4.—If the complainant alleges a physical injury caused by misconduct of an officer or employee, attempt to document and verify such injury. The complainant shall be encouraged to seek further ~~documental~~documented verification of such injury. —Any such verification or encouragement shall be noted on the ~~Citizen~~Civilian Complaint Form.
3. C.—Complainants who are interviewed are entitled to have a representative of their choosing present with them during their interview. However, the chosen representative may not be a witness or party to the complaint, as witnesses should be interviewed separately.
4. D.—~~The complainant~~Complainants shall be given an opportunity to read, and then amend, the ~~Citizen~~Civilian Complaint Form. —The complainant shall then be asked to sign the ~~Citizen~~Civilian Complaint Form. —If ~~he/she is~~they are unwilling to sign it, the unwillingness shall be noted on the form and the complaint shall be processed in conformity with this ~~policy~~Policy.
5. E.—The complainant shall immediately be given a copy of the completed ~~Citizen~~Civilian Complaint Form and a brochure explaining the steps that will be followed in the complaint process.
6. F.—If the complaint is made by telephone or otherwise in a manner other than in person, a copy of the completed ~~Citizen~~Civilian Complaint Form and the brochure shall be mailed by the IAO/supervisor to the complainant along with a request that the complainant make

any necessary corrections to the statements contained on the form and sign and return one copy of the latter form in an enclosed, addressed, stamped envelope.

~~7.~~ ~~G.~~ ~~Any such completed~~ Completed and returned ~~Forms~~ forms shall be given directly to the IAO.

~~H.~~

~~8.~~ The IAO/~~Officer in Charge~~ supervisor taking the complaint shall ascertain that the complainant understands the subsequent procedures as summarized in the brochure.

#### D. TYPES

### ~~3.~~ CLASSES OF COMPLAINTS & AND CONFIDENTIALITY

~~1. A. Class A: allegations~~ The IAO/supervisor will investigate all formal complaints filed against an officer or employee, which, if true, could be construed as "a violation of Police Department policy, Town policy, or a violation of law.

2. Separately, the IAO/supervisor will investigate allegations that do not question the conduct of any officer or employee, but rather raise issues relating to the appropriateness of Department procedures or policies.

3. The IAO/supervisor will review but not be required to investigate allegations that, in the IAO/supervisor's judgment and as articulated in writing, are lacking in merit, are filed for an improper purpose, are an abuse of the complaint policy, or for other reasons do not merit further action.

4. For tracking and public reporting purposes, the IAO will categorize the complaints by the nature of the allegation.

5. A copy of any Civilian Complaint Form with serious allegations against an officer or employee shall, along with a copy of the police incident reports, be immediately provided to the Police Chief, who shall immediately provide such un-redacted materials, marked "Confidential," to the Select Board.

6. Prior to the conclusion of the departmental investigation (i.e., through such time as the Police Chief sends the report to the Select Board), information concerning an investigation, other than the fact that an investigation is underway, shall remain confidential.

### E. INTERNAL AFFAIRS/STAFF INSPECTION OFFICER AND PROCEDURES

~~1.~~ The IAO shall have responsibility for the investigation and processing of complaints under this Policy unless the Police Chief, in extraordinary circumstances, designates another superior officer to do so, in which case such superior officer shall fulfill the responsibilities of the IAO set forth in this Policy.

2. The IAO shall conduct periodic staff inspections and shall reduce to writing to the Police Chief any alleged violations of departmental rules and regulations or any other allegations, which if true, could merit corrective or disciplinary action.
3. All investigations of complaints shall strictly follow the guidelines in this Policy unless there is a good reason to deviate from these guidelines and such deviation would not compromise the fairness, completeness, and reliability of the investigation. If there is a deviation from these guidelines, the reason for such deviation shall be stated in the investigation report.
4. All complaints received by the Police Chief shall be immediately forwarded from the Police Chief to the IAO for investigation, unless the Police Chief, in extraordinary circumstances, designates another superior officer to investigate a complaint.
5. In the case of a serious complaint against an officer or employee, the IAO shall exercise all due diligence to attempt to schedule a personal interview with the complainant within 72 hours, offering to meet the complainant at any reasonable location. "Serious" includes excessive use of force; malicious and illegal arrest; unreasonable deprivation of individual rights; biased conduct or behavior based on a person's disability, ethnic origin, gender, race, religion, sexual orientation, age, economic status, cultural group, gender identity or any other identifiable group; corruption; untruthfulness; criminal activity ~~which that~~ could be construed as a felony; or violation of Department rules ~~which that~~ might warrant more than a five day suspension. If the complainant insists, the interview may be conducted over the telephone and this shall be noted in the report.
- ~~B. — **Class B:** any other allegations against an officer which, if true, could be construed as a violation of any laws, rules, regulations, or policies of the department, the Town, or the Commonwealth; or alleged discourteous conduct or language which would reflect negatively on the Department or the Town.~~
- ~~C. **Class C:** allegations which do not question the conduct of any officer, but rather raise issues relating to the appropriateness of Department~~6. In cases where the complaint involves bias or behavior based on an individual's protected status, the complainant or IAO may request that the Chief Diversity Officer (CDO) for the Town be present in the interviews. The CDO may continue to be involved in the various stages of the investigation.
7. In cases of complaints of a less serious nature or regarding department procedures or policies.
- ~~D. — **Class D:** Allegations that are clearly frivolous or for other reasons do not merit disciplinary action.~~
- ~~E. — The IAO or Officer in Charge shall make a preliminary designation on, the Form of Class A, B, C, or D, resolving any doubt in favor of a higher classification. A complaint may be designated "C" in addition to "A" or "B".~~

- ~~F. A copy of any Citizen Complaint Form which has been designated Class A shall, along with a copy of the police incident reports, be immediately provided to the Chief, who shall immediately provide such unredacted materials, marked "Confidential," to the Board of Selectmen.~~
- ~~G. Prior to the conclusion of the departmental investigation (i.e., through such time as the Chief sends his or her report to the Board of Selectmen), information concerning an investigation, other than the fact that an investigation is underway, shall remain confidential.~~

