

SCHOOL RESOURCE OFFICER

POLICY & PROCEDURE NO. 4.10 MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 44.2.4	ISSUE DATE: 6/9/2017
	EFFECTIVE DATE: 6/9/2017 REVISION DATE:

44.2.4 SCHOOL RESOURCE PROGRAM

The purpose of this directive is to provide guidelines regarding the School Resource Officers (SRO) role and responsibilities.

The SRO program is designed to provide school administrators and staff with law enforcement resources and expertise in order to maintain safety and order in the school environment. The program is also intended to reduce juvenile delinquency and promote positive behavior from students, as well as provide delinquency prevention, mentoring and a positive role model to students

1. Policy:

It is the policy of the Hopkinton Police Department to maintain a School Resource Officer program that provides a law enforcement presence at Hopkinton Public Schools.

SROs shall serve as liaisons between the faculty and students of their respective schools and the Department.

An SRO's assigned school building, grounds and surroundings will be the equivalent of his/her patrol area. An on-duty SRO shall have primary responsibility for handling calls for service and coordinating the response of other police resources to his/her school.

Whenever a SRO is on-duty at a school, patrol officers and detectives who need to contact a student at that school should coordinate their activities with the SRO.

2. Duties:

A. The SRO's primary duties are to:

- a. Address crime and disorder problems, drug activity, gangs, violence and other activities that adversely affect the proper learning environment of their assigned schools.
- b. Assist in the investigation of crimes committed by any person(s) within their school and by juveniles within the Town.
- c. Work closely with the school department and other agencies needing assistance with students.
- d. Educate students on alcohol, drug and tobacco awareness, crime prevention and safety, conflict resolution and mediation, and the law enforcement profession.
- e. Offer information to Department members about school crime and delinquency problems.
- f. Provide security at school events.
- g. Provide on-site emergency response to safety threats or disasters.
- h. Monitor the school's social environment to identify emerging youth criminal activity and gangs.
- i. The S.R.O. will act as court prosecutor for all Juvenile court related matters.

The SRO will operate in cooperation with school staff, but shall not interfere in school matters. School authorities should handle infractions of school rules and policies. The SRO shall be available

for assistance and consultation regarding these matters, but school officials maintain responsibility for the enforcement of school rules and regulations.

The SRO is encouraged to attend school social and sporting events, school council, Youth Commission and PTO meetings, as resources allow.

3. Advisory Issues:

Within their role of advisor to the school, SROs may:

- a. Counsel or mentor students, and make appropriate referrals to community programs, social service agencies and in-school programs
- b. Act as a liaison to parents and parent groups, school staff and community leaders, and
- c. Communicate openly with students regarding rights, responsibilities, concerns and unacceptable behavior.

4. Response to Calls:

SROs are expected to respond to criminal activity and calls for service at their school when they are working, unless already engaged in a call. All calls for service shall be properly documented in the CAD system.

SROs will follow applicable Department directives when investigating a crime or responding to a call for service on school grounds.

Officers responding to calls for service or investigating criminal activity at a school will make every effort to inform the school principal of the incident as soon as possible.

5. Searches:

- A. Searches of students or their effects will follow Department guidelines.
- B. In cases of an "Administrative Search" by school officials, the SRO should not be involved unless specifically requested to do so by school officials to provide security, protection or proper handling of

evidence or contraband. Such searches shall be at the direction and control of school officials.

6. Custody Issues:

If an officer takes a student into custody on school grounds, he/she will:

- a. Follow all applicable Department policies for detainee custody and transportation
- b. Notify the school principal prior to the arrest whenever practical, or as soon as possible after the arrest is made, and
- c. Ensure that the student's parent or guardian is notified where the student is 17 years of age or younger.

7. Field Trips:

SROs may accompany school groups on appropriate field trips. The SRO will notify his/her supervisor prior to taking part in any trip outside of the Town.

8. Training:

Recognizing the specialized nature of their duties, the Department will send officers assigned to SRO positions to a SRO training program whenever possible.

SROs will attend all other required Department training.

9. Prohibited Conduct:

An SRO will not arrange or schedule a private off-campus meeting with a student unless the SRO's supervisor approves such activity.

10.0- ATTENTION TO DUTY

Officers are expected to be constantly alert and vigilant in the performance of their duties and to respond prudently but decisively when police action is required or expected. Every employee of the department who has occasion to handle any complaint, assistance call, arrest or other duty, shall attend to such duty with business-like dispatch and courtesy and without any unnecessary loss of time. Employees shall furnish information and render aid to all persons with due courtesy whenever such request is consistent with their duty. Employees shall not withhold information on criminal activity from the Department or other authorized personnel where there is a duty to disclose such information.

