



# GENERAL ORDER

## WINNEBAGO COUNTY SHERIFF'S OFFICE

**SUBJECT: CITIZEN COMPLAINTS**  
**SCOPE:** All Agency Members  
**DISTRIBUTION:** General Orders Manual

**NUMBER:** 4.03  
**ISSUED:** 12/01/2014  
**EFFECTIVE:** 12/01/2014  
**REVIEWED:** 04/08/2020

**SHERIFF'S APPROVAL:** John Matz 11/14/2014

**LEGAL REVIEW:** John Bodnar 11/20/2014

### REFERENCES:

**RESCINDS:** N/A  
**AMENDS:** N/A  
**WILEAG 5<sup>TH</sup> EDITION:** 1.9.1, 1.9.2, 1.9.3, 1.9.4, 1.9.5, 1.9.6  
**STATUTES AND OTHER REFERENCES:** WI State Statutes: 19.34, 59.26, 66.0511(3), 946.66, Chapter 164

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**INDEX AS:** Administration and Operations of Internal Affairs  
Citizen Complaints  
Complaints against Law Enforcement  
Disciplinary System  
Internal Investigations  
Professional Standards  
Professional Standards Administration and Operations

**PURPOSE:** The purpose of this General Order is to promote the integrity of the Winnebago County Sheriff's Office by establishing procedures that will assure the prompt and thorough investigation of alleged or suspected member infractions. Such procedures will document circumstances on the date of the initial report, exonerate the innocent, establish responsibility and accountability, and facilitate prompt and just disciplinary action if appropriate.

This General Order consists of the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. RECEIPT OF CITIZEN COMPLAINT
- IV. RECEIPT OF INTERNALLY GENERATED COMPLAINT
- V. COMPLAINT INVESTIGATION
- VI. INVESTIGATIVE/INTERVIEW PROCEDURES
- VII. COMPLAINT DISPOSITION
- VIII. REPORT ROUTING AND RETENTION
- IX. INTERNAL AFFAIRS COORDINATION AND CONTROL

I. POLICY

- A. The purpose of this policy is to communicate the proper procedures to follow regarding personnel complaints and investigations. It is important to note the differences between a personnel investigation, which is an administrative process, and a criminal investigation.

It is the policy of the Sheriff's Office that all incidents of alleged or suspected violations of law, ordinances, or departmental rules, regulations or orders must be investigated and documented in writing. The incidents include those reported by Members of the Agency or Citizens (including prisoners), either orally or in writing, in person, by telephone, by correspondence; either signed or anonymous.

- B. The Agency encourages citizens to bring forward any legitimate concerns regarding infractions by members. It also recognizes that false accusations are occasionally made against the Agency or its members. Nevertheless, all accusations must be investigated to protect the integrity to the Agency and its members and to instill public confidence in the Agency. In some cases, the extent of the investigation may be limited to substantiating the falsity of the accusation.

NOTE: Confidential Informants are protected by Section 19.35(2b), Wis. Statute – Monfils Law.

II. DEFINITIONS

- A. "Criminal Investigation" means the process of investigation into alleged acts of misconduct that, if sustained, may be the basis for filing criminal charges.