#### ~~4. INTERNAL AFFAIRS/STAFF INSPECTION OFFICER AND PROCEDURES~~

- ~~A. A Deputy Superintendent or Lieutenant shall hold the position of Internal Affairs/Staff Inspection Officer (IAO). This officer shall be answerable only to the Chief and the Board of Selectmen. The IAO shall have responsibility for the investigation and processing of complaints under this policy unless the Chief, in extraordinary circumstances, designates another superior officer to do so, in which case such superior officer shall fulfill the responsibilities of the IAO set forth in this policy.~~
- ~~B. The IAO shall conduct periodic staff inspections and shall reduce to writing to the Chief any alleged violations of departmental rules and regulations or any other allegations which, if true, could merit corrective or disciplinary action.~~
- ~~C. All investigations of complaints shall strictly follow the guidelines in this policy unless there is a good reason to deviate from these guidelines and such deviation would not compromise the fairness, completeness, and reliability of the investigation. If there is a deviation from these guidelines, the reason for such deviation shall be stated in the investigation report.~~
- ~~D. All complaints received by the Chief shall be immediately forwarded from the Chief to the IAO for investigation, unless the Chief, in extraordinary circumstances, designates another superior officer to investigate a complaint.~~
- ~~E. In the case of a Class A complaint, the IAO shall exercise all due diligence to attempt to schedule a personal interview with the complainant within 72 hours, offering to meet the complainant at any reasonable location. If the complainant insists, he/she may be interviewed over the telephone and this shall be noted in the report.~~
- ~~F. In the case of a Class B or C complaint, the IAO/supervisor shall attempt to reach the complainant by telephone within one week. The complainant shall be invited to the station to meet with the IAO, but may be interviewed on the telephone if he/she prefersthey prefer.~~
- ~~G. 8. For Class D complaints, that, in the IAO/supervisor's judgment, are lacking in merit, are filed for an improper purpose, are an abuse of the complaint policy, or for other~~

reasons do not merit further action, the IAO/supervisor shall review the complaint and return it to the Police Chief with a report recommending either reclassification, or a finding of either "exonerated" or "unfounded".—describing the reasons for not taking further action.

**H.9.** The IAO/supervisor shall use any and all lawful investigative techniques, including prompt and private interviews of complainants, witnesses and, officers, and employees while maintaining thorough records of all conversations and investigative occurrences, and assisting both complainants and officers or employees in identifying and locating evidence to corroborate their factual assertions.

**I.10.** The IAO/supervisor shall make reasonable attempts to interview all witnesses, identified by the complainant or subject officer or employee, or reasonably identifiable from information obtained from either of them or from any officer on the scene of the incident or otherwise, who reasonably appear to possess information relevant to the investigation.

**J.11.** Witnesses who are interviewed by the investigator are entitled to have a representative of their choosing present with them during their interview, with the exception of other potential witnesses.

**K.12.** Witnesses shall be asked to specify any information they supplied that they wish the Department to maintain confidentially, to the extent doing so is permissible under the law.

**L.13.** Witnesses shall be requested to sign their statements or the summary of their statements created by the IAO/supervisor, if they did not supply a statement on their own.

**M.—14.** Summaries of witness interviews shall reflect whether the interview was conducted in person or by telephone, and whether it was conducted as a joint witness interview with any other witness(es) and if so whom. -As a general rule, joint witness interviews shall be avoided when possible.

**N.15.** Inability to interview, or lack of cooperation by the complainant, the officer or employee, or any person, shall not foreclose further investigation.

**O.16.** An investigation shall go forward regardless of any potential civil or criminal liability, investigation, or charges. -Should a critical witness claim a Fifth Amendment privilege because of a pending or potential criminal proceeding, the Select Board of Selectmen, after receiving a recommendation from the Police Chief, may defer the conclusion of the investigation or hearing, until the conclusion of the criminal proceeding, or until the witness is willing to testify, whichever is earlier.

**17. P. Subject Officer or Employee:**

~~1. a.~~ After diligent efforts to interview the complainant, the IAO/supervisor shall issue to the subject officer or employee a written statement of the allegations and the officer's or employee's rights and responsibilities relative to the investigation and shall subsequently interview the officer or employee, unless either step would interfere with the investigation.

~~2. b.~~ A subject officer or employee shall not initiate contact with the complainant or any witness. If unavoidable contact occurs, ~~he/she/they~~ shall not discuss or indirectly allude to the complaint or its allegations.

~~3. c.~~ A subject officer or employee may have counsel or a union representative present at any interview unless an unreasonable delay would ~~be necessitated~~ occur.

~~4. d.~~ In interviewing or attempting to interview the subject officer or employee, the IAO ~~or other investigating officer~~/supervisor shall be mindful of the provisions of state and federal law that are applicable to the questioning of public employees.

**Q-18.** The IAO/supervisor shall respond to all reasonable inquiries by the complainant as to the status of the investigation. Any delays shall be explained to the complainant. Complainants should be updated throughout the process on the progress of their complaint. Communication should occur at least every 30 days, even if there is no progress.

#### **R-In**

~~19.~~ The IAO/supervisor may review the ease of a Class A or B complaint, to determine if mediation may be an appropriate option. If the IAO believes mediation to be a viable option, the question of whether the complaint may be mediated will be brought to the Police Chief for review and subject to approval (after consideration of prior complaints against the officer or employee) prior to addressing the complaint in this fashion. If mediation is approved by the Chief and after an investigation has been completed, the IAO may attempt to act as a mediator and seek a proposed disposition, such as an apology or promise of future efforts(s) (e.g., the Early Intervention System, see Section III(18) below), which is Police Chief, the mediation option will then be discussed with the parties to the complaint. Participation in mediation must be mutually agreeable to both the complainant and the accused officer. Any such agreement by the subject officer shall not be considered an admission of fault and shall only be considered in mitigation of the severity of the disposition, if any. Neither or employee, and neither party shall be pressured to accept such an agreement. Any such agreement shall be subject to the approval of the Chief and Board of Selectmen as hereinafter described. The decision to participate or not participate in mediation shall not be considered an admission of fault by either party.

~~S.—~~ **20.** If, during an investigation, the IAO/supervisor learns of any allegation (including ~~a Class C type~~ an allegation regarding department policies) beyond the scope of the complaint under investigation, ~~he/she/they~~ shall execute a new Citizen/Civilian Complaint Form and initiate the procedures herein described. However, if the facts of the new allegation are intertwined with the current case, it is at

the discretion of the Police Chief and IAO to determine if the new allegation may be fairly addressed as part of the current investigation or if a new and separate investigation should be initiated.