Every employee shall familiarize himself or herself with the geography of the community, including: routes of public transportation; the location of streets, highways, bridges, public buildings and places; hospitals; churches; courts; transportation offices and stations; prominent or important office buildings; large industrial plants or commercial establishments; and such information as may be disseminated by the department or a superior from time to time.

Employees shall furnish assistance to all persons making such request, consistent with their duties and assignments. They shall assist and cooperate with all law enforcement agencies, provide them any authorized information they are entitled to receive, and submit a report on all such action taken.

It shall be the duty of every officer to report to his or her Commanding Officer or the Chief of Police any information given to such officer in good faith by any citizen regarding matters that indicate the need

for police action. Officers, regardless of rank or assignment, shall act immediately: to protect life, liberty or property; to enforce all laws; to prevent or detect the commission of crimes; and to apprehend law violators.

RULE 10.1 - PROFESSIONAL IMAGE

Employees shall not act in a manner which is inconsistent with the image of a professional police department.

RULE 10.2 - DEVOTION TO DUTY

Employees, while on duty, shall devote their full time and attention to the service of the department and to the citizens of the community. They shall remain alert at all times while on duty. Recreational reading, watching television or movies, playing games, using computers for personal or recreational purposes, and/or any other similar type activities which would tend to detract from the proper performance of duty will not be permitted while on duty unless approved by the Chief of Police.

Officers shall not, while on duty, loiter in cafes, saloons, restaurants, theaters, service stations or other public places, except for the purpose of police business.

Employees shall not shop while on duty nor devote any of their on-duty time to any activity other than that which relates to police work and shall not perform any police duty in uniform for the purpose of private gain, unless properly authorized.

RULE 10.3 - REPORTING FOR DUTY

Employees shall report for duty promptly at the time and place required by their assignment or as otherwise directed by proper authority.

They shall be uniformed properly and suitably equipped, ready to assume their duties. While on duty they shall not absent themselves from duty without leave.

Employees shall notify, or cause to be notified, the department as soon as possible, but in any event at least four hours prior to their next tour of duty (unless the injury or illness presents itself less than four hours before the employee's next tour of duty) if unable to report for duty because of sickness or injury and subsequently await a return call from their supervisor or other command personnel at which time the injured or ill employee shall notify said supervisor of the nature of the illness or injury and as to how long he or she anticipates the illness or injury to continue.

RULE 10.4 - SLEEPING

Employees shall not sleep while on duty.

RULE 10.5 - SMOKING WHILE ON DUTY

Employees shall not conspicuously smoke or chew tobacco while on duty within public view.

Use of tobacco is prohibited in department vehicles. Employees who choose to smoke are to exercise extreme consideration to those who elect not to, regardless of the location, and are reminded that smoking is prohibited within public buildings.

NOTE: See Section 14 for the rule entitled "Use of Tobacco" which applies to officers appointed after January 1, 1988.

RULE 10.6 - AWARENESS OF ACTIVITIES

Employees shall acquaint themselves before or at the beginning of their tour of duty with all important matters affecting their duties that have occurred since their last tour. Upon returning to duty from any period of absence, employees shall inform themselves about all new orders, regulations, memoranda, and all other important matters governing their assignments. Officers shall familiarize themselves with all of the laws, statutes, by-laws/ordinances, and regulations necessary for the proficient execution of their duty as police officers.

RULE 10.7 - LEAVING THE COMMUNITY

Officers shall not leave the limits of the community and enter another city or town unless it is necessary in the performance of duty or consistent with past practice. An officer shall inform the Commanding Officer or the dispatcher prior to leaving and again upon returning. If an emergency prevents following this procedure, the officer must contact the Commanding Officer as soon as possible. In all such cases, a subsequent report will be submitted, in writing, for the attention of the Chief of Police, to include the circumstances, the reasons for leaving the community and the period of absence.

RULE 10.8 - DUTY STATUS

Officers shall be considered on duty or available for duty at all times (whether during assigned hours or while *off-duty*) for the preservation of the public peace and the protection of life and property, and shall be prepared to take all reasonable police action to accomplish this purpose.

Off duty employees may be called back to duty in the following circumstances:

When there is a non-emergency need for employees to work assignments other than their regularly scheduled tours of duty, the town will call back employees from the *Overtime List* in accordance with established procedure.

