



**RANDOLPH POLICE DEPARTMENT**  
**POLICY AND PROCEDURE**

**INTERNAL AFFAIRS AND**  
**PROFESSIONAL STANDARDS**  
**IAD - 1**

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***Chief Anthony T. Marag***

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**Statement**

A relationship of trust and confidence between the employees of the Randolph Police Department and the citizens of the community are essential to the successful accomplishment of law enforcement objectives. Department employees are expected to conduct themselves, whether on or off duty, in such a manner as to reflect favorably upon themselves and the department. The consistently high quality of this standard of conduct establishes and maintains the reputation of the department and encourages the support of the community for police purposes and goals.

The internal affairs function is important for the maintenance of professional conduct in a law enforcement agency. The integrity of the department depends on the personal integrity and discipline of each employee. 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.

**Policy**  
**52.1.1**  
**52.1.2**

It is the policy of the Randolph Police Department to investigate all complaints against the agency or an employee of the department, regardless of the source of such complaints, through a regulated, fair, and impartial internal review process. [52.1.1 (1, 2)] The department shall maintain a record of all complaints and protect the confidentiality

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of these records by maintaining them in a secure area. [52.1.2 (1, 3)] Each investigation into alleged misconduct shall require a conclusion of fact. The department shall take necessary and appropriate actions based on those facts but will also protect employees from unwarranted and unjustified complaints.

It is essential that the process not only be lawful, but confidential as well. This necessitates strict confidentiality and full adherence to procedure. Police reform law prohibits the withholding of officers' disciplinary records related to a misconduct investigation as a public records exemption [52.1.2 (2)].

**Internal Affairs Investigation Unit**  
**52.1.3**  
**11.2.2**

The Deputy Chief of Personnel, assigned by the Chief of Police, shall act as the commanding officer of the internal affairs unit and report directly to the Chief of Police [52.1.3 (1, 2)]. Members of the IA/PS unit shall report to the Deputy Chief and help with internal administrative investigation duties. [11.2.2]

The Deputy Chief will act as a liaison for the Randolph Police Department on matters concerning allegations of criminal misconduct investigated by outside law enforcement agencies as requested by the Chief. These agencies may include, but are not limited to, the Norfolk County District Attorney's Office, Massachusetts State Police, the Federal Bureau of Investigations, and the State Attorney General's Office. [52.1.3]

The Chief of Police will assign the Deputy Chief or detective sergeant to investigate the matter as an administrative internal investigation. If the Deputy Chief or detective sergeant is involved in the incident, the Chief of Police shall assign the other Deputy Chief to internally investigate the matter.

**Internal Affairs Objective**  
**52.1.1**

The objectives of internal affairs investigations are the protection of the public, employees, and department by correcting procedural problems and removing unfit employees.

All alleged or suspected violations of laws, ordinances, by-laws, department rules, regulations, policies, procedures, and orders, verbal or written, must be investigated promptly.

No complaint should be rejected solely because it is anonymous, as anonymous complaints can often be a valuable source of information and should be considered on their individual merits. [52.1.1 (3)] Care

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must be taken, however, that department employees are not subjected to unjust, frivolous, or capricious complaints. Anonymous complaints will be investigated to the extent possible with the information received.

### **Registering and Verification of Complaints 52.1.4 52.2.4**

Complaints will be received by the Randolph Police Department in a courteous and professional manner. In order to accommodate the public's needs, complaints against the agency or an employee may be registered in persons, by phone, mail, email, or Town of Randolph Police Department website. [52.1.4 (A, B)]

A shift commander or supervisor shall be available to address the immediate needs of the public and provide a complaint form if needed. No person should be denied an opportunity to register a complaint, nor should any such person be directed to return or call back later.

- Persons making a complaint against the department, officer or employee, shall receive a copy to the complaint form to serve as a receipt verifying that such complaint has been received and will be investigated. [52.2.4 (2A)]
- A complaint made in person, the shift commander receiving the complaint will ensure that the complainant receives a copy of written complaint to serve as a verification that the complaint has been received and it will be investigated. [52.2.4 (2AB)]
- A complaint received over the telephone, mail or electronic mail, the Deputy Chief or Chief of Police shall be responsible to ensure that the complainant is sent a copy of complaint, along with a cover letter/email to serve as a written verification that the complaint has been received and will be investigated. [52.2.4 (2AB)]