- B. “Informal Inquiry” means a meeting between supervisory personnel and a member who has become the subject of a procedural or misconduct complaint for the purpose of vetting the complaint or discussing the facts to determine whether a formal investigation should be initiated.
- C. “Internal Investigation” means the process of investigation into alleged acts of misconduct that, if sustained, may be the basis for filing administrative charges.
- D. “Major Misconduct Complaint” means a complaint based on allegations of a violation of rules, policies, and procedures, which discredits the Agency, threatens the Agency’s integrity, adversely affects the Agency’s efficiency, or adversely affects the member’s ability to perform their assignment. Examples of major misconduct violations include, but are not limited to, ethics violations, misuse of force, breach of civil rights, criminal conduct, repeated acts of minor or serious misconduct, or other conduct that adversely impacts the effectiveness and efficiency of the Agency. A determinant of major misconduct is that the alleged infraction, if sustained, could result in disciplinary action up to and including suspension, dismissal, or criminal charges.
- E. “Minor Misconduct Complaint” means a complaint based on allegations of a minor violation of rules, policies, and procedures, which will not discredit the Agency or member. Examples of minor misconduct violations may include rudeness, use of profanity, punctuality, and other minor rule and regulation violations, etc. Another determinant of minor misconduct is that the alleged action, if sustained, could result in disciplinary action ranging from an oral reprimand/counseling session to a written reprimand.
- F. “Procedural Complaint” means a complaint based on actions that, if performed properly, are acceptable according to legal guidelines and Agency policy; e.g., complaints over towing vehicles, parking, traffic enforcement, etc.
- G. “Serious Misconduct Infraction Complaint” means complaint based on allegations of a serious violation rules, policies, and procedures, which might discredit the Agency or one of its members. A record of minor misconduct violations may be handled at this level also. Examples of serious misconduct may include verbal abuse, sick time abuse, insubordination, failure to follow policies and procedures, and other repeated rule and regulation violations, etc. Another determinant of serious misconduct is that the alleged action, if sustained, could result in disciplinary action ranging from a written reprimand up to and including demotion, suspension or dismissal.

### III. RECEIPT OF CITIZEN COMPLAINT

- A. Citizens who wish to express dissatisfaction due to the acts or omissions of one or more members, or due to Agency policies and procedures, will be immediately be referred to a supervisor (generally the Shift Commander). Members shall in no way attempt to deter a citizen from making a complaint.
- B. The supervisor receiving the complaint will triage those Procedural Complaints in which it is clear that the member’s actions or job performance complied with Agency standards. The supervisor will subsequently inform the appropriate Division Head of the complaint and action taken.

- C. Supervisors will provide a Citizen Complaint Form (see pages 10 and 11) for any complaint of misconduct against the Agency or its members. For a reporting party that declines to complete the supplied form, the supervisor will document the complaint in writing and forward it to the appropriate Division Head.
- D. The Division Head will use the written report to determine further action regarding the complaint. In situations where the complaint can be immediately resolved through an informal inquiry, the report will serve as the only record of the complaint.
- E. The written report should include the following:
  - 1. Name and contact information of the person making the complaint if known.
  - 2. Name of the member(s) involved, if known, or action, policy or procedure in question.
  - 3. Date, time, and location of the incident and when the incident is being reported.
  - 4. Specific details of the complaint; including any related incident numbers.
  - 5. Supervisor's actions taken, if any, upon receiving the complaint.
  - 6. Receiving supervisor's recommendations on subsequent actions.
- F. Jail Inmates – To raise significant issues regarding violations of civil rights or member actions, jail inmates should follow the guidelines of the internal grievance process, Policy C 620 Inmate Grievances. However, the member receiving the internal grievance has the responsibility to review and determine whether the issue is serious enough to demand immediate investigation and action.

#### IV. RECEIPT OF INTERNALLY GENERATED COMPLAINT

- A. Whenever a member reports alleged misconduct by another member to a supervisor, that supervisor will document the allegation in writing and notify the Division Head.
- B. The Division Head will notify the Chief Deputy of the complaint.
- C. The internally generated complaint will be treated as confidential and the contents disclosed only as necessary for investigation.

#### V. COMPLAINT INVESTIGATION

- A. All misconduct complaints against the Agency or its members, including those received anonymously, will be courteously received, acknowledged, and thoroughly investigated.
- B. The Division Head will determine whether the complaint is based on procedure, minor, serious, or major misconduct, and whether the complaint would best be resolved through an informal inquiry, internal investigation, or criminal investigation. Each assigned investigation will be tracked through the use of an internal investigation number.
- C. Procedural and minor misconduct complaints will generally be handled through the Division Head.

1. These complaints may be addressed through either informal inquiry or internal investigation. The internal investigation option will be pursued if it appears that the allegations, if sustained, could result in discipline greater than a letter of reprimand.
  2. Upon completion of the investigation, the Division Head will forward a copy of the report with disposition recommendation to the Chief Deputy.
- D. Serious or major misconduct complaints require notification of the Chief Deputy and Sheriff as soon as practical. Upon reviewing the complaint, the Chief Deputy will assign the investigation to a member of Administration.
- E. Internal investigations will be completed in a timely manner and as soon as practical from the receipt of the complaint. The reporting party will be periodically informed about the status of the complaint, to include progress updates on the investigation, and final disposition upon completion.
- F. Upon conclusion of an investigation, the investigator will make a disposition recommendation to the Chief Deputy.