In public safety emergency, the Chief may order employees back to work.

In deciding whether or how to take police action, an off-duty officer may take into consideration the safety of members of his family or others in his company, his ability to function under the circumstances, and all other relevant factors.

All serious matters of public concern shall receive appropriate attention, consistent with an officer's physical and mental condition, even though an officer is not on duty at the time.

RULE 10.9 - DEPARTMENTAL COMMUNICATIONS

Employees shall transmit all official communications promptly, accurately and completely to other employees of the department as required, and shall immediately inform their Superior of any matter of importance coming to their attention during their tour of duty, or otherwise. They shall call to the attention of their relieving employee any information regarding unresolved problems or difficulties which may arise during the next tour of duty.

RULE 10.10 - COOPERATION WITH INVESTIGATIONS

At any investigatory interview at which an employee is requested to make a verbal, written or video statement or requested to give evidence of

any sort, the employee will be entitled to have a Union representative present. In any interview where the employee is being investigated for potentially criminal conduct, the employee shall have the right (and shall be informed of the right by the investigator) to refuse to make any statement or to give evidence that might tend to incriminate him, unless and until the employee has been granted transactional immunity by the District Attorney and all other relevant forums consistent with the provisions of *Baglioni v. Chief of Police of Salem*, 421 Mass. 229 (1995).

When the Department requests an employee to give evidence directly related to job responsibilities and the employee has been provided the opportunity to have a Union representative present, the employee will be required to give the evidence requested under either of the following conditions: 1) when an employee does not have a right to refuse to give evidence, 2) when an employee waives his right to refuse to give evidence, or 3) when an employee is granted transactional immunity against criminal prosecution in all relevant forums consistent with the provisions of *Baglioni v. Chief of Police of Salem*, 421 Mass. 229 (1995).

INTERNAL AFFAIRS

POLICY & PROCEDURE NO. 4.01 MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 52.1.1; 52.1.2; 52.1.3; 52.1.4; 52.2.1; 52.2.2; 52.2.3; 52.2.4; 52.2.5; 52.2.6; 52.2.7; 52.2.8	ISSUE DATE: 5/11/2011
	EFFECTIVE DATE: 5/11/2011
	REVISION DATE: 8/1/2021

I. GENERAL CONSIDERATIONS AND GUIDELINES

A relationship of trust between the employees of this police department and the citizens of the community is essential. As such, all police employees are expected to conduct themselves in such a manner as to reflect favorably upon themselves and the department.

To a large degree, the public image of this department is determined by how well it responds to allegations of misconduct against the department or its officers. To that end, the objectives of an Internal Affairs investigation are:

- Protection of the public;
- Protection of the employee;
- Protection of the department;
- Removal of unfit personnel; and
- Correction of procedural training problems.

All alleged or suspected violations of laws, ordinances, by-laws, department rules, regulations, policies, procedures, and orders (verbal or written) must be investigated according to the procedures outlined for each.

POLICY

It is the policy of this department to:

- A. Investigate all complaints, including anonymous complaints, against the department or a member of the department, regardless of the source of

such complaints, through a regulated, fair, and impartial Internal Affairs Program; [52.1.1]

- B. Determine whether or not such complaints are valid; and
- C. Take appropriate action.
- D. Allow the Division of Police Standards access to audit all records related to complaints, investigations, investigative reports and personnel records of HPD personnel.

PROCEDURES

E. Complaint Procedures

1. PUBLIC NOTICE [52.1.4]

- a. The procedure for filing a complaint against an employee or the agency is available to the public and is posted:
 - 1) On the department web site; and
 - 2) In the lobby of the police facility.
- b. Any employee asked by a member of the public about the procedure to file a complaint should be so advised by that employee.

2. COMPLAINT REPORT

- a. A standard complaint report form should be used to record all complaints of misconduct, mistreatment, or unethical practices against police department personnel, whether registered by a citizen, initiated from within the police department, or forwarded by another governmental agency.
- b. The following information shall be included on the complaint report:
 - 1) Date and time of complaint report;
 - 2) Name, address, and telephone number of the complainant;
 - 3) Name, address and telephone numbers of any witnesses to the reported incident;
 - 4) Name, rank, badge number (or description) of the employee against whom the complaint is made;
 - 5) Date, time and location of the reported incident;
 - 6) Complainant's description of the incident which resulted in the complaint;

- 7) Signature of complainant; if complainant refuses to sign, note such on the complaint;
- 8) Signature of parent or guardian if complainant is under eighteen years of age; if parent or guardian refuses to sign, note such on the complaint;
- 9) Name, rank and signature of supervisor receiving complaint report; and
- 10) A statement that the complainant will receive a response from the department within thirty (30) days regarding the status or conclusion of the investigation.

