



## **QUALITY CONTROL PROCEDURE**

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### **I. Purpose**

This procedure will:

- a. Set forth Departmental policy regarding the Quality Control Section
- b. Set forth Departmental procedures and guidelines involving all aspects of the Quality Control investigative process.

### **II. Departmental Policy**

It is the policy of the Cambridge Police Department to investigate all complaints against members of the Department, regardless of the source of such complaints, in an effort to ensure the public's support and cooperation with its police department. At the same time, the Department's obligation to its own members requires that all investigations and disciplinary proceedings be conducted in a fair manner, consistent with constitutional standards.

### **III. General Considerations and Guidelines**

#### **A. Complaint Investigations (52.1.1)**

1. Reporting of Complaints, Allegations, and Misconduct: All citizen's complaints pertaining to departmental policies or procedures or that allege officer misconduct will be documented and investigated by the department. Unit Commanders will resolve minor infractions of Departmental Orders or Rules. Any allegations involving the possible commission of a criminal offense, misconduct, neglect of duty, or other violations of Departmental Orders or Rules must be reported to the Quality Control Section through the respective commanding officer. If the Quality Control Section is open, the officer in charge of the Desk is to refer the complaint to the officer in charge of the Quality Control Section. In cases of alleged criminal conduct, when the Quality Control Section is closed, the officer in charge of Quality Control should be contacted at home. If the officer in charge of the Quality Control Section concludes that the alleged misconduct requires immediate Departmental response, he/she should arrange for a member of the Quality Control Section or an officer of rank to be dispatched immediately to interview the complainant or to the scene of the alleged offense. Where there is a citizen's complaint, the complainant should be given a complaint form and/or be provided with the assistance necessary to complete the form.

2. **After Hours:** When the Quality Control office is closed, all complaints will be referred to the on-duty Shift Commander.

The Shift Commander will ensure that the complainant is provided with a Citizen's Complaint Form and the necessary assistance to complete the Citizen Complaint Report (Form #P185). This form will be forwarded to the Quality Control office no later than 9:00 A.M. the following morning.

3. **Complaints will be accepted from any source, whether made in person, by mail, by e-mail, electronically or over the telephone.**

Individuals are encouraged to submit their complaints in person in order to obtain as complete a report as possible after the incident. In cases in which the complainant cannot file the report in person, departmental personnel may visit the individual at his or her home, place of business or hospital in order to complete the report. No complaint will be refused because the complainant does not wish to sign a complaint or identify him/herself.

Complaints will be accepted from anonymous sources, juveniles and persons under arrest in police custody, so long as the complaint contains sufficient factual information to warrant an investigation.

While encouraging the filing of legitimate complaints against officers so to be accountable to the public, the department simultaneously seeks to hold members of the public responsible for the filing of false and malicious allegations against police officers. Care will be taken not to subject Department employees to unjust, frivolous, or capricious complaints.

Complaints will be referred to the Quality Control Section where they will be recorded in a central log and assigned a specific case number.

An adequate supply of citizen complaint forms should be available at the front desk at all times.

When a complaint is made in person, the officer receiving the complaint will ensure that the complainant receives a copy of his or her complaint to serve as a written verification that the complaint has been received.

4. When the Department becomes aware of pending civil or criminal litigation against any police officer involving allegations of misconduct by the officer, which, if proven, would result in discipline under a just cause standard, a timely Staff Investigation will be initiated by the Quality Control Section. (52.1.3)

5. **Non-Complaints:** If an interview with the complainant provides adequate information that the complained of act(s) do not require additional investigation (i.e., guilt or innocence in traffic violation, officer followed department policy and procedure), a P-650 report will be completed. The

report will provide a synopsis of the complaint and the notation that the complainant was advised that there would be no further investigation. The completed report will be forwarded to Quality Control Section through the respective commanding officer.