### **Method of Reporting Complaints 52.1.4**

**In Person** - citizens making complaints in person should be requested to read over their completed complaint form, to make any necessary corrections or additions and to sign their complaint. If a complainant refuses to sign, a notation to that effect shall be made on the complaint form. [52.1.4]

**Telephones** - citizens making complaints by telephone should be informed that their signed complaint is requested; however, no telephone complaint should 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. [52.1.4]

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**Received by Mail** - If a complaint is received by mail, the Deputy Chief should contact the complainant and have them reduce the complaint on a standard complaint form and the original communication attached thereto. If the information so received is insufficient or incomplete, the complainant shall be contacted, if possible, and informed of the department's complaint procedure and any necessary additional information obtained. [52.1.4]

**Prisoners** - any prisoner who alleges misconduct or mistreatment by a department officer or employee shall be advised by the shift commander of their right to submit a complaint report form in the usual manner and such complaints should be investigated and processed in the same manner as other citizen complaints. The shift commander will inform the Deputy Chief of the allegation made. [52.1.4]

**Governmental Agencies** - when information is received or obtained from other governmental agencies alleging specific acts of misconduct against an officer or employee, this information shall be recorded in writing and forwarded to the internal affairs unit and Chief of Police. [52.1.4]

**Street Complaints** - if an officer on the street is approached by a citizen regarding a complaint of alleged misconduct against an officer or employee of the department, the officer shall inform such person that their complaint should be directed to the shift commander. [52.1.4]

**Website** – complaints may be received via the Randolph Police Website [www.randolphpd.com](http://www.randolphpd.com) The Chief of Police and Deputy Chief of Internal Affairs will have access to these complaints [52.1.4].

Persons wishing to celebrate the work of officers and commend their performance or that of the department may also file a commendation request via the website, email, or phone [52.1.4 C, D]

### Category of Complaint 52.2.1

Complaints may be minor to serious in nature, as such, investigated by the internal affairs unit or by a shift commander.

Complaints of a minor nature (assigned a professional standards number), whenever possible, should be resolved quickly and effectively by the shift commander receiving them, such as: [52.2.1 (1)]

- Tardiness
- Alleged rudeness
- Minor infractions of insubordination

- Insufficient work

In some cases, a complaint can be resolved to the complainant's satisfaction at the time by the shift commander. This immediate resolution can often be accomplished 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 an officer's authority. [52.2.1 (1)]  
Records of these complaints will be made available to POST's Division of Standards upon request [26.1.8; 52.2.9 A-i]

Complaints criminal in nature or of a serious nature (assigned an IA number) will be investigated and/or reviewed by the internal affairs unit include but are not limited to the following: [52.2.1 (2)]

- Corruption
- Brutality
- Use of excessive force
- Violation of civil rights
- Criminal misconduct
- Bias Complaints
- Submitting false time sheets
- Prisoner rights violations
- Any other matter as directed by the Chief

Such complaints will be transmitted to POST's Division of Standards within 2 business days [26.1.8; 52.2.9 (2B)].

**Proper  
Notifications  
of  
Complaints  
Received  
52.2.2**

Reports of complaints minor in nature that have been investigated and resolved by the Shift Commander or supervisor shall be forwarded to the Deputy Chief for review for appropriateness. The documents to be forwarded to the Deputy Chief regarding the complaint would be the original complaint form, Q-sheet from the daily log noting the receipt of the complaint and the report completed by the supervisor. The Deputy Chief shall notify the Chief of Police and provide documentation on the complaint. Upon the Chief's review the complaint and report will be locked in the Deputy Chief's office. [52.2.2]

The shift commander shall notify the Deputy Chief immediately, when a complaint of a serious nature is received against the department or employee and may warrant an expeditious investigation. Shift commanders receiving a complaint of a less serious in nature shall notify the Deputy Chief when practical and reasonable. Factors influencing this decision may include the necessity to gather physical evidence while fresh and available, and interviews with witnesses or other principals while memories are fresh, to preclude rehearsed or influenced versions. [52.2.2]

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The Deputy Chief shall be responsible for notifying the Chief of Police upon the receipt of complaint against the agency or employees that could warrant an Internal affairs investigation. He shall notify the Chief immediately upon receipt of a complaint of a serious nature (This could include but is not limited to any time an officer on or off duty is accused of committing a criminal act or is involved in a criminal act of any nature) and as soon as possible and reasonable for all other complaints but no more than 2 days after the complaint. [52.2.2 (1-4)] Initial notification prior to a formal investigation will be delivered verbally to the chief. The subsequent investigation will be conducted according to the instructions of the Chief to the Deputy Chief. The Chief may also be notified by the online website complaint & commendation form. [52.2.2 (5)].