~~¶.21.~~ Unless the Police Chief certifies that good cause requires an extension of no more than 30 days, the IAO/supervisor shall submit to the Police Chief a report containing his/her/the findings and conclusions within 30 days of commencing an investigation of a complaint. Any extensions beyond the foregoing shall be submitted for approval by ~~a majority of the~~ Select Board of Selectmen. The findings and conclusions shall include:

~~1.a.~~ All pertinent reports and documents, including any witness statements that were submitted in writing or reduced to writing.

~~2.b.~~ A detailed account of all pertinent factual assertions of everyone interviewed noting times and persons present at interviews, highlighting areas of agreement and disagreement, etc.

~~3.c.~~ Proposed factual conclusions, including the relative credibility of any conflicting factual allegations, and objective reason(s) for such conclusions, with regard to each original allegation and any others that have become apparent during the investigation. The lack, existence, quantity, or quality of corroborating evidence shall be pertinent to the weight of any evidence, but shall not be determinative.

~~4.d.~~ On each such allegation, a proposed finding based upon a preponderance of the evidence shall be made using the following categories and definitions:

~~—ai.~~ "Unfounded" — The investigation revealed that the alleged conduct  
did not occur there was no misconduct.

~~—bii.~~ "Exonerated" — The alleged action occurred but was reasonable and  
proper.

~~—eiii.~~ "Not Sustained" - The results of the investigation are inconclusive.  
The allegation cannot can be either proven or  
neither proved nor disproved.

~~—div.~~ "Sustained" — The investigation indicates sufficient evidence to  
support the allegation.

~~—e.~~ "Mediated" — both parties agree to a proposed and described  
disposition (Classes A and B only).

~~—f.v.~~ "Misconduct not based on original complaint" - The investigation  
discovered misconduct that was not part of the original complaint.

vi. "Mediated" – The matter was resolved through mediation.

vii. "Filed" – ~~no~~ No action necessary or possible at this time.

~~5. e.~~ Any mitigating or aggravating circumstances ~~which~~that have come \_\_\_\_\_ to the attention of the IAO/supervisor.

~~6. -f.~~ Relative to any allegations that are sustained or not sustained, a ~~–~~chronological list of any similar complaints against the ~~said~~subject officer or employee within the prior two years, along ~~–~~with the dispositions.

~~7. g.~~ Witness statements shall be appended to the IAO report.

~~U.~~ \_\_\_\_\_ The IAO/supervisor will append to the report a separate chronological list of all prior complaints against the officer or employee and the dispositions.

## 21. Investigative Techniques:

~~1. a.~~ All investigations under this ~~policy~~Policy shall be conducted in accordance with the normal and legal Department investigative procedures with regards to:

~~a.i.~~ The use of detection equipment

~~b.~~ ii. Medical or laboratory examinations

~~e.iii.~~ Covert photographing, and photo identification

~~d.~~ iv. Lineups

~~e.v.~~ Financial disclosure information

~~2. INVESTIGATIVE TECHNIQUES GENERALLY:~~ b. Investigative Techniques Generally: In conducting investigations of ~~alleged employee misconduct~~complaints by the public, all appropriate investigative techniques and methods shall be employed, consistent with legal requirements and all necessary concern for the individual rights of the ~~accused~~subject officer or employee.– An internal administrative investigation shall be conducted with the same degree of professional competence as is devoted to a criminal investigation. –Employees or officers will have the same rights on these matters as any individual under investigation by this Department.

The accuracy of the investigative report shall be assured by requiring the investigator to take all reasonable efforts to obtain witness statements by one or more of the following methods:

~~a.~~ \_\_\_\_\_ i. Taped (audio or video) statements with consent of witness;

~~b.~~ \_\_\_\_\_ ii. Witness's own signed statement;

~~e.iii.~~ Witness's verbal statement given to the IAO and reduced to writing by the investigator and reviewed for accuracy and signed by the witness, affirming that the statement is accurate.

Witnesses who do not wish to sign statements they submit or statements reduced to writing by the investigator shall not be required to do so. If ~~the~~ witness disagrees with the investigator's version of the witness's ~~statement~~statements and the investigator declines to change the ~~statement~~statements in conformity with the witness's wishes, the witness shall be asked to submit ~~his/her separate version of what he/she said~~their own account and ~~asked~~ to sign it.

~~3. MEDICAL/LABORATORY EXAMINATION:~~ c. Medical / Laboratory Examination: Upon orders of the ~~Chief of Police~~ Chief or ~~his/her~~ designee, an ~~officer or~~ employee may be required to submit to a medical or laboratory examination, at the Department's expense. -This examination must be specifically directed and narrowly related to a particular internal affairs investigation being conducted by the Department.

~~4. IDENTIFICATION:~~ A policee. Identification: An ~~officer or~~ employee may be required to be photographed and can be compelled to stand in a lineup for identification in connection with an administrative investigation when such action is material to an investigation, and a refusal can be the basis for an additional disciplinary charge of refusal to obey a lawful order. Such a lineup shall be fairly constructed and not be unfairly suggestive and shall not be used for an administrative investigation where criminal charges are contemplated.

#### ~~5. SEARCHES:~~

~~a. A police officer's~~ e. Searches:

i. The personal property of an officer or employee, including ~~his/her~~their home, car and other property, is protected from unreasonable search and seizure under the Massachusetts Constitution, and it is possible that any evidence illegally obtained may not be used as evidence in an administrative proceeding.

~~b.~~ ii. Department property furnished to the officer or employee, such as desks, lockers, or vehicles, in which it is clearly understood in advance that an officer or employee has "no expectation of privacy," may be searched without a warrant.

~~6. FINANCIAL DISCLOSURE:~~ A policee. Financial Disclosure: An ~~officer or~~ employee may be compelled to submit a financial disclosure statement as part of an internal affairs investigation provided such statement is material to the investigation being conducted. -Such submissions shall only be conducted in a manner that is consistent with federal and state statutory and case law and past administrative decisions.