3. VERIFICATION OF RECEIPT **[52.2.4(A)]**

- A. Every person making a complaint against a department employee shall receive a copy of his/her complaint to serve as a receipt verifying that such complaint has been received and is being processed.
- B. When a complaint is made in person, the supervisor receiving the complaint will ensure that the complainant receives a copy of his/her complaint to serve as a written verification that the complaint has been received.
- C. When a complaint is received over the telephone or through the mail, the complaint will be forwarded to the Chief of Police, who shall be responsible for ensuring that the complainant is sent a copy of his/her complaint to serve as a written verification that the complaint has been received, provided that the complainant can be identified.

F. Receiving and Recording Complaints

1. GENERAL PROCEDURES

- a. This department shall maintain a record of all complaints against the agency or its employees. **[52.1.2]**
- b. The shift supervisor at the time the complaint is made shall be responsible for receiving and making a complete recording of any complaint of police employee misconduct made by a citizen in person or received by telephone.
- c. This initial contact between a complaining citizen and police authorities is a most important stage in the complaint process, as the complainant is often tense, angry, and emotionally upset, and the potential for hostility is great.

- d. Courtesy and cooperation should be extended to all citizens registering complaints or otherwise inquiring about complaint procedure.
- e. No person shall be denied an opportunity to register a complaint, nor shall any such person be directed to return or call back later.
- f. Every complaint report form shall be given an identifying number, so that the processing of complaints can be carefully monitored. This identifying number will be assigned by the Shift Supervisor.

2. IN-PERSON COMPLAINTS

- a. Citizens making complaints in person shall be requested to read over their completed reports, to make any necessary corrections or additions and to sign their complaints.
- b. If a complainant refuses to sign a complaint, a notation to that effect shall be made on the complaint form.

3. TELEPHONE COMPLAINTS

- a. Citizens making complaints by telephone shall be informed that their signed complaint is requested; however, no telephone complaint shall be refused or rejected because the complainant does not wish to sign a complaint form or because [s]he does not wish to be identified.
- b. The supervisor taking the complaint shall incorporate it in a complaint report.

4. COMPLAINTS RECEIVED BY MAIL/ELECTRONIC MAIL

- a. If a complaint of misconduct or mistreatment by a department employee is received by mail or e-mail, the allegations shall be incorporated in a complaint report and the original communication attached thereto.
- b. If the information so received is insufficient or incomplete, the complainant shall be contacted, if possible, and informed of the department complaint procedure and any necessary additional information obtained.

5. DEPARTMENTAL COMPLAINTS: Formal departmental complaints of misconduct against a department employee shall be initiated by the preparation of a standard complaint report form.
6. COMPLAINTS BY PRISONERS: Any prisoner who alleges misconduct or mistreatment by a department employee shall be advised by the shift supervisor of his/her right to submit a complaint report, and such complaints shall be investigated and processed in the same manner as other citizen complaints.
7. COMPLAINTS FROM GOVERNMENTAL AGENCIES: When information is received or obtained from other governmental agencies alleging specific acts of misconduct against a department employee, this information shall be recorded on a standard complaint report form and an investigation initiated in the usual manner.
8. STREET COMPLAINTS: If an officer on the street is approached by a citizen regarding a complaint of alleged misconduct against an employee of the police department, the officer shall inform such person that his/her complaint should be directed to the shift Supervisor
9. Immediate Action:
Employee Complaints: Complaints filed by employees regarding fellow employees conduct shall be directed to a supervisor or the head of Human Resources. No officer or employee shall be discharged from duty, have a change in their official rank, grade or compensation, be denied a promotion or have any other adverse action taken against them. This includes providing any information to the Commission of Police Standards or by testifying before said commission.
10. IMMEDIATE RESOLUTION
 - a. In some cases, the resolution of a complaint may be accomplished by the shift supervisor if the incident is clearly not of a serious nature, or arises from a misunderstanding or lack of knowledge of the law or of the limitation of a police officer's authority.
 - b. Under no circumstances, however, will a justifiable complaint be refused, delayed, or otherwise rejected in this manner.
 - c. The supervisor addressing the complaint shall report the facts of the incident and subsequent resolution to the Chief of Police in writing or by e-mail. The resolution may also be acknowledged in writing by the complainant.
11. REFERRAL TO INTERNAL AFFAIRS SUPERVISOR: If the substance of the employee misconduct warrants it, the officer-in-charge may

immediately notify the Chief of Police, who will determine if an investigation should be immediately undertaken.