### **Employee Notification of Filed Complaint 52.2.5**

After a preliminary investigation and review into any allegations of police misconduct, the Chief of Police or Deputy Chief will determine, before initiating any interview of the accused employee, whether the purpose of the interview is to obtain a statement to be used in a subsequent criminal investigation or in a departmental disciplinary proceeding.

In either case, unless the Chief determines that disclosure might jeopardize the investigation, the employees shall receive a written statement of the allegations. The employee will be advised of their rights and responsibilities relative to the investigation. Additionally, all rights and procedures listed in the current collective bargaining agreement shall apply. [52.2.5 (1-3)]

### **Criminal Misconduct Investigations 52.1.3 52.2.1 b**

If it is determined that the allegations against a member could result in a criminal prosecution, the Chief of Police shall determine if the matter is to be investigated by the internal affairs unit commander or investigated by outside law enforcement agencies as requested by the Chief. [52.1.3][52.2.1 b]

The accused employee must be granted all constitutional and statutory rights to which every citizen is entitled. The employee will be given the rights and warnings required by the "Miranda" decision, and he cannot be discharged or otherwise penalized solely for invoking the right to remain silent as guaranteed by the Fifth Amendment to the United States Constitution or Article Twelve of the Massachusetts Bill of Rights. A member may be discharged or otherwise penalized for refusing to answer questions once, having invoked his right to remain

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silent under the Fifth Amendment to the United States Constitution, Article Twelve of the Massachusetts Bill of Rights, or both, the employee has been granted transactional immunity from criminal prosecution.

A written grant of transactional immunity from all potential prosecutorial entities, such as the Attorney General, District Attorney, United States Attorney, shall be secured by the Chief. An employee may decline to answer questions in a criminal investigation until such documentation is received.

A written copy of those rights described above will be given to the employee prior to any questioning.

**Departmental  
Violations  
Non-Criminal  
52.1.3  
52.2.1 b**

If it is determined that allegations made against an employee could result in departmental disciplinary action only, the accused employee is entitled to a fair and objective investigation of the charges made.

The internal affairs unit will conduct these investigations. [52.1.3][52.2.1 b] The Chief of Police or Deputy Chief may order any employee to answer questions regarding his performance or non-performance of any official duty. Employees may also be required to answer questions regarding off-duty conduct if such inquiry is reasonably related to the officer's performance of his duties, or to his ability and fitness to continue in service as an employee, or would reflect unfavorably upon himself or the department. If at any time during questioning it becomes apparent that although criminal action was not anticipated prior to questioning, because of responses received during such questioning, criminal action may now result, and questioning must be immediately stopped and must be granted all constitutional and statutory rights.

Employees must respond fully and truthfully when so questioned. Any failure of the member to answer, after being informed that his answers cannot be used against him in a subsequent criminal proceeding, may be punished by a disciplinary action to be specified at the time of questioning, including dismissal from the department.

As defined untruthful or untruthfulness is knowingly making an untruthful statement concerning a material fact or knowingly omitting a material fact:

- i. On an official criminal justice record, including, but not limited to, a police report;
- ii. While testifying under oath;

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- iii. To the POSTC or its employee(s); or
- iv. During an internal affairs investigation, administrative investigation or disciplinary process.

**Right To  
Representation  
25.1.1 e**

Prior to being questioned in an internal affairs matter, members shall be informed of their right to request the presence of a union representative, Weingarten Rights, during such questioning in accordance with the rights established by the decisions of the Massachusetts Labor Relations Commission. If an employee requests the presence of a union representative during questioning, such questioning will not begin until the member has been provided a reasonable opportunity to confer privately with the union representative. The union representative shall be permitted to be present during the entire period of questioning. The status of the union representative during the period of questioning shall be limited to that of an observer and advisor to the employee. The Chief of Police or his designee shall be entitled to insist prior to and during the period of questioning, upon hearing only the questioned member's account of the matter under investigation.