6. Assignment of Investigations: When the Quality Control Section becomes aware of complaints or allegations against a Department member, the officer in charge may conduct an independent investigation or may refer the complaint to the appropriate command for investigation, to be reported back through channels. The commanding officer of the unit conducting the investigation will be responsible for insuring a complete and expeditious investigation. The commanding officer may authorize others to assist in the investigation.
7. Complaints Handled by Unit Commander or Designee: Complaints of harassment, improper demeanor and minor infractions will be forwarded from the Quality Control office to the accused officer's commanding officer who, in turn, will require the officer's supervisor to investigate the allegation of misconduct. The investigation will be completed and returned to Quality Control Section within thirty (30) calendar days. (52.1.4)

The supervisor will interview the complainant, all witnesses and the accused officers (in accordance with the procedures set forth in section b of this policy), as well as, review relevant reports, activity reports and communication forms. The supervisor will then submit a report in the format required by Section **B.10.4** (p.10) of this policy, through the chain of command, to the Quality Control Section summarizing the facts and forming conclusions.

If the complaint is substantiated, the deputy will recommend disciplinary action and forward the recommendation along with the report through the chain of command to the Quality Control Section.

The Quality Control office will handle complaints of a serious nature. A Quality Control investigator will conduct the investigation. (52.1.1)

## **B. Quality Control**

1. C.E.O., Direct Accessibility (52.1.2)

The Police Commissioner will designate an officer of no lesser rank than lieutenant as Commanding Officer of the Quality Control Section. The Commanding Officer of the Quality Control Section will report directly to the Police Commissioner. The Police Commissioner will assign other members to this section as deemed appropriate.

2. Formal Investigation

The responsibility for investigating formal complaints lies with the Quality Control Section.

All members of the Department are to fully cooperate with Quality Control investigators by truthfully answering all inquiries relating to an investigation; by agreeing to meet at reasonable hours; and by refraining from any obstruction of the Section's mission.

**3. Overall Responsibility (52.1.3)**

The Commanding Officer of the Quality Control Section is responsible for the investigation and the preparation of complaint reports. He/she will keep the Commissioner informed of any serious or significant complaint against any Departmental employee. The Quality Control Section will have the following responsibilities:

- a. Maintaining a complaint log
- b. Maintaining a central file for complaints in a secured location (52.1.10)
- c. Conducting regular audits of complaints to ascertain the need for changes in training or policy.
- d. Maintaining and reviewing records and files pertaining to the Early Intervention System, Use of Force, Firearms Discharge, Vehicle Pursuits, and Strip Search reports.
- e. Maintaining a current photo of every member of the Police Department.

**4. Responsibilities of the Investigating Officer**

The investigating officer is responsible and immediately accountable for the proper handling and thorough investigation of the complaint and for the preparation of the investigation report in accordance with the procedure set forth in this policy.

**5. Notification of Complained of Officer (52.1.6)**

The investigating officer is to see to it that the complained of officer has received a copy of the Citizen's Complaint form.

**6. Conducting the Investigation**

The Investigating officer will complete the investigation within 60 days whenever possible. (52.1.4) All Investigations are subject to the following requirements:

- a. The Quality Control Section is to submit its final report through the appropriate command within 60 days of its inception. If the investigation is not completed within 60 days, a preliminary report is to be made to the Police Commissioner describing the status of the investigation and reasons the 60-day deadline has not been met. In addition, the complainant will be notified and informed of the delay. Both the complainant and the subject officer are to be notified in writing when the investigation and report are finalized and reviewed by the Commissioner. (52.1.5)
- b. The complainant is to be contacted by the investigating officer within three working days of the Department's receipt of the citizen complaint and should be informed of the status of the investigation. (52.1.5)
- c. The complainant should be interviewed, preferably in person, to obtain his or her detailed account of the incident that gave rise to the complaint. The interview is to be recorded mechanically or by a qualified stenographer whenever possible.
- d. The complainant should be informed that he/she has the right to submit a list of all witnesses or other persons who support his/her account and that the investigating officer is to make best efforts to contact each of them and record their statements.
- e. The complained of officer is to be interviewed in person and is to be informed of his right to submit lists of witnesses and of other persons who support his account and evidentiary items in the same manner and with the same rights as provided for the complainant above. The complained of officer is to be given a receipt for any evidentiary items he submits.
- f. The interview of the complained of officer is to be carried out in strict compliance with the Investigation Interview Procedure set forth in Section **B.7** below.

## **7. Investigation Interview Procedures**

This section updates Section 7 of the OP&P-XXV to be in conformance with Appendix A of applicable collective bargaining agreements. In the event of any conflict between this section and any provision of the current or future collective bargaining agreements, such agreement shall prevail.