12. NOTIFICATION OF CHIEF: If the substance of a complaint against the agency or its employees, if proven, would be of grave nature or is an accusation of a serious crime, the Chief shall be notified forthwith. **[52.2.2]** The OIC shall contact the Chief immediately with a verbal report and follow-up with a written report.
13. RELIEF OF EMPLOYEE FROM DUTY **[52.2.7]**
 - a. A supervisor may place an employee (sworn and non-sworn) on immediate administrative leave for the remainder of his/her shift, pending notification of the Internal Affairs section or the Chief of Police. Such action may be taken when a complaint is of a serious nature and, in the opinion of the supervisor, may be credible, or when the supervisor believes that such action is in the best interest of the department, such as:
 - 1) Insubordination;
 - 2) Fitness for duty; or
 - 3) Commission of a crime.
 - b. The employee shall only be relieved from duty otherwise at the direction of the Chief of Police, in accordance with statutory and collective bargaining provisions.

G. Investigation of Complaints

1. OFFICER-IN-CHARGE OF INTERNAL AFFAIRS INVESTIGATIONS
 - a. A superior officer shall be assigned by the Chief of Police as the officer-in-charge of Internal Affairs investigations and shall be responsible for supervising Internal Affairs investigations.
 - b. The position responsible for the internal affairs function has the authority to report directly to the Chief of Police. **[52.1.3]**
2. CATEGORIES OF COMPLAINTS
 - a. Complaints Investigated by Supervisor
 - 1) Criteria for the assignment of an investigation to a shift supervisor or officer-in-charge of the station may include, but are not limited to: **[52.2.1(a)]**
 - a) Alleged rudeness;
 - b) Tardiness; and
 - c) Minor cases of insubordination.

- 2) Reports of investigations performed by shift supervisors shall be forwarded and reviewed by the Chief of Police.
- b. Complaints subject to an Internal Affairs Investigation: The criteria for determining the categories of complaints to be investigated by Internal Affairs include, but are not limited to, allegations of:
[52.2.1.(b)]
 - a) Corruption;
 - b) Brutality;
 - c) Use of excessive force;
 - d) Violation of civil rights;
 - e) Criminal misconduct; and
 - f) Any other matter as directed by the Chief.

H. INTERNAL AFFAIRS INVESTIGATIONS

1. NOTIFICATION OF EMPLOYEE [52.2.5]

- a. The affected employee shall be provided a written statement of the allegations against him/her (Notification of Charges/Allegations Form), unless the Chief determines that disclosure might jeopardize an investigation.
- b. In accordance with the Police Reform Bill, access to all complaints, investigations, investigative reports and personnel records will be allowed to the Division of Police Standards.
- c. When an employee is notified that [s]he has become the subject of an internal affairs investigation, the Chief of Police shall issue the employee:
 - 1) A written statement of the allegations; and
 - 2) The employee's rights and responsibilities relative to the investigation.
- d. If the employee was not notified by order of the Chief, [s]he must receive written notification prior to any interrogation, being directed to submit a report regarding the complaint, or an administrative or criminal hearing.
- e. The written statement of the allegations to the employee will include the employee's being advised of his/her rights and responsibilities relative to the investigation.

2. STATUS REPORTS

- a. The officer-in-charge of Internal Affairs investigations shall be responsible for providing the Chief of Police with status reports on

the progress of the investigation every seven (7) days. These reports shall contain all pertinent information relating to the progress of the investigation.