In the absence of a requirement in a collective bargaining agreement, there is no legal obligation for the department to provide employees with an opportunity to consult with an attorney before being questioned on work-related matters, however, a request for an attorney to be present will be granted if the investigation is not thereby unduly delayed.

**Investigations  
of Complaints  
52.2.6 A-E**

Internal affairs investigations will be conducted with the same degree of professional competence as criminal investigations. Except in unusual situations, any interview or questioning should take place during the employee's regular duty hours. 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. Employee shall not be harassed or threatened during this period of questioning.

In conducting investigations of alleged employee misconduct, all appropriate investigative techniques and methods will be employed, consistent with legal requirements, case law and all necessary concern for the individual rights of the accused member. Upon order from the Chief of Police a member may be required to submit to:  
[52.2.6]



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- 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. [52.2.6 A]
- Photograph of employee [52.2.6 B]
- Participation in a lineup [52.2.6 C]
- Submit a financial disclosure statement when the actions are material to a particular internal affairs investigation. Such submissions shall only be conducted in a manner that is consistent with applicable federal and state case law, statutes, and administrative decisions. [52.2.6 D]
- Submit to audio or video recording, if applicable [52.2.6 E]
- Instruments for the detection of deception If necessary, may be utilized during an internal affairs investigation. This examination will only be administered by a trained and certified individual. Such use will be in accordance with all applicable federal and state case law, statutes and, administrative decisions. [52.2.6 F]

Failure of a member to fully cooperate in an internal affairs investigation, upon the specific order of the Chief of Police or Deputy Chief, may subject the member to disciplinary sanctions to be specified at the time of questioning, including dismissal from the department. The internal affairs investigator 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 employee fails to respond. If possible, the complete interview with an employee in all internal administrative investigations should be recorded electronically.

### **Supervisor Accountability Duties 11.3.2**

The supervisor bears the primary responsibility for the conduct, discipline, and duty performance of all personnel under his/her supervision and the basic accountability for failure to take warranted disciplinary action. [11.3.2] A supervisor's familiarity with his or her personnel provides him or her the best opportunity to observe or foresee disciplinary problems and to determine the most appropriate methods to deal with them. Supervisors must exercise discretion in the application of disciplinary action. The use of counseling by a supervisor may avert a potential disciplinary problem or prevent a minor problem from escalating. Supervisors and commanding officers shall be responsible for discovering marginal or problem employees and for uncovering any evidence of corruption, dishonesty, or malfeasance by personnel under their command.

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The supervisor has a different avenue in which to discipline or train an officer without the issue being a formal internal affairs investigation.

The employee warning system. This is set up in PMAM. Only supervisors have access to see the system. This consists of the supervisor filing out the employee warning notice. There are options on this form – verbal warning, counseling session, written warning, and lastly, the choice for a more formal internal investigation. This form will be consistent among supervisors. The system gives supervisors insight into what all employees have in their employee warning system file. This enables a supervisor to see that an employee may have already had warnings on a particular issue. Progressive discipline flows easier. Also, of great value, supervisors are able to train their employees and hold them accountable to what is learned.

The procedure for the employee warning system is for the supervisor and the employee to meet, discuss the issue, and complete the form. The form then must be downloaded into PMAM under the officer's name under the employee warning system file. The hard copy form is then kept with the initiating supervisor.

If an employee has committed a minor infraction the supervisor on that shift may conduct an investigation within the shift and address any punitive action. This would be for minor infractions only – a part of the employee warning system.

### **Relieved From Duty 52.2.7**

All superior officers have the authority to relieve from duty and place on paid administrative leave, for a period not to exceed the remainder of that work shift, an employee (sworn or not sworn) whom they deem to be unfit for duty. This may include, but not be limited to, drinking of an alcoholic beverage while on duty, reporting to work while intoxicated, refusal to obey a direct order, or criminal conduct. It may also include specific physical, mental, or emotional condition which may, in the judgment of the supervisor, render the employee incapable of adequately or properly performing his or her duties or causing the employee to perform duties in such a way as to embarrass or discredit the department or jeopardize safety of persons or property. Officers may be placed on administrative leave pending disposition of internal affairs investigations. [52.2.7]

A detailed written report of the circumstances surrounding the officer being relieved from duty shall be forwarded to the Chief and Deputy

Chief forthwith. The report will then be made available to the relieved employee.