7. ~~LIE DETECTOR/POLYGRAPH TESTS:~~ Under the provisions of G.L. c. 149, § 19B, police officers may be required to submit to a polygraph or lie detector test in connection with an internal administrative investigation if such test is conducted by a law enforcement agency in the course of a departmental investigation of criminal activity, and under such circumstances, officers may face disciplinary action for refusal. Such tests shall be administered by trained and certified individuals in accordance with federal and state statutory and case law and past administrative decisions.

~~V.~~ 22. On a monthly basis, the IAO shall ~~prepare~~submit a report to the Police Chief enumerating all complaints ~~(including Class C and D complaints)~~ against departmental ~~employees~~personnel and complaints against the Police Department generally that had been brought to the attention of the IAO during that month. Included in the report ~~will~~shall be the outcome(s) of the investigation(s) that have been completed and the status of investigations not yet completed. ~~and the race, gender, and other protected status and the city or town of residency of the complainant(s). A copy of these reports, or a summary thereof, shall be provided to the Select Board.~~ On an annual basis, the IAO shall compile statistical summaries of IAO investigations for the preceding year, such information to be ~~presented to~~included in the ~~Board~~within the Police Chief's annual departmental report to the ~~Board~~Select Board. ~~The statistics should, at a minimum, include the following information, if known: race and gender of Selectmen.~~the subject officers and employees, race and gender of complainants, types of misconduct, and outcomes.

~~W.~~ —The IAO is responsible for analyzing and identifying trends in complaints from the public and informing the Police Chief. The analysis may lead to the development of additional training, changes to procedures, or other department-wide actions.

### 23. Training:-

The IAO and other Department personnel shall be trained concerning requirements of this ~~policy.~~Policy. IAO training shall include training on the weighing and evaluating of evidence, including the credibility of witnesses.

### 5.—F. DISPOSITION AND NOTIFICATION BY THE POLICE CHIEF:

~~A.~~ 1. The complainant and the subject officer or employee shall be furnished with a copy of the IAO report within seven days of its completion, provided that the Police Chief shall redact 1) from any copy of the IAO report the Department furnishes to a person other than the person the information concerns (*i.e.*, the subject officer or employee, in the case of (a) below, and the complainant, in the case of (b) below), information relating to similar prior complaints that date in excess of two years prior to the incident that were a) made against the ~~police~~ officer or employee, or b) filed by the complainant as a ~~citizen~~civilian complaint; 2) the name and other identifying information of any ~~private citizen~~members of the public who ~~requests~~request that ~~his/her~~their identity not

be disclosed; and 3) any information in the report that comes within an exemption to the Massachusetts Public Records Law, G.L. c. 66, § 10 and G.L. c. 4, § 7(26). -Such IAO report shall be accompanied by any witness statements that were submitted in writing or reduced to writing pursuant to this ~~policy~~Policy, which shall be redacted upon distribution to the complainant and subject officer or employee as set forth in items 1, 2, and 3 of this ~~Paragraph.~~paragraph. The complainant and the ~~police~~subject officer or employee shall be notified that any comments concerning the IAO report, including additional statements by witnesses, may be submitted to the Police Chief within 10 days of receipt of such materials. -Any such comments and statements shall be appended to the IAO report. -Should any such comments and statements be received, the Police Chief shall take any action ~~he/she deems~~they deem appropriate, however, the Police Chief is not expected to negotiate with anyone concerning the content of the final report ~~he or she submits~~to be submitted to the Select Board of Selectmen.

~~B.~~2. Upon receipt of the ~~IAO's~~IAO report containing its findings and conclusions and the passage of the allowed time for the complainant and ~~police~~subject officer or employee to submit comments regarding the IAO report, the Police Chief shall either:

~~1.~~1. ~~a.~~a. Request a further investigation; or-

~~2.~~b. Promptly prepare ~~his/her own report~~a notification setting forth the Department's final disposition with regard to the ~~classification~~type of ~~the~~ complaint, and recommended finding of each allegation along with a summary of the reasons therefore. ~~The Chief's report shall also indicate what, if any, disciplinary action or remedial measures were taken or are recommended to be taken. Such actions or measures may include the assignment of the officer to the "Early Intervention System," see Section III(18) below.~~

~~C.~~3. After completion of ~~his/her report~~, the notification, the Police Chief shall promptly send:

~~1.~~a. To the ~~Selectmen~~Select Board via the Town Administrator, a copy of ~~his/her complete report~~the notification along with the IAO report, the separate full chronological list of prior complaints against the officer or employee, and investigative file, in ~~unredacted~~un-redacted form and marked "Confidential," which the Select Board of Selectmen shall maintain confidentially in a secure environment.

~~2.~~b. To the complainant and to the ~~police~~ officer or employee who is the subject of the complaint,

~~a.~~i. a Notice of Complaint Disposition Form indicating the disposition of each allegation and an Internal Investigation Appeal Form and a return, addressed envelope. -Said notice shall clearly explain the right to and process for appeal for review by the Select Board of Selectmen; and

b. ~~ii.~~ a copy of the Police Chief's report, including any comments by the complainant and subject officer or employee and additional statements by witnesses, provided that the Police Chief's report and accompanying materials shall be redacted in the same manner set forth in Section III(5)(A)(1) with regard to the IAO report and accompanying materials.

~~6.~~c. In the case of a "Sustained" finding, the Police Chief in consultation with the subject officer or employee's supervisor, will determine what actions will be taken to correct the conduct of the subject officer or employee. Possible actions may include: counseling, retraining, additional supervision, reassignment, or discipline up to and including termination of employment. Due to confidentiality requirements regarding employee discipline, complainants will never be informed of the actual discipline administered.

## G. MAINTENANCE/RELEASE OF DOCUMENTS

—Documents relative to internal investigations shall be maintained confidentially in a secure environment, separate from personnel records or centralized Department or ~~Board of Selectmen's~~Select Board's Office records.- Such records shall be maintained and disseminated in accordance with those provisions of state and federal law applicable to the retention, maintenance, disclosure, dissemination, inspection, and copying of public records and in conformity with this ~~policy otherwise~~Policy.

## 7. H. APPEAL TO THE SELECT BOARD OF SELECTMEN

~~A.1.~~ Unless otherwise specified by the civil service laws, any ~~member of~~subject officer or employee who is not satisfied with the ~~Police Department~~ aggrieved by the Chief's Report disposition may appeal for review by the ~~Select Board of Selectmen~~ within twenty-one days.- Said appeal shall be reviewed by Town Counsel and shall proceed as hereinafter described unless civil service laws mandate alternative procedures. The twenty-one day appeal period begins with the date of receipt of the final disposition form being day one.