- b. In all cases of reporting, except anonymous reports, the complaining party shall periodically receive information regarding the status of the investigation. Notification should be made:
[52.2.4(b)]
 - 1) Upon an investigator's being assigned or change of investigator;
 - 2) Every thirty days if extended; and
 - 3) Upon completion of the investigation. See Duties of Chief in this policy.
3. **TIME LIMITS OF INVESTIGATION [52.2.3]:** Any Internal Affairs investigation must be commenced immediately upon receipt of the complaint and must be completed within thirty (30) days.
- a. If extenuating circumstances preclude completion within thirty (30) days, the Internal Affairs investigator shall request an extension from the Chief of Police in writing, and provide written notification to the employee (if previously notified of the complaint and investigation) and complainant of the delay.
 - b. If the investigation is not completed within thirty days, the investigator shall provide the complainant with a progress report every thirty days until the completion of the investigation.
 - c. All Internal Affairs investigations into misconduct, shall not take longer than (1) one year to be completed.
4. **OFF-DUTY CONDUCT:** An internal administrative investigation may inquire into a department employee's on-duty or off-duty conduct if such inquiry is reasonably and directly related to the employee's performance of duty, if such conduct affects the employee's fitness or ability to continue in the police service, or reflects discredit on the department.
5. **CRIMINAL WRONGDOING**
- a. If it is determined, generally after a preliminary investigation, that allegations against a department employee could result in a criminal prosecution, the accused employee must be granted all applicable constitutional and statutory rights.
 - b. Prior to being questioned regarding alleged personal involvement in criminal activity, a department employee shall be given the Miranda warnings, including the right to have an attorney present during any such questioning, prior to custodial interrogation.

- c. After Miranda warnings have been given, any voluntary statement made thereafter could be admissible in a criminal proceeding, and it may otherwise be used for departmental disciplinary purposes.
- d. A department employee who is being questioned about alleged personal involvement in criminal activity which could result in a criminal prosecution cannot be discharged or otherwise penalized, solely for invoking the right to remain silent as guaranteed by the Fifth Amendment or for refusing to sign a waiver of immunity.¹
- e. An employee may be compelled to answer questions narrowly drawn and related to his/her on- or off-duty conduct, and may be disciplined (including discharge) for failure to answer truthfully.

6. DEPARTMENTAL DISCIPLINARY ACTION

- a. If it is determined as a result of a preliminary investigation that allegations made against a department employee could result in departmental disciplinary action, the accused employee is entitled to a fair and objective investigation and resolution of the charges made.
- b. Employees Compelled to Answer Questions
 - 1) All department employees, when requested by the Chief, or by a superior officer designated by the Chief, must respond fully and truthfully to all questions regarding their performance of official duties or their off-duty misconduct which affects their fitness or ability to remain in the police service.
 - 2) Any failure to answer completely and truthfully to such inquiries may be punished by appropriate disciplinary action, including dismissal from the department.²
 - 3) The official conducting the interrogation must, at the time of the interrogation, specify if the employee or his/her counsel or representative asks, the precise repercussions (i.e., suspension, discharge, or the exact form of discipline) that will result if the officer fails to respond.³
 - 4) When a department employee, after declining to do so voluntarily, is ordered to submit a report or to answer questions under a threat of the penalty of discipline, that employee must

¹ *Uniformed Sanitationmen's Ass'n, Inc. v. Comm. of Sanitation of New York*, 392 U.S. 280, 88 S.Ct. 1917(1969); *Gardner v. Broderick*, 392 U.S. 273, 88 S.Ct. 1913 (1968).

² *Carney v. Springfield*, 403 Mass. 604, 532 N.E.2d 631 (1988).

³ *Carney v. Springfield*, 403 Mass. 604, 532 N.E.2d 631 (1988).

receive transactional immunity from criminal prosecution for any offenses to which the compelled testimony relates.

- a) The Supreme Judicial Court has held that Article 12 of the Massachusetts Declaration of Rights requires "transactional" immunity to supplant the privilege against self-incrimination when a public employee is being compelled to answer questions concerning possible criminal activities connected with his employment. Transactional immunity grants "immunity from prosecution for offenses to which compelled testimony relates."⁴
- b) If the questions specifically, directly, and narrowly relate to the employee's performance of official duties or his/her off-duty conduct which affects his/her fitness or ability to remain in the police service, and if such employee is informed that [s]he will receive transactional immunity from criminal prosecution, [s]he must answer or face disciplinary action, including dismissal from the department, for refusing to answer such questions.
- c) The Chief shall secure a written grant of transactional immunity from the Attorney General's Office. An employee may decline to answer questions in a criminal investigation until such documentation is received.

7. UNION REPRESENTATION

- a. In conducting internal administrative investigations, in the absence of a requirement in a collective bargaining agreement, there is no legal obligation for the police department to provide department employees with an opportunity to consult with an attorney before being questioned on work-related matters,⁵ however, a request for an attorney or an employee representative to be present will be granted if the investigation is not thereby unduly delayed.
- b. Except in unusual situations, any interview or questioning should take place during the employee's regular duty hours.
- c. Any interview or questioning should not be prolonged without reasonable rest periods and the opportunity for meals and such other personal necessities as are reasonably required.