If a police officer is to be interviewed in connection with a Quality Control investigation, such interview shall be conducted in accordance with the interview procedure contained in the collective bargaining agreement between the officer's bargaining agent and the City. If any other employee of the Department is to be so interviewed, the interview will be conducted in accordance with the following procedure.

The procedures in this subsection are to be followed whenever a member of the Police Department is formally questioned as to his or others alleged misconduct whether the interview is pursuant to a citizen complaint investigation or to an inter-Departmental disciplinary investigation.

- a. The interview of a member of the Department is to be at a reasonable hour, preferably when the member of the Department is on duty, unless the exigencies of the investigation dictate otherwise. No member is to suffer loss of pay for the time spent at an interview.
- b. The interview is to take place at a location designated by the investigating officer. Usually it will be conducted in the Quality Control Section Office.
- c. The member of the Department will be informed of the rank, name and command of the officer in charge of the investigation, as well as the rank, name and command of the interviewing officer and all persons present during the interview. If a member of the Department is directed to leave his post and report for an interview to another command, his command is to be promptly notified of his whereabouts.
- d. The member of the Department is to be informed of the nature of the investigation before any interview commences, including the name of the complainant, if known. The address of the complainant and/or witnesses need not be disclosed; however, sufficient information to reasonably apprise the member of the allegations is to be provided. A copy of the complaint is to be furnished to said member(s).
- e. If the member is a subject of the complaint, he/she is to be provided with a Departmental "rights" form informing the member of his/her constitutional rights, if warranted. (52.1.6)
- f. The questioning is not to be overly long. Reasonable respites are to be allowed. Time is also to be provided for personal necessities, meals, telephone calls and rest periods as are reasonably necessary.
- g. The member of the Department is not to be subjected to any offensive language, nor is he to be threatened with transfer, dismissal or other disciplinary punishment. No promises or rewards are to be made as an inducement to answering questions.
- h. The complete questioning of a member of the Department is to be recorded mechanically or by a qualified stenographer. There are to be no "off-the-record" questions. All recesses called during the questioning are to be recorded.

- i. If a member of the Department is under arrest or is likely to be, that is, if he is a suspect or the target of a criminal investigation, he is to be given his rights pursuant to the Miranda decision.
- j. In all other cases, the law imposes no obligation, legal or otherwise, on the Department to provide an opportunity for a member of the Department to consult with counsel or anyone else when questioned by a superior officer about his employment or matters relevant to his continuing fitness for police service. Nevertheless, the Department is to afford an opportunity for a member of the Department, if he so requests, to consult with counsel before being questioned concerning a serious violation of the Department's rules, procedures and policies provided the interview is not unduly delayed. However, in such cases, the interview may not be postponed for the purpose of counsel past 10 A.M. of the day following the notification of interview. Counsel, if available, and a representative of a certified employee organization may be present during the interview of a member of the Department. Request for an opportunity to consult with counsel in connection with minor violations such as absence from post, etc., is to be denied unless sufficient reasons are advanced.
- k. In any case, the refusal by a member of the Department to answer pertinent questions may result in disciplinary action.
- l. In the event that any officer claims that there have been violations of any provisions of these Investigation Interview Procedures, such officer, either alone or together with his employee organization representative, may file a signed, written complaint with the Commissioner against the person committing the alleged violation. The Commissioner is to investigate such written complaint and is to hold a hearing on such complaint within 30 days of receipt. The complainant may be accompanied and/or represented at such hearing by his employee organization representative. Adequate notice of the time and place for hearing is to be furnished to all interested parties. No party or witness who participates in any such hearing is to suffer loss in leave or pay for time spent in any such hearing nor coercion nor reprisal on account of any such participation.
- m. The Commissioner is to render his final decision with respect to any such complaint within fifteen days after the conclusion of a hearing thereon; and such decision is to be in writing and is to state with particularity the consideration and reason in support thereof including a statement of the facts found. A copy of such decision is to be given forthwith to both the complainant and his employee organization representative.
- n. The Commissioner, in his or her discretion, may endeavor to eliminate any unlawful act or practice which constitutes a violation of these

Investigation Interview Procedures by informal methods or conference, conciliation and persuasion.

**8. Quality Control Procedure**

In conducting investigations of alleged employee misconduct, all appropriate investigative techniques and methods should be employed, consistent with legal requirements.