~~B.2.~~ Any ~~citizen aggrieved by~~complainant not satisfied with the ~~Chief's Report disposition~~ may, within twenty-one (21) days, appeal for review by the ~~Select Board of Selectmen~~ by submitting to the Town Administrator a completed Internal Investigation Appeal Form. ~~The classification of the complaint may be~~ The complainant should provide details on the reason for ~~such an~~ appeal. The twenty-one day appeal period begins with the date of delivery of the final disposition form being day one.

~~C.~~

3. Upon receipt of any appeal received in a manner other than through a completed Internal Investigation Appeal Form, ~~the~~ Town Administrator shall send to the ~~aggrieved person~~complainant or subject officer or employee an Internal Investigation Appeal Form and a return, addressed envelope.

~~8.~~

**I. REVIEW BY THE TOWN ADMINISTRATOR** (*All references to the Town Administrator shall also connote and include the Deputy Town Administrator*)

**A.1.** Upon ~~his/her~~ receipt of a completed Internal Investigation Appeal Form, the Town Administrator shall:

~~1. Review the class designation, and amend the designation if necessary in his/her opinion, which designation shall subsequently be reviewed and either approved or changed by the vote of the Board of Selectmen (including any change that adds a Class C designation).~~

~~2.a.~~ Review the complaint and reports for completeness. Contact the Police Chief to inquire about any points needing clarification or to request additional information.

~~b.~~ Immediately forward an ~~unredacted/un-redacted~~ copy of the complaint, the appeal form, the Police Chief's ~~report~~notification, the IAO report, and all supporting documents (including all witness statements and any comments of the complainant, the subject officer or employee and witnesses with regard to the IAO report) to the Select Board of Selectmen, which shall be marked "Confidential" and which the ~~Selectmen~~Select Board shall maintain confidentially in a secure environment.

~~3. Review the reports for completeness, and send the matter back to the Chief for any further investigation that he/she or any Selectman deems helpful.~~

~~4. Submit to the Board of Selectmen at least one interim report more than one week before the conclusion of the Town Administrator's review.~~

~~5. Complete his/hers.~~ Hold a Select Board meeting (which may be held in executive session if permitted by the Massachusetts Open Meeting Law) to determine whether the Select Board will hear the appeal or retain a hearing officer.

~~d.~~ The Select Board shall complete their review within 30 days ~~with regard to Class A complaints and 15 days with regard to Class B and C complaints~~, unless such period is extended for good cause by the Select Board of Selectmen.

**B.2.** All documents and reports subsequent to the Police Chief's findings shall remain confidential to the extent permitted under the Massachusetts Public Record Law, G.L. c. 66, §§ 10 and G.L. c. 4, § 7(26), except that such documents shall be disseminated to the complainant and the ~~police~~subject officer or employee as specified in this ~~policy~~Policy.

**C.3.** If a majority of the Select Board of Selectmen considers a ~~Class A or Class C~~ complaint to be particularly complicated or to require additional effort or expertise, special counsel may be retained to conduct an investigation.

**D.4.** If, at any time, the Town Administrator or any ~~Selectman~~Select Board Member believes that allegations beyond the scope of the Department investigation, such as

possible misconduct by a different officer, have been raised, a new Complaint Form shall be executed and referred to the Department for immediate and expedited investigation and processing.

**9. ~~\_\_\_\_\_~~ J. CIVILIAN APPEAL HEARINGS, ACTION BY THE SELECT BOARD OF SELECTMEN, AND DISCIPLINARY HEARINGS**

~~A. 1.~~ 1. Within 30 days after completion of the later of Town Administrator's and Select Board's review, and receipt of the hearing officer's report (in the event that the Select Board voted to retain a hearing officer), all appeals from dispositions of citizencivilian complaints, except as set forth below, shall be docketed for the Select Board of Selectmen to hear at a Civilian Appeal Hearing at a regularly scheduled Select Board of Selectmen's meeting in conformity with the Massachusetts Open Meeting Law, G.L. c. 39, § 23B. 30A, §§ 18 et seq..

~~All matters involving 1) a recommendation by the Chief, thereafter approved by the vote of the Board of Selectmen and reflected in any written notice the Board issued to the officer pursuant to G.L. c. 31, § 41, for discharge, removal, suspension for a period of more than five days, layoff, transfer from a position without written consent, lowering in rank or compensation without written consent, or abolishing of a position within the meaning of G.L. c. 31, § 41, or 2) any appeal by a police officer from other forms of disciplinary actions, shall be docketed for the Board of Selectmen to hear as a Disciplinary Hearing (see Section III(9)(E)), which shall be scheduled and held in conformity with the Massachusetts Civil Service Laws, G.L. c. 31, the rules and regulations promulgated thereunder, the Massachusetts Open Meeting Law, G.L. c. 39, §§ 23A and 23B, and/or this policy, Section III(9)(E), as applicable. The matters set forth in this Paragraph shall proceed directly to a Disciplinary Hearing, without being heard at a Civilian Appeal Hearing and without further vote of the Selectmen.~~

Civilian Appeal Hearings that are held in connection with appeals from dispositions of citizencivilian complaints shall be postponed beyond 30 days as follows:

- ~~1. a.~~ 1. a. no more than two weeks for further investigation at the request of any ~~Selectmen~~Select Board Member or;
- ~~2. b.~~ 2. b. by vote of the Select Board, until the completion of the investigation of any new Complaint ~~issued under Sections III(4)(S) and III(8)(D) above.~~

~~B. 2.~~ B. 2. The procedural protections of G.L. c. 31, § 41 shall ~~be limited~~apply to any Disciplinary Hearings held pursuant to ~~Section III(9)(E) of this policy~~Policy.

~~C. 3.~~ C. 3. Civilian Appeal ~~HEARINGS~~Hearing:

~~1. a.~~ 1. a. At least two ~~weeks~~weeks' notice of the Civilian Appeal Hearing to be held in connection with an appeal from the disposition of a citizencivilian complaint shall

be given to the Police Chief, the complainant, ~~and, in a Class A, B or D Complaint,~~  
the ~~accused~~subject officer or employee.