⁴ *Carney v. Springfield*, 403 Mass. 604, 532 N.E.2d 631 (1988).

⁵ *NLRB v. Weingarten*, 420 U.S. 251, 95 S.Ct. 959 (1975).

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- d. A department employee shall not be improperly harassed or threatened during this period of questioning.
8. **DOUBLE JEOPARDY:** No double jeopardy exists when a department employee is found not guilty in court of criminal charges and is then found guilty of departmental charges after a disciplinary hearing, as the department charges are administrative in nature and can be sustained by a "preponderance of the evidence" rather than the criminal court standard of "beyond a reasonable doubt."
 9. **INVESTIGATIVE TECHNIQUES**
 - a. **Generally**
 - 1) In conducting investigations of alleged employee misconduct, all appropriate investigative techniques and methods should be employed, consistent with legal requirements and all necessary concern for the individual rights of the accused employee.
 - 2) An internal administrative investigation should be conducted with the same degree of professional competence as is devoted to a criminal investigation.
 - b. **Medical or Laboratory Examinations [52.2.6a]**
 - 1) Upon orders of the Chief of Police or his/her designee, an 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.
 - 2) **Drug or Alcohol Testing:** Police employees may be compelled to submit to alcohol testing in connection with an administrative investigation based upon reasonable suspicion.⁶
 - c. **Identification**
 - 1) A police department employee may be required to be photographed. **[52.2.6(b)]**
 - 2) A police department employee may be compelled to stand in a lineup for identification in connection with an administrative investigation. Such a lineup should be fairly constructed and not be unfairly suggestive and should not be used for an administrative investigation where criminal charges are contemplated. **[52.2.6(c)]**

⁶ *Johnson v. Dept. of Police*, 615 So.2d 1064 (La. App. 1993)

- 3) A refusal can be the basis for an additional disciplinary charge of refusal to obey a lawful order.
- d. Searches
 - 1) A police officer's personal property, including his/her 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.⁷
 - 2) 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. Financial Disclosure; A police officer 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.⁸ **[52.2.6(d)]**
 - f. Polygraph: Under the provisions of G.L. c. 149, s.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.⁹ **[52.2.6(e)]**
 - g. Recording Interviews: If possible, the complete interview with an employee in all internal administrative investigations should be recorded mechanically or by a qualified stenographer.

I. Withdrawn Complaints

1. If during the progress of an internal investigation, the complainant indicates a desire to withdraw the complaint, every effort should be made to ensure that this decision is made voluntarily, and a signed statement to this effect should be obtained from the complainant.
2. Even though a complaint is withdrawn, a full report of the investigation to date should be prepared for the Chief, and his/her approval obtained for the termination or continuation of the investigation.

⁷ *Board of Selectmen of Framingham v. Municipal Ct. of City of Boston*, 373 Mass. 783, 369 N.E.2d 1145 (1977).

⁸ *O'Brien v. Mun. Court*, 10 Mass. App. Ct. 851, 407 N.E.2d 1297 (1980).

⁹ M.G.L. c. 149, §19B.

3. Any attempt, directly or indirectly, on the part of a department employee to obstruct any internal investigation or to threaten or persuade any complainant to withdraw or abandon his/her complaint is prohibited and will be treated most severely.

J. Report of Investigation

1. REPORT: At the conclusion of any administrative investigation, a full written report shall be prepared for submission to the Chief, which shall include the following:
 - a. The original complaint report;
 - b. Any additional statements taken from the complainant or statements obtained from witnesses;
 - c. Any statements made or reports submitted by the department employee under investigation;
 - d. A summary of all evidence gathered;
 - e. Any mitigating circumstances; and
 - f. An evaluation of the complaint, a conclusion of facts, and a definitive statement as to whether the charges made by the complainant were: **[52.2.8]**
 - 1) SUSTAINED: The complaint was valid and supported by sufficient evidence;
 - 2) NOT SUSTAINED: There was inadequate or insufficient evidence to either prove or disprove the complaint;
 - 3) UNFOUNDED: The allegations were baseless and without foundation; or
 - 4) EXONERATED: The complaint was unjustified or unwarranted, as the actions of the accused department employee were in compliance with law or in accordance with department policy and procedure.
2. DUTIES OF CHIEF
 - a. Upon receipt of the report of an investigation, the Chief should take further action as is necessary based upon findings in the particular case.
 - b. The subject of the investigation shall be promptly notified of the final results of the investigation. If the department employee is cleared of the charges made, [s]he shall be officially exonerated in writing.