## VI. INVESTIGATIVE/INTERVIEW PROCEDURES

### A. Informing the Member Procedures

1. If a member is under investigation for an alleged violation of Agency rules, procedures, or position responsibilities and is subject to an interview for any reason, which could lead to disciplinary action, demotion, or discharge from the Agency, such interview will comply with the following requirements.
2. The member under investigation will be informed of the nature of the investigation prior to any interview by including a brief synopsis of the allegation(s) on the Informing the Member Report.
3. The investigator will complete by reading both the Internal Investigation Informing the Member Report and the Internal Investigation Warning (see pages 8 and 9) verbatim. An accused member may have a representative present during the interview, pursuant to Wisconsin State Statute 164.02. Copies of both completed forms will be provided to the member.
4. The investigator will inform the accused member that the matter is a personnel investigation and not a criminal investigation.
5. The investigator will request that the member sign the report. If the member refuses to sign the report, the investigator will place the word “refused” on the signature line. A refusal to sign the report does not exempt the member from attending the scheduled interview, from answering questions, or from being truthful during the interview.
6. The original, signed reports will become part of the investigative file.

## B. Interview Procedures

1. All member interviews for a serious or major misconduct complaint should be recorded using a digital video recorder provided by the Agency. Any deviation from this requires approval from the Chief Deputy. Non-Agency individuals should be video recorded during their interview if they will allow it.
2. The investigator will inform the accused member that the statement is being recorded and the digital video recorder will be in plain view.
3. Only the Agency will electronically record the interview.
4. If during the course of the personnel interview, the investigator discovers conduct that may result in criminal charges, the interview will be stopped and the Chief Deputy will be immediately consulted.

## C. Transfer of Digital Video from Recorder to DVD Disc

1. At the conclusion of an interview, the video recording will be transferred from the digital video recorder to a DVD disc.
2. After the data transfer, the interview will be deleted from the recorder.
3. The investigative file copy of the DVD disc will be labeled by using permanent marker to include the following information:
  - i. Internal Investigation complaint number
  - ii. Date and time of interview
  - iii. Title and name of the member interviewed
  - iv. Title and name of the interviewing supervisor

## D. Investigator's Report

Upon conclusion of the investigation, the investigator will prepare a written report which includes:

1. A detailed and sequential/chronological narrative that documents the investigation.
2. An overall summary of the investigation into misconduct.
3. Disposition finding of the misconduct allegation(s).
  - i. "Exonerated" which means the alleged incident did occur, but the actions of the member were justified, legal and proper.
  - ii. "Sustained" which mean the investigation disclosed sufficient evident to prove the allegation and the actions of the member violated provision of rule, regulation or Agency's procedures.

- iii. “Not Sustained” which means the investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.
  - iv. “Unfounded” which means the alleged incident did not occur.
  - v. “No Finding” which means circumstances dictate a disposition of “No Finding.” These can include a complainant who is no longer available or not cooperating with the investigation, a complaint received on a person who is not a member of the Agency, or a minor complaint informally resolved to the satisfaction of the complainant.
4. A combination of dispositions may be used when multiple allegations exist within the same complaint.

## VII. COMPLAINT DISPOSITION

- A. The Chief Deputy, Division Head, or designee will notify the complainant of the investigation findings.
- B. The Chief Deputy, Division Head, or designee will notify the member of the investigation findings.

## VIII. REPORT ROUTING AND RETENTION

- A. Personnel investigation files are strictly confidential. No copies are to be made of any personnel investigation documents or evidence without authorization from the Chief Deputy.
- B. When a personnel investigation has been completed, all documents and evidence relating to the investigation will be forwarded to the Sheriff and Chief Deputy for their review.
- C. Personnel investigation files will be retained in a secured confidential file by the Administrative Secretary in accordance with the existing retention schedule for such files.