~~2. b.~~ Where the appellant is a civilian ~~who has filed a Class A, B or D Complaint~~, the Police Chief and the appellant, or their representatives, shall each be entitled to make an informal presentation before the SelectmenSelect Board at such Civilian Appeal Hearing. -The subject officer or employee and/or ~~his/her~~their representative shall be entitled, but shall not be required, to make an informal presentation at such Civilian Appeal Hearing. -In addition, the appellant and the subject officer or employee shall each have the right, but shall not be required, to present up to three ~~eyewitnesses~~witnesses to make informal presentations, each of whom shall have the right to address the Select Board for no more than five minutes. -By a majority vote, the SelectmenSelect Board may permit additional ~~eyewitnesses~~witnesses to make informal presentations at such Civilian Appeal Hearing or may extend the time for such presentations.

#### **ACTION BY**

#### **~~D.~~ 4. Actions by the Select Board ~~OF SELECTMEN:~~**

a. After deliberation in conformity with the Massachusetts Open Meeting Law, G.L. c. 1. By 30A, §§ 18 et seq., the Select Board shall, by majority vote, the Selectmen shall do one of the following with regard to appeals from ~~citizen~~civilian complaints after hearing informal presentations at the Civilian Appeal Hearing ~~in the case of Class A, B or D Complaints:~~

a. —

i. Uphold the recommended finding(s) of the Police Chief.

ii. Overturn ~~After deliberation in conformity with the Massachusetts Open Meeting Law, G.L. c. 39, §§ 23B(1), take steps regarding potential disciplinary action in conformity with such law, with the Massachusetts Civil Service Law, G.L. c. 31, and with Section III(9)(E) below, as applicable (including, if and as applicable, (a) the issuance of written notice to the subject officer stating the action contemplated and the specific reason(s) for such action, and (b) the docketing and convening of a two-phase Disciplinary Hearing as described in Section III(9)(E)(2) and otherwise below); or~~

b. — the recommended finding(s) of the Police Chief.

iii. Refer the matter back to the Police Chief for further action; or

e. — iv. Appoint one or more independent persons to conduct an investigation and write a report for the SelectmenSelect Board concerning the facts relating to the complainant's allegations. - The person(s) selected to conduct the investigation should, depending on the nature of the complaint, be experienced in working with

persons of diverse backgrounds, including racial, ethnic and cultural groups, and people of different genders, sexual orientation, and mental and physical abilities. After receipt of that report, the ~~Selectmen~~Select Board may take any of the steps set forth in Sections III(9)(D)(1J)(4)(a), ~~(b), or (d)~~; or

~~d. — Dismiss the complaint and notify all parties of such.~~

~~2..~~ b. For ~~Class C~~ complaints, ~~the~~ regarding a Police Department policy or procedure, the Police Chief shall, more than one week before the Civilian Appeal Hearing, provide an explanation of the current policy, possible alternatives, factual or legal background material, and any other information requested by the Town Administrator or any ~~Selectman~~Select Board Member.

~~3..~~ c. For ~~Class C~~ complaints regarding a Police Department policy or procedure, any individual and/or organization may submit a written or brief oral presentation regarding the appropriateness of the Department policy or procedure, and the ~~Selectmen~~Select Board may invite any community group (such as the ~~Human~~Commission for Diversity, Inclusion, and Community Relations/Youth Resources Commission) known to have interest or expertise to participate in the Civilian Appeal Hearing regarding such appropriateness. ~~Where a complaint, in addition to Class C allegations, also contains allegations that could subject an officer or employee to discipline, the allegations specific to the officer or employee shall be governed by Section Sections III(9)(C)(2)(D) and III(E) above and any Civilian Appeal Hearing regarding the Class C allegations may be bifurcated from any Civilian Appeal Hearing regarding Class A, B or D allegations specific to the officer.~~ a Police Department policy or procedure.

## ~~E.~~ DISCIPLINARY HEARINGS:

~~1..~~ The Selectmen may choose to make the convening of a Disciplinary Hearing of a Class B or D complaint contingent on the appearance by the person who filed the complaint of misconduct to appear and give testimony in accordance with these procedures.

~~2.~~ The Disciplinary Hearing shall be separated into two phases, the first phase to determine a finding (see Section III(4)(T)(4) supra) on each allegation and, if an allegation against an officer is sustained, a second phase to determine the disciplinary disposition, both by vote of a majority of the Board of Selectmen.

~~3.~~ Disciplinary Hearings shall proceed in accordance with the civil service law, G.L. c. 31, the regulations thereunder, and the following provisions:

~~a.~~ The parties to a Disciplinary Hearing shall consist of the Subject Officer and the Chief or his or her designee as the employer-complainant. In the event that the Chief is not pursuing the matter,

~~the Town shall be a party to such hearing as the employer-complainant.~~

~~b. Pursuant to G.L. c. 31, § 41, the Chief or the Town shall file a written request and notify the parties that the hearing shall be public unless:~~

~~i. The accused officer does not file a written request for a public Disciplinary Hearing, and~~

~~ii. The accused officer or the employer-complainant requests a closed Disciplinary Hearing, the requirements of G.L. c. 31, § 41 are met, and the Board votes for a closed session.~~

~~c. A Disciplinary Hearing shall be docketed for hearing by the Board of Selectmen promptly and in any event within any applicable timeframes established by the Civil Service Law.~~

~~d. Either party to a Disciplinary Hearing may bring witnesses to testify. A subpoena shall be issued at the request of the Town Administrator or Selectmen, or at the request of any party unless a majority of the Selectmen deem such a subpoena unreasonable and unfair.~~

~~e. Either party may be represented by an attorney or other designated-spokesperson. A witness may be represented by counsel.~~

~~f. The Disciplinary Hearing is administrative and need not be conducted according to technical rules of procedure, evidence or witnesses. The purpose of the Disciplinary Hearing is to determine the facts and situations surrounding a case. The Board of Selectmen, especially when counsel is not present, shall protect the rights of all parties whenever through the lack of ability, inexperience, or oversight, either side's case may seem to be improperly prejudiced.~~

~~g. The Chairperson will conduct the Disciplinary Hearing subject to being overruled by a majority of the Board members. Members of the Board shall be finally responsible for obtaining complete and accurate facts.~~

~~h. The first phase of the Disciplinary Hearing will proceed as follows: The employer-complainant will present the Complaint, and introduce witnesses, if any. In the case of a Class A complaint for which the person who filed the complaint of misconduct does not appear to testify, Town Counsel will perform the role of that person. The Subject Officer shall then respond to the complaint and introduce witnesses, if any. Each person testifying, and each party to the complaint, may be questioned by the Board and by the parties~~

or their attorneys. After the Board has taken all relevant evidence, each party will be given an opportunity to make a closing statement. At the conclusion of the first phase, the Board shall take a vote to determine the finding(s) on each allegation and proceed, if appropriate, to the second phase.

