



## **WEBER COUNTY SHERIFF'S OFFICE**

### **POLICY AND PROCEDURES**

#### **Investigation of Complaints**

EFFECTIVE DATE: 11/19/04 AMENDS/SUPERCEDES: 38.1 STANDARD NUMBER: 52.1.1	REVIEW DATE: 03/01/05 REVISION DATE: 03/01/05  APPROVED: <u>    ** On File    </u> Sheriff Signature
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#### **38.1.1 Purpose**

To protect the public's trust in the Weber County Sheriff's Office and to investigate claims of nonfeasance and malfeasance made against its member.

#### **38.1.2 Rationale**

Accusations and suspicions of unethical, improper or illegal conduct against an office member erodes public confidence in the office's ability to solicit trust; impairs public safety services; hinders the discovery and prosecution of criminals; and diminishes office professionalism and morale. The aggressive, thorough and expedient investigation of such claims helps to protect the reputations of this office and its members. It also allows the office to take actions to correct problems that hinder effective public service.

#### **38.1.3 Definitions**

- A. Serious complaint (Category I) – A complaint of a criminal nature or serious misconduct that, if founded, can result in criminal prosecution, loss of pay, demotion or termination. A complaint of ongoing minor violations may collectively constitute a *serious complaint*.
- B. Minor complaint (Category II) – A complaint of a non-criminal nature, minor traffic violation or minor misconduct that, if founded, can result in any action against the member beginning with informal corrective action up to, and including, notices of reprimands.
- C. Member – A member of the Weber County Sheriff's Office is one who serves in any capacity of the sheriff's office, including:

1. Full-time members of the Weber County Sheriff's Office, whether sworn or non-sworn;
2. Part-time members of the Weber County Sheriff's Office, whether sworn or non-sworn;
3. Volunteer members of the Weber County Sheriff's Office, whether sworn or non-sworn.

#### 38.1.4 Policy

- A. All complaints made against the sheriff's office or its members will be investigated. This includes:
  1. In-person complaints;
  2. Third-party complaints;
  3. Complaints received by correspondence (both mail and email);
  4. Anonymous complaints;
  5. Complaints made by telephone;
  6. Signed and unsigned complaints;
  7. Complaints contained in legal actions.
- B. All complaints, both minor and serious complaints, will be logged and tracked by the Internal Affairs Unit supervisor.
- C. Complaints should be written by the complainant or, if necessary, written by the receiving supervisor. (See 38.1.5,A,5)
- D. A copy of the complaint should, if possible, be given to the complainant. (See *Written Verification to Complainant*, 38.5.3)

#### 38.1.5 Procedure

- A. Complainants should be referred to the on-duty shift supervisor or duty lieutenant; or if unavailable, to a bureau commander, or any available command officer or supervisor.
  1. If a complaint regarding a member of the Law Enforcement Division is made during regular work hours (8am-5pm, Monday-Friday) the front desk clerk should provide the complaint form, and notify the appropriate supervisor of the accused member to speak to the complainant.
  2. In case of complaint regarding Corrections Division personnel, the corrections clerk should provide the complaint form, and notify that Division's Watch commander or shift sergeant to speak to the complainant.

3. If a Law Enforcement Division complaint is made after regular Law Enforcement Division front desk hours and a complainant comes to the Corrections Facility front desk, the clerk will provide a complaint form and contact dispatch to notify the duty Lieutenant or shift sergeant to talk to the complainant.
  4. If the complainant does not want to talk to a supervisor or does not want to wait for a supervisor to respond, the completed form will be accepted and forwarded to the appropriate division supervisor for action.
  5. In case of a complaint called in by phone, and the complainant is unwilling or unable to report the complaint in person, the same procedure as outlined previously in this chapter should be followed, and the complaint form will be completed by the person taking the complaint.
  6. In case of a complaint received by mail, the complaint will be forwarded as outlined in this chapter.
- B. The form should be completed by the complainant or person receiving the complaint and forwarded to the appropriate division supervisor or bureau commander.
- C. Once the form is received by the supervisor:
1. the original complaint form will be retained for investigation purposes,
  2. a photo copy of the complaint form with the supervisor's signature will be given to the complainant,
  3. a copy of the complaint, or some other written notification such as a memo or e-mail, will be forwarded through the chain of command and to the Sheriff,
  4. the Sheriff or his designee will log the complaint into the internal investigations register, assign a control number, and prepare a case file. (The names of complainants and members will be cross-indexed and filed.)
- D. The supervisor receiving the complaint should:
1. determine the kind of complaint and the member involved, AND
  2. initiate a preliminary investigation, OR
  3. refer the case to the member's supervisor, section commander or bureau