- c. The complainant shall be notified promptly as to the final results of the investigation, personally if possible, or otherwise by mail.
[52.2.4(c)]
 - d. If a disciplinary hearing is deemed necessary, the complainant shall be notified that his/her testimony will be required at that time.
3. CONFIDENTIALITY OF INTERNAL AFFAIRS
 - a. In order to ensure that the individual rights of officers who are the subject of an Internal Affairs investigation are protected, all materials relevant to that investigation shall be kept strictly confidential and secured by the Deputy Chief of Police **[52.1.2]**
 - b. Internal Affairs investigators should note in their reports any instances where witnesses refused or were reluctant to speak with them unless they were assured that their statements would be kept confidential, at least to the extent legally allowed.
 - c. No statement regarding an Internal Affairs investigation will be made or issued to the public or media unless the charges have been sustained and action has been taken or initiated against the officer or employee.
4. INVESTIGATION SUMMARY: A copy of the completed investigation summary should be kept in a summary file as directed by the Chief of Police and will be the only source of public information about citizen complaints, other than the statistical log which may be prepared and published annually by the Chief of Police.
5. Non-Disclosure Agreement: This department shall not include a non-disclosure, non-disparagement, or other similar clause in a settlement agreement between the agency and a complainant in order to settle a complaint of professional misconduct by an officer unless the complainant requests such provision in writing.

K. Liaison with District Attorney

1. Any Internal Affairs investigation which may, or does, result in criminal charges being brought against an officer shall require the District Attorney's or Attorney General's office to be apprised of the case for the purpose of advising on legal issues and ultimate prosecution, if necessary.
2. Contact shall be made through the officer-in-charge of Internal Affairs.



TOWN OF HOPKINTON

POLICE DEPARTMENT
74 MAIN STREET
HOPKINTON, MA 01748
(508) 497-3401

Joseph E. Bennett III
Chief of Police

Hopkinton Police Department

General Order 2018-0004
Subject: Mandatory Notifications

Effective Date: April 7, 2020

This new Policy remains in full force and effect until amended, superceded or rescinded by the Chief of Police

11.4.5 MANDATORY NOTIFICATION

The Chief of Police and the Deputy Chief, through the chain of command, shall be notified immediately in the event of any situation or incidents where there may be a question as to this agency's liability or which may result in heightened community interest. Notification shall be made by the shift supervisor, Detective Sergeant or OIC. The Chief or Deputy Chief shall be reachable 24/7. There is no reason that one or the other can not be reached in the event of situations described above or specifically listed.

Chief Bennett: Home: 508-839-1365 Cell: 508-259-5022

Deputy Chief Porter: Home: 774-573-4953 Cell: 508-630-5072

When notification is made the dispatcher shall make an entry in the daily log who was notified and at what time.

- A. In the event that any of the following identified incidents occur the Chief of Police and the Deputy Chief shall be immediately notified.

- Any incident of Homicide or questionable death;
- Any suicide;
- Traffic Fatalities or anticipated fatalities;
- Any aggravated assault where hospitalization has occurred;
- Any incident where a shooting has occurred;
- Any Rape;
- Any Armed Robbery;
- Any unarmed robbery where injury occurred;
- Kidnapping;
- Any incident or department vehicle crash with injuries;
- Serious dwelling or building fire where the property is engulfed;
- All explosive devices found, identified or detonated;
- Any incident where any family member of an employee has been seriously injured or where death may have occurred or is imminent;
- Any incident of Mass arrest;
- Any incident involving the arrest of any public figure and/or town official;
- The escape of any prisoner
- Any hostage and barricaded persons incident.

B. Immediate notification is not required in the following incidents and should be followed up with an E-mail:

- Minor cruiser accidents with no injury
- Unattended deaths where there is no concern for foul play and the ME and State Police waived jurisdiction or do not respond
- Attempted Suicide

C. The notifications listed above are required and shall be made by someone with the specific knowledge of the incident. It is preferred that this person be present on scene and should be able to answer questions formed by the Chief of Police or Deputy as needed.

D. Supervisors and OIC's should never feel unsure as to whether or not to call the Chief or Deputy. Supervisors and OIC's should feel comfortable calling either the Chief or Deputy, regardless as to the time of the day. Err on the side of caution if in doubt as to whether or not to make a notification regardless as to whether or not the situation is listed as mandatory.