- ~~\_\_\_\_\_ i. Oral evidence shall be taken only under oath or affirmation.~~
- ~~\_\_\_\_\_ j. Upon the request of either party or a Selectman, witnesses other than the accused officer shall be excluded from the hearing until they are called to testify.~~
- ~~\_\_\_\_\_ k. Each party to the Disciplinary Hearing shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him/her to testify; and to rebut the evidence against him/her. If the Subject Officer does not testify in his/her own behalf he/she may be called and examined as if under cross-examination.~~
- ~~\_\_\_\_\_ l. Any evidence which is relevant to the allegations in question shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Unduly repetitious evidence shall be excluded. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.~~

~~\_\_\_\_\_ "Hearsay evidence" shall have that definition afforded the term under Massachusetts law, and generally refers to a statement that was made other than by a witness while testifying at the Disciplinary Hearing and that is offered to prove the truth of the matter stated.~~
- ~~\_\_\_\_\_ m. If the Board of Selectmen decides that additional information is necessary to reach its findings, it will continue the hearing to a future date unless the parties agree to allow the Board to receive such material in writing without reconvening.~~
- ~~\_\_\_\_\_ n. The standard of proof for the Board of Selectmen findings of fault shall be preponderance of evidence.~~

~~0. Evidence of unrelated allegations, incidents, or personnel records may be received only in the second phase of the Disciplinary Hearing.~~

~~5. In addition to its deliberations and votes(s) at the Disciplinary Hearing, the Board of Selectmen shall provide a written notice of its decision and disposition to the accused officer in accordance with G.L. c. 31, § 41, to the Chief, and to Town Counsel.~~

~~6. All documents relating to the Town Administrator's and the Board of Selectmen's investigations may be released in accordance with Section III(6), supra, only.~~

~~7. The officer shall retain his or her right to further review under G.L. c. 31, § 43.~~

#### **10. K. EARLY INTERVENTION REVIEW:**

Any employee of the Department who receives three complaints within a two-year period will be subject to review. This review will include, at a minimum, the cases that prompted the review. Present at this review will be the IAO, the Commander of the Division to which the employee is assigned and the employee's immediate supervisor(s). All present will be expected to provide input into the complaints, the particular employee's actions and their history. During this review, participants have the opportunity to support the employee's actions, identify any particular problems the employee is having, identify potential problems areas within the Department and, if necessary, recommend possible remedies.

#### **L. RELIEVING EMPLOYEE FROM DUTY:**

~~—No Officer/officer shall be relieved from duty as a result of an Office of Professional Responsibility investigation unless such action is in accordance with G.L. c. 31, §§ 41 and 62.~~

#### **11. RELIEF FROM DUTY — RIGHTS OF COMMANDERS:**

~~—The Commanding Officer of any shift or Division within the organization of the Brookline Police Department may relieve, with pay, any officer or employee under his/her command for the balance of the assigned shift only if said Commanding Officer has determined that the officer or employee is unfit or unable to perform or carry out his/her assigned duties or responsibilities. This action may or may not occur as a result of a need for disciplinary investigation or action.~~

~~—*Examples of relieving for non-disciplinary reasons would be as follows:*~~

~~A. If the officer or employee is suffering from an illness and appears too sick to work effectively or safely.~~

~~B. — If the officer or employee reports to work injured, is injured during the performance of duties and a physician advises that he/she be relieved, or is injured on duty and refuses to acknowledge the apparent danger the injury may place himself/herself in if remaining on duty.~~

~~C. — The officer's or employee's mental state as the result of an unusual or traumatic situation presents a danger that duties and responsibilities may not be performed safely and properly.~~

~~D. — Any action by an officer or employee that results in death or serious injury, but not limited to the use of force.~~

~~12. — Commanders may also relieve any officer or employee from duty, with pay, for the balance of the assigned shift only, for any infraction or violation of the Rules, Regulations, Policies, Procedures, or Orders of the Department which would be conducive to holding the Department up to public ridicule or scorn, or would jeopardize the Department's mission to effectively provides police services to the community. Specific examples include, but may not be limited to, the following;~~

~~A. — Reporting to duty while under the influence of alcohol or controlled substances.~~

~~B. — Insubordination.~~

~~C. — Committing a criminal offense while on or off duty.~~

~~D. — Improper use or operation of Department vehicles or equipment.~~

~~E. — Falsifying a statement or record.~~

~~F. — Abusing, stealing, damaging, destroying, or defacing property or equipment of the Department or others.~~

~~13. — Any Commanding Officer who relieves an officer or employee from duty for disciplinary reasons shall immediately notify the Chief of Police or his or her designee and file a written Special Report, to the Chief of Police, containing all the details of the matter. Further investigation into the matter will be conducted in accordance with the procedures outlined previously in this directive.~~

~~14. — Any Commanding Officer who relieves an officer or employee from duty for non-disciplinary reasons, except sickness on duty, shall file a complete written Special Report on the details to his/her immediate superior, with copies going to the Chief of Police.~~

~~15. — LIAISON WITH DISTRICT ATTORNEY:~~

~~— Any Office of Professional Responsibility investigation which may, or does, result in criminal charges being brought against an officer shall require the District Attorney's~~

~~Office be apprised of the case for the purpose of advising on legal issues, and ultimate prosecution if necessary.~~

#### **16. M. PUBLIC EDUCATION:**

The Police Department shall maintain a brochure that it shall make available to complainants and other members of the public explaining the steps that will be followed in the complaint process. The Department will endeavor to have the brochure available in at least six of the most commonly spoken languages in Brookline. The brochure and any other informational materials about the citizen/civilian complaint process shall be subject to prior approval by the Select Board of Selectmen.