**Administrative  
Leave or  
Employee  
Re-  
assignment  
1.1.8**

An officer, at the direction of the Chief of Police, may be placed on this status if his function as an officer is under investigation by an authorized agency. Grounds for the use of this status include periods of investigation by the department itself, periods during which the interaction of the officer with the public may interfere with the performance of his duties, and cases which may warrant removal of the officer from duty in which the department feels the officer acted within his rights despite the ongoing investigation.

The use of this category is not indiscriminate, and each case differentiating an officer's status between active duty, suspension and administrative leave will be evaluated independently. The use of this category is not subject to negotiation or arbitration and is determined by the Chief of Police and the town manager.

An officer on paid administrative leave will receive his base salary and will not normally be eligible for detail or overtime work. He will not perform police functions other than pending court appearances. The Chief of Police shall have the discretion of placing the officer on an administrative schedule. (Monday-Friday Day shift) or allowing additional work.

Any department member whose actions (not limited to use of force) or use of force results in death or serious physical injury shall be immediately re-assigned to temporary administrative duty or administrative leave approved by the chief. They will be immediately removed from their duty assignment pending an administrative review by a supervisor not involved in the incident. If necessary, the employee involved shall be taken to the hospital or physician for evaluation due to the abnormal stress placed on him/her in these circumstances. [1.1.8]

Employees involved will be provided an opportunity to contact their family as soon as possible after the incident, so that the family does not learn about the incident through other sources.

This re-assignment shall be with no loss of pay or benefits and is intended to:

- Address the personal and emotional needs of the employee involved in the incident, and

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- Assure the community that verification of all facts surrounding the incident is fully and professionally explored.

Whenever an employee is involved in an incident that results in a serious injury or death, the officer/employee will be referred to the appropriate employee assistance program. An employee assigned to administrative duty or leave, shall remain on duty or leave until an administrative review is concluded by a supervisor not involved in the incident and the officer/employee needs are met.

Employees assigned to administrative duty shall be available to assist the department in the investigation of the incident. Re-assignment should not be considered by any person as a punishment or an indication of wrongdoing by the involved employee.

The Chief of Police and the town manager may, after consulting legal and/or other professional counsel, elect to assign detail duty, in house or other duty functions to an officer on administrative leave. Again, such assignments are not discretionary nor are they negotiable.

### **Withdrawn Complaints**

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

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

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.

### **Completing Investigations** **52.2.3** **52.2.4**

Internal affairs investigation must be commenced immediately upon receipt of complaint, every effort will be made to complete the investigations within 90 days. If exigent circumstances preclude completion of the investigation (witnesses unavailable, evidence results, etc), the Deputy Chief shall notify the employee and the Chief of Police in writing of those circumstances. [52.2.3 (1)]

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Known persons filing a complaint shall be notified, by the Chief of Police, in writing of the results of the internal investigation. If the investigation is not completed within thirty days, the complainant shall be apprised periodically lead investigator regarding the progress made until the completion of the investigation. [52.2.4 (2D)]

The Deputy Chief shall be responsible for providing the Chief with status reports on the progress of the investigation as requested. These reports shall contain all pertinent information relating to the progress of the investigation. [52.2.4 (2C)]

### **Conclusion of Facts 52.2.8**

At the conclusion of an internal affairs investigation into allegations of police misconduct, a full written report will be submitted to the Chief of Police. [52.2.8] The internal affairs officer responsible for the investigation will evaluate all evidence gathered, statements of all involved parties, and any mitigating circumstances. The original complaint, notes, statements, evidence and other relevant materials will be provided with the report to the Chief.

The report shall include definitive statement as to whether the charges made by the complainant were:

**Sustained** - the complaint was valid and supported by sufficient evidence.

**Not sustained** - there was inadequate or insufficient evidence to either prove or disprove the complaint.

**Unfounded** - the allegations were baseless and without foundation.

**Exonerated** - the complaint was unjustified or unwarranted as the actions of the accused department employee were in compliance with law, by-law or in accordance with department policy and procedure.

A nondisclosure, non-disparagement, or other similar clause in a settlement agreement between the Randolph Police and the complainant will not be made to settle a complaint of misconduct against an officer unless the complainant requests such provision in writing.