- a. A Quality Control administrative investigation should be conducted with the same degree of professional competence as is devoted to a criminal investigation.
- b. No police officer represented for purposes of collective bargaining shall be required to submit to any medical examination except as otherwise provided in the collective bargaining agreement between the City and officer's bargaining agent. No police officer represented for purposes of collective bargaining shall be required to submit to a laboratory examination except (1) as otherwise provided in collective bargaining agreement between the City and the officer's collective bargaining agent, or (2) where reasonable suspicion exists to support an allegation that such officer has engaged in misconduct, which, if proved would result in discipline under a just cause standard. Any such laboratory test required under sub-section (2) above must be: (a) limited to a non-invasive procedure, and (b) narrowly tailored to produce only the specific information directly related to the allegation. The Department will bear the expense of such examination or laboratory test. This sub-section shall not be deemed to supersede specific provision of applicable collective bargaining agreements. Non-invasive procedures shall be deemed to include forensic tests like fingerprints, paraffin, shoe, ballistics and clothing tests, but shall not include any DNA testing. (52.1.7)
- c. Police officers may be photographed for the records of the department at the department's expense, at the time of appointment, every five years thereafter, or at any other time deemed necessary by the Commissioner. No officer shall be required to stand in a lineup in connection with any Quality Control investigation. (52.1.7)
- d. A police officer's personal property, including his home, car, and other property, is protected from unreasonable search and seizure under the Massachusetts Constitution, and any evidence illegally obtained may not be used as evidence in an administrative proceeding. Department property furnished to the officer, such as desks, lockers, or vehicles, in which it is clearly understood in advance that an officer has "no expectation of privacy," may be searched without a warrant.
- e. No police officer shall be compelled to submit any financial documents or information as part of a Quality Control investigation



except where reasonable suspicion exists to support an allegation that such officer has engaged in misconduct, which, if proven, could result in discipline under a just cause standard. Any such request for documents or information must be narrowly tailored to produce only the specific information directly related to the allegation.

- f. No police officer shall be compelled to undergo a polygraph examination in connection with a Quality Control investigation except as otherwise expressly permitted by Massachusetts General Laws.

9. Supervisory Authority

- a. Supervisors bear a distinct responsibility for the proper conduct, discipline and duty performance of all personnel under his/her supervision. In addition, the supervisor is accountable for failure to take warranted disciplinary action.
- b. A supervisor's familiarity with his/her personnel allows him/her the best opportunity to observe and foresee disciplinary problems and to determine the most appropriate methods to deal with them.
- c. Supervisors must exercise discretion in any application of disciplinary action. For example, the use of counseling or oral reprimand by a supervisor may avert a potential disciplinary problem or prevent a minor problem from escalating.
- d. All superior officers have the authority to relieve from duty a subordinate officer whom they deem unfit for duty. Examples of this type of infraction include, but are not limited to, drinking on duty, reporting to work while intoxicated or influenced by any other substance, refusal to obey a direct order or criminal conduct. If any member is so relieved, the Police Commissioner or his designee shall be notified and advised of the circumstances surrounding such action prior to the member's next tour of duty. If a member is deemed unfit for duty, the superior officer will secure the member's firearm, radio, PR 24, badge, and two police identification cards. (52.1.8)
- e. The following is an outline by rank and command level of authority of superior officers to discipline their subordinates.
  - 1. *Sergeant* - has the authority to praise, counsel, evaluate and recommend for commendation. He/she also has the authority to give verbal reprimands, relieve from duty as specified above and recommend a formal written reprimand or more serious punitive disciplinary action, as appropriate.
  - 2. *Lieutenant and Captain* - have all the above, plus the authority to approve requests for written reprimands and recommend approval to the Section commander.

3. *Deputy* - has all the above plus authority to issue formal written recognition of exemplary individual performance.
  4. *Superintendent* - has above authority plus authority to make recommendations directly to the Police Commissioner.
  5. *Police Commissioner* - has all the above, plus the authority in accordance with applicable laws and Department of Personnel Administration Rules. This includes, but is not limited to, issuing suspensions for up to five days to any member who is in violation of Departmental Rules or Regulations. The Police Commissioner may make recommendations to the Appointing Authority for more discipline beyond a five-day suspension. (52.1.8)
- f. Any recommendation for disciplinary action must be supported by relevant documentation. Final approval of any recommendation will rest with the Police Commissioner.