The Select Board of Selectmen shall ensure the creation of a plan, subject to biennial review, for educating the public about the complaint process, including on the Town Website/website.

#### **N. 17. PERIODIC ASSESSMENT:**

##### **1. The Police Chief assisted by two civilian citizens, appointed by Review of Complaint Policy.**

- a. Biennially the Select Board of Selectmen, shall biennially provide appoint two civilian residents of Brookline (the Board of Selectmen, Town Meeting, and the public "Reviewers") who with the assistance of the Police Chief shall conduct a review of and prepare a report (the "Report") on the functioning of the police complaint procedures. -The Report shall be filed with the Select Board and the Reviewers shall present their findings and recommendations, whereupon the responsibilities of the Reviewers shall end.**
- b. The Select Board shall (i) post the Report and the most recent version of this Policy to the Select Board's webpage, (ii) give notice of the posting of the Report and most recent Policy to Town Meeting Members and other residents who have indicated an interest in the issues covered by the Policy, (iii) give notice of the hearing on the Report once that hearing date is set, and (iv) submit the Report to the next Town Meeting for inclusion in the Combined Reports**
- c. To the extent practicable, the civilian citizens/Reviewers should be individuals with experience in the issues raised by civilian complaints against police officers, including, but not limited to, experience working with persons of diverse backgrounds and viewpoints. -The report shall include an assessment of the investigations of citizen complaints, an assessment of the Board of Selectmen's role in the complaint process, relevant statistics, comparisons with comparable communities, citizen survey results, and recommendations for any changes. or criminal defense, civilian law enforcement, or academic backgrounds.**

#### **18. THE EARLY INTERVENTION SYSTEM**

~~This Early Intervention System is designed to assist a potentially troubled police officer, improve accountability and enhance the quality of policing in Brookline.~~

d.

~~A. STATEMENT OF PURPOSE AND~~In connection with the preparation of the Report, the Reviewers shall send questionnaires (the "Questionnaire") to complainants concerning the disposition of their complaint and their level of satisfaction with the process established by this Policy.

e. The Report shall include:

- i. An assessment of the investigations of civilian complaints;
- ii. An assessment of the Select Board's role in the complaint process, including the number of complaints that qualify for Select Board review and their disposition;
- iii. Relevant statistics concerning the race, gender, ethnicity, and age of complainants and of the subjects of complaints;
- iv. Summaries, relevant statistics, and any observations or comments of selected complaint policies in comparable communities;
- v. Results of the Questionnaire;
- vi. Reports of any interviews of complainants that the Reviewers elected to interview as a follow up to the Questionnaire; and
- vii. Recommendations for any changes to this Policy.

## 2. Hearing and Revision.

After the Report has been posted to the Select Board's webpage and Police Department's website, the Select Board shall hold a public hearing on the recommendations of the Report and solicit comments from the Police Chief and Town Counsel. After the hearing the Select Board shall make such changes as it determines to be appropriate to this Policy based on the recommendations of the Reviewers, the comments from the public at the public hearing, comments from the Police Chief and Town Counsel, and any comments from Select Board members. Thereafter, the Select Board shall adopt the revised Policy as a General Order of the Police Department.

# ~~POLICY~~

~~The Brookline Police Department is aware of the complexities of policing in today's society. In an effort to improve the quality of policing, the Department has instituted an early intervention system. This system is a progressive program that involves training, counseling and discipline. It will be used to identify officers who may be having difficulties in performing police work. By identifying these officers at an early stage, intervention can take place to correct behavior patterns thereby making it less likely they will re-occur in the future. This system will also identify problem areas, training needs and issues that must be addressed in order to provide professional and effective policing.~~

~~B. When a complaint is received regarding the actions of an officer, the Internal Affairs Officer will conduct an investigation into the complaint. In most cases, the IAO will meet with the officer complained against at some point in this investigation. During the meeting, the officer is to be made aware of the nature of the complaint alleged. At the earliest possible time, the supervisor of the officer will also be made aware of the nature of the complaint. Upon completion of this investigation, the final determination is to be made known to the officer and his/her supervisor. At the discretion of the Chief, Superintendent and/or the IAO, a meeting may take place between the IAO, the subject officer and the officer's supervisors. If further action is deemed necessary, input is to be received from all present regarding the necessary steps to be taken to insure actions of this type do not re-occur in the future.~~

~~C. Any member of the Department who receives three complaints against him/her within a two-year period will be subject to review. This review will include the cases that prompted the complaints to be filed against the officer. Present at this review will be the IAO, the Commander of the Division to which the officer is assigned and the officer's immediate supervisor(s). All present will be expected to provide input into the complaints, the particular officer's actions and his/her history. During this review, participants have the opportunity to support the officer's actions, identify any particular problems the officer is having, identify potential problems areas within the Department and, if necessary, recommend possible remedies.~~

~~**D. RECOMMENDATIONS:**~~

~~If a problem is identified, possible remedies include:~~

- ~~1. Counseling with Supervisors and/or Commander;~~
- ~~2. Additional training;~~
- ~~3. Referral for medical or psychological fitness examination;~~
- ~~4. A combination of additional training and supervision.~~

~~In these cases a program will be developed by the supervisor of the officer, subject to the approval of the Division Deputy Superintendent, The supervisor is to explain the program, outline steps in detail and the officer and supervisor are to sign off on the plan indicating their understanding of it. Furthermore, complete status reports are to be filed by the supervisor weekly for the first four weeks and monthly thereafter until the problem is solved. This program will include, but not limited to, ride along with a supervisor, one on one supervision, increased training and will cover a period of time not less than six months. A report is to be prepared and submitted regarding the actions recommended or taken under this system. This report is to be submitted to the Chief of Police and Superintendent.~~

**~~E. REVIEW PROCESS:~~**

- ~~1. This process of review will be ongoing. Reviews such as those set out under this system may be initiated based on a specific incident.~~
- ~~2. This review will not be limited to the individual police officer. This review includes potential changes and policies, procedures, and methods of operation.~~
- ~~3. The IAO is to conduct an on-going analysis of the type of complaints alleged against all Brookline Police Officers. Once the IAO has determined the nature of the complaints, the Department will have identified a training need.~~