### **Internal Affairs Tracking**

The Deputy Chief shall use a numbering system to document complaints as they are received and maintain a log of those complaints - professional Standards Numbers and Internal Affairs

**52.1.2** numbers. The Deputy Chief will conduct a yearly review of all complaints filed against employees. The review will be conducted in order to identify problems where corrective action can be taken. When an employee has been involved in three incidents within any twelve-month period that involves the use of force, disciplinary action, motor vehicles accidents on duty or internal/external complaints, the Chief, officer, and officer's shift commander will be notified. Collectively they will access the data and take corrective action if necessary. This may include, but not limited to, training, counseling, or change of assignments.

**Security and Maintenance of Records and Audit**  
**26.1.8**  
**52.1.2** Internal affairs records are to be stored and maintained separately in a secured/locked file cabinet in the Deputy Chief of IA/PS office [52.1.2 (4, 5, 6)]. Access to those records shall be limited to the Chief of Police and deputy chiefs. Disciplinary records will be maintained in the personnel file of the affected employee in accordance with Massachusetts General Laws and applicable collective bargaining agreements, until retirement or separation, at which time they will be archived. Active personnel files are stored in the Town Manager's office. [26.1.8][52.1.2 (5)]

Employees may request to review their file at a time convenient to the Chief of Police or Deputy Chief and the requesting employee.

Internal affairs records are to be maintained in accordance with the Records Retention Schedule as set forth by the Massachusetts Supervisor of Public Records.

The Division of Police Standards may audit all records related to complaints, investigations, investigative reports, and personnel records pursuant to the rules and regulations set by POST. Employees should permit access for these audits. [52.1.2 (7)]

**Grievances; Coordination and Control of Records**  
**25.1.2** Employee grievance procedures shall be addressed and filed according to collective bargaining agreements. It shall be the responsibility of the aggrieved employee and union executive board to coordinate, process, and file their concerns, whether verbal or written, to the appropriate authority as outlined in the CBA.[25.1.2 (1,2)]

Grievance records shall be stored and maintained in a secured file cabinet in the office of the Chief of Police. The union should also keep a record of the grievance. Access to those records shall be limited the

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Chief of Police, Deputy Chief, Aggrieved Employee, Town Manager, and Arbitrator. [25.1.2 (3)]

Employees may request to review their file at a time convenient to the Chief of Police or Deputy Chief and the requesting employee.

### POST

On 12/31/20, Governor Charles Baker signed a comprehensive piece of legislation into law titled, ***An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth***. This historic legislation established a new nine (9) member Commission known officially as the ***Massachusetts Peace Officer Standards and Training Commission*** (hereinafter "POST") which was granted with very broad investigatory, enforcement and licensing powers pertaining to all sworn law enforcement officers and agencies in the Commonwealth. Of particular note, this legislation created a new statute, M.G.L. Chapter 6E, whereby certain Sections of this new law shall have a direct impact on law enforcement agencies across the state pertaining to information that is derived from the complaint investigation procedures of all police departments.

All internal affairs investigations into complaints of misconduct must be completed with 90 days of receiving the complaint or notice from the Division of Police Standards of the complaint being filed. The time to do so may be extended by POST upon a showing of good cause.

**Anti-Retaliation Policy** – no officer or employee shall discharge an officer or employee, change their official rank, grade or compensation, deny a promotion, or take any other adverse action against an officer or employee or threaten to take such action for providing information to the POST commissions or testifying in any commission proceeding.

### Discipline Records Submittal 26.1.8 (3AB)

On or before **September 30, 2021**, each law enforcement agency in the Commonwealth, including the Randolph Police Department, shall provide to the ***Massachusetts Peace Officer Standards and Training Commission*** ("POST"), in a form to be determined by the Commission, **a comprehensive disciplinary record for each law enforcement officer *currently employed* by said agency**, including, but not limited to:

- (i) every complaint of which the officer was the subject of during the course of their employment with the agency; and

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(ii) all disciplinary records of the officer, including the final disposition of a complaint, if any, and any discipline imposed.

(iii) at the conclusion of each calendar year, the Chief of Police shall submit an updated list of the criteria listed in (i) and (ii) above of each officer currently employed or separated from service for any reason directly to POST.

On **December 1, 2021**, each law enforcement agency in the Commonwealth, including the Randolph Police Department, shall provide to the **Massachusetts Peace Officer Standards and Training Commission** ("POST"), in a form to be determined by the Commission, **a comprehensive disciplinary record for each law enforcement officer previously employed by said agency or a transfer or agency for which the agency is the transferee agency**, including, but not limited to:

(i) every complaint of which the officer was the subject of during the course of their employment with the agency; and

(ii) all disciplinary records of the officer, including the final disposition of a complaint, if any, and any discipline imposed.