- commander to initiate the preliminary investigation,
  4. submit a preliminary investigation findings and documentation to the Sheriff through the chain of command,
  5. regarding Category II complaints, complete the investigation when reasonably possible,
  6. complete the investigation whenever reasonably possible in Category I (see 38.1.8) cases where the evidence is readily available and minimal investigation is required,
  7. continue any follow up investigation, as directed by the Sheriff, and
  8. submit the completed investigation to the Sheriff or as directed, for review by the Sheriff and the Internal Affairs Section, and for storage.
- E. Juvenile Complainants – A juvenile (any person under eighteen (18) years of age) making a complaint should be accompanied by a parent, guardian, or responsible adult.
  1. It is encouraged that an adult be involved if available. The intent is to ensure that a responsible person is aware that a complaint was made and accepted.
  2. If a responsible adult is unable to be contacted, the complaint will be taken and reviewed for further administrative evaluation.
- F. The Internal Affairs Section will investigate most Category I investigations as directed by the Sheriff, and will coordinate all internal investigations, ensuring the confidentiality of all files and related documents.
  1. Unless referred to the Internal Affairs Section as in 38.1.5,F,2, or as otherwise directed, it is the initiating supervisor's responsibility to investigate a Category II Complaint (see 38.1.8 for definitions).
  2. A Category II complaint investigation, however, may be referred to the Internal Affairs Section for investigation if it is:
    - a. of a sensitive nature,
    - b. of significant public concern,
    - c. a continuing problem or of a significant nature to warrant I.A. investigation.
  3. Category II complaints will still be forwarded immediately to the Sheriff or his designee for administrative processing (assignment of internal investigation register number).
  4. When conducting preliminary investigations of Category I or II complaints, supervisors should pursue all avenues of investigation available at the time to a final conclusion wherever possible. All such

investigations will be forwarded to the Sheriff and Internal Affairs to be reviewed and/or investigated further, if appropriate.

5. If investigating supervisors are not certain regarding the Category of an alleged violation, or on procedural processes involving internal investigations they may confer with Internal Affairs personnel at any time. In all cases the investigation should continue and follow protocols set forth in this chapter/section.
6. Completed investigation reports will be forwarded to the Sheriff for review and approval.

G. Categories of complaints

1. Category II Complaints (Minor Complaints/Service Complaints)- May be handled by a supervisor.
  - a. Category II complaints are those complaints of a minor or informal nature. If the supervisor determines that the complaint is actually based on a lack of information or understanding on the complainant's part, the complaint may be resolved without a formal investigation. Examples of Category II complaints may include but are not limited to:
    - i. A complaint regarding organizational procedures.
    - ii. Legal issues.
    - iii. Policy/procedural interpretations.
    - iv. Minor performance concerns normally addressed through verbal counseling and are not part of a pattern of behavior.
  - b. If the supervisor can satisfactorily work out the problem for all parties involved, he/she may handle the complaint as a Category II complaint.
2. Category I complaints (Major Complaints) - The following are examples, but not all inclusive, of Category I complaints handled by the internal investigations process:
  - a. Situations in which a member has been killed or injured by the willful or deliberate act of another person.
  - b. Situations in which a citizen has been injured or killed by a member, whether on duty or not, if under color of police authority or if there is suspicion of criminal intent or violation of statute by the member.

- c. Situations, on or off duty, involving the discharge of firearms by members in other than lawful sport activities or at an approved firing range when personal injury or property damage occurs.
- d. Allegations of false arrests, breach of civil rights(including but not limited to bias based profiling)or excessive force which may result in civil litigation against the member or the sheriff's office.
- e. Alleged or suspected breach of integrity or moral misconduct which affects or may affect the Sheriff's Office.
- f. Complaints alleging criminal conduct by a Sheriff's Office member.

H. Performance Complaints

- 1. Complaints involving general performance matters are normally addressed through standard grievance/disciplinary procedures outlined in Chapters 17 and 18 of this policy. Any supervisory actions taken will be noted in the member's personnel file maintained by the supervisor and/or the Sheriff's Administrative Assistant and Human Resources Department.
- 2. The Personnel Evaluation program also provides a system to document performance issues on an ongoing basis for each member and will be used by supervisors to track such matters. See Chapter 25, Personnel Evaluations.
- 3. Performance matters in general will not be investigated as an internal investigation but as part of daily supervisor administration of personnel. Such matters include but are not limited to:
  - a. Time/Tardiness Violations
  - b. Insubordination
  - c. Job performance/deficiencies
  - d. Work attitude
  - e. Appearance
  - f. Minor behavior problems
  - g. Procedural violations
- 4. Early Warning System: Refer to Chapter 25 regarding the Office "Early Warning" intervention system outlining the process of conducting a personnel conduct review when a member engages in or exhibits behavior or a pattern of behavior or minor misconduct that may have a negative impact on his/her job performance or may result in serious misconduct.
- 5. Inmate Grievance Process: The Corrections Division establishes an inmate

grievance process to address inmate concerns regarding conditions or treatment by officers. Such grievances will generally not be investigated through the Office Internal Investigation process unless the grievance involves a Category I violation or at the direction of the Sheriff. The Corrections Division will maintain a record of all grievances and will be subject to an audit of the process on a periodic basis.