## IX. INTERNAL AFFAIRS COORDINATION AND CONTROL

- A. The Chief Deputy is responsible for the coordination and control of the Internal Affairs function. As such, the Chief Deputy may assign and delegate any internal investigation in its entirety, or any portion thereof of, to any member of Administration.
- B. The Chief Deputy shall conduct an annual review of all internal investigations and citizen complaints to determine if any patterns or tendencies need to be addressed.

This General Order cancels and supersedes any and all previous written directives relative to the subject matter contained herein.

Initial 12/01/2014

Reviewed 12/11/2017; 04/08/2020

**Winnebago County Sheriff's Office  
Internal Investigation  
Informing the Member**

1. The Winnebago County Sheriff's Office will be interviewing you concerning the following investigation:  

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2. This is a confidential investigation and shall not be discussed or disclosed, with the exception of your chosen representative.
3. Disciplinary action may result.
4. Refusal to respond during this investigation, or any response which is untruthful, may result in discipline up to and including discharge from the Winnebago County Sheriff's Office.
5. This is an internal investigation and in answering any questions posed, you are provided immunity from any possible criminal prosecution utilizing those statements which you provide, pursuant to the ruling of the United States Supreme Court in *Garrity vs. New Jersey*, 385 U.S. 493 (1967).
6. At your request you may be represented by a representative of your choice with whom you may consult with at all reasonable times during the interview.
7. You will be required to provide verbal responses, and may be asked to provide a written statement. You may consult with your representative prior to responding.

I hereby acknowledge that I have read this form and I have received a copy of the same.

Member Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Investigator Signature: \_\_\_\_\_

Original to Investigative File  
Copy to Member



**WINNEBAGO COUNTY SHERIFF'S OFFICE**

***INTERNAL INVESTIGATION WARNING***

You are being questioned as part of an official investigation by the Winnebago County Sheriff's Office. You will be asked questions specifically directed and narrowly related to the performance of your official duties or fitness for office. You are entitled to all the rights and privileges guaranteed by the laws and the constitution of this state and the Constitution of the United States, including the right not to be compelled to incriminate yourself.

If you refuse to testify or to answer questions relating to the performance of your official duties or fitness for duty, or if you answer untruthfully, you will be subject to departmental charges, which could result in your dismissal from the Winnebago County Sheriff's Office. If you do answer, neither your statements nor any information or evidence which is gained by reason of such statements, can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in relation to subsequent department charges.

I have read and understood the Internal Investigation Warning as stated above.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Witnessed:

\_\_\_\_\_  
\_\_\_\_\_

Original to Investigative File  
Copy to Member



**CITIZEN COMPLAINT FORM**

Winnebago County Sheriff's Office  
4311 Jackson St.  
Oshkosh, WI 54901

The citizen complaint procedure provides individuals with the opportunity to lodge a complaint alleging misconduct or wrong doing on the part of a member of the Winnebago County Sheriff's Office.

Name: \_\_\_\_\_  
                                  First                                  M.I.                                  Last

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Alternate Phone: \_\_\_\_\_

.....  
Date/Time of Incident: \_\_\_\_\_

Location of Incident: \_\_\_\_\_

.....  
Narrative (attach additional pages if necessary):

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**WI Statute 946.66(2)** "Whoever knowingly makes a false complaint regarding the conduct of a law enforcement officer is subject to a Class A forfeiture."

\_\_\_\_\_  
(Signature of Complainant) (Date)

\_\_\_\_\_  
(Complaint Received By) (Date)

INVESTIGATION  
NUMBER \_\_\_\_\_  
(To be filled in by investigator)



**CITIZEN COMPLAINT FORM**

Winnebago County Sheriff's Office  
4311 Jackson St.  
Oshkosh, WI 54901

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Narrative (Supplemental Pages):

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**WI Statute 946.66(2)** "Whoever knowingly makes a false complaint regarding the conduct of a law enforcement officer is subject to a Class A forfeiture."

\_\_\_\_\_  
(Signature of Complainant) (Date)

\_\_\_\_\_  
(Complaint Received By) (Date)