**10. Report of Investigation**

- a. At the conclusion of any administrative investigation, a full report will be prepared for submission to the Commissioner, which shall include the following:
  1. The original complaint report;
  2. A summary of all evidence gathered;
  3. Any mitigating circumstances;
  4. Report Format: The following format will be used to ensure consistency and thoroughness in all investigative reports:

**a. Subject:**

This section should provide a narrative of the allegations made by the complainant.

**b. Background:**

This section provides any additional information that would be helpful in understanding some aspect of the case. Prior acts or ancillary facts or information that are not a part of the case, but nevertheless provide perspective or insight into the matter should be included here.

c. Violations Under Investigation:

This section should list a specific violation of rules, regulations, policy or procedure. Each allegation should be written as an alleged violation of a specific Cambridge Police Department rule, regulation, policy or procedure. The Rules, Regulations and Procedures are available on the S Drive.

d. Persons Interviewed:

List the names and addresses, telephone numbers and date of the interview of all persons interviewed for the investigation. All principals should be interviewed and, generally, all eyewitnesses should be asked to make a verbal statement. In-person interviews are generally necessary in order to elicit the information not provided in written reports; to answer questions that may be raised by written statements; and to clarify or expose inconsistencies found in written statements. If it is not possible or practical to interview someone (i.e., they live out of state) in person, a telephone interview should be conducted and so noted.

e. Persons Not Interviewed:

List all persons with knowledge who were not interviewed and provide a brief reason why. Such reasons may include the person's refusal or the inability to locate them, etc. If a subject fails to return phone calls, a certified letter must be sent. The Quality Control Section will forward your letter and maintain all receipts.

e. Summary:

1. Synopsis of Statements:

This section should give an abridged version of each party's version of events. It should be written in the third person, with an exception for quotes. Non-material details that do not have any evidentiary value should be excluded. Give the essence of the witnesses statement, including the who, what, when and where pertinent to the allegations. Speculations, opinions, or conclusory statements, including the opinion of the witnesses are to be avoided.

2. Conclusion:

The conclusion should summarize the event. The investigator, "paints a picture," of what happened, as determined by his investigation and analysis. This

description must be based on the statements of principals and witnesses and physical evidence. The conclusion should be based on the investigator's evaluation of all this information.

**f. Findings:**

In this section, the investigator assigns a finding or verdict to each of the allegations by conducting an evaluation of the complaint and definitive statement as to whether the charges made were:

1. Substantiated: supported by sufficient evidence.
2. Inconclusive: The investigation could not clearly and factually show that the complained of act occurred or did not occur.
3. Cleared: The allegations were baseless and without foundation or unjustified or unwarranted as the actions of the accused department employee were in compliance with law or in accordance with Department policy and procedure. (52.1.9)

Each violation under investigation should be listed separately, along with the finding for that particular charge. Immediately following each finding will be the Basis. The Basis gives the reasons for the particular finding and a description of the evidence that supports the finding.

**g. Upon receipt of the report of investigation, the Commissioner will take further action as is necessary based upon findings in the particular case.**

1. Each person who has filed a complaint against an employee will be notified by the Quality Control Section as to the final results of the investigation.
2. If a disciplinary hearing is deemed necessary, the complainant will be notified that his testimony may be required at that time.
3. The Department employee will be notified in writing of the findings of the investigation.

**11. Confidentiality of Quality Control Records**

In order to ensure that the individual rights of officers who are the subject of an Quality Control investigation are protected, all material relevant to

that investigation shall be kept strictly confidential and under lock and key by the officer in charge of Quality Control. No statement regarding a Quality Control investigation will be made or issued to the media unless the authorized by the Police Commissioner

**12. Liaison with District Attorney**

Any Quality Control investigation, which may, or does, result in criminal charges being brought against an officer will require the District Attorney's office to be appraised of the case for the purpose of advising on legal issues and ultimate prosecution, if necessary. Contact will be made through the officer in charge of Quality Control.

**13. Investigative Files**

A complete file of records on the investigation of all citizen and Quality Control complaints shall be kept in the office of the officer in charge of Quality Control. These files shall contain supporting investigative information, as well as notes taken during the investigation. The files will be treated as confidential investigative files. (51.1.10)

**14. Nothing in these Rules or Regulations shall be deemed to diminish any protections or rights that police officers have under a collective bargaining agreement, constitution or law.**

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POLICE COMMISSIONER