**Publicly  
Available  
Database**

The POST Commission shall maintain a **publicly available database of orders issued pursuant to section 10 of Chapter 6E on the commission's website**, including, but not limited to:

(i) the names of all decertified officers, the date of decertification, the officer's last appointing agency and the reason for decertification;

(ii) the names of all officers who have been suspended, the beginning and end dates of suspension, the officer's appointing agency and the reason for suspension; and

(iii) the names of all officers ordered to undergo retraining, the date of the retraining order, the date the retraining was completed, the type of retraining ordered, and the officer's appointing agency and the reason for the retraining order.



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The POST Commission shall also cooperate with the national decertification index and other states and territories to ensure officers who are decertified by the Commonwealth are not hired as law enforcement officers in other jurisdictions, including by providing information requested by those entities.

### Division of Police Standards 52.2.9

The purpose of the Division of Police Standards shall be to investigate officer misconduct and make disciplinary recommendations to the POST Commission.

[52.2.9 (1, 2B)] The Chief of Police is required to submit information to POST's Division of Standards within two (2) business days of receipt of a complaint alleging the misconduct of an officer. Complaints can originate from a member of the public (external complaint), from personnel at the agency (internal complaint or incident), or any other source.

All complaints that fall in the following three categories must be submitted to POST:

1. Complaints alleging bias on the basis of race, ethnicity, sex, gender identity, sexual orientation, age, religion, mental or physical disability, immigration status, or socioeconomic or professional level
2. Complaints regarding use of force (excessive, prohibited, or deadly force)
3. Actions that resulted in serious bodily injury or death (including Officer-Involved Shootings or "OIS")

Complaints related to Unprofessionalism:

Certain complaints related to unprofessionalism also need to be submitted to POST. However, if the complaint is related to minor matters, including discourtesy and basic work rule violations such as tardiness, inattention to detail, equipment violations, grooming violations, or comparable infractions, will be investigated by the Randolph Police Department to maintain a log of these complaints, which need not be submitted to POST, but made available upon request.

Complaints and incidents that are **not related to minor matters** as described above and fall in the category of officer misconduct or

unprofessionalism, should also be submitted to POST and subcategorized as follows

4. Unprofessionalism
  - a. Policy or Procedure Violations/Conformance to Laws
  - b. Conduct Unbecoming
  - c. Untruthfulness

What is transmitted to POST in regard to the complaint:

- (i) the name and commission certification identification number of the subject officer
- (ii) the date and location of the incident;
- (iii) a description of circumstances of the conduct that is the subject of the complaint;
- (iv) whether the complaint alleges that the officer's conduct:
  - (A) was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level;
  - (B) was unprofessional;
  - (C) involved excessive, prohibited or deadly force; or
  - (D) resulted in serious bodily injury or death; and
- (v) a copy of the original complaint submitted directly to the agency; provided, however, that the commission may establish a minimum threshold and streamlined process for the reporting or handling of minor complaints that do not involve the use of force or allegations of biased behavior.

[52.2.9 (2C)] Upon completion of the internal investigation of a complaint, the Chief of Police shall immediately transmit to the Division of Police Standards **an investigation report** signed by the investigator in a form to be determined by the POST Commission; provided, that the form shall include, but shall not be limited to:

- (i) a description of the investigation and disposition of the complaint;
- (ii) any disciplinary action recommended by internal affairs or the supervising officer; and

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- (iii) if the recommended disciplinary action included retraining, suspension or termination, a recommendation by the Chief of Police for disciplinary action by the commission including, retraining or suspension or revocation of the officer's certification.

[52.2.9 (2D)] Upon final disposition of the complaint, the Chief of Police shall immediately transmit to the Division of Police Standards **a final report** in a form to be determined by the POST Commission; provided, that the form shall include, but shall not be limited to:

- (i) any disciplinary action initially recommend by internal affairs or the supervising officer;
- (ii) the final discipline imposed and a description of the adjudicatory process; and
- (iii) if the disciplinary action recommended or imposed included retraining, suspension or termination, a recommendation by the head of the agency for disciplinary action by the commission including, retraining or suspension or revocation of the officer's certification.

[52.2.9 (2E)] If an officer resigns during an agency investigation, prior to the conclusion of an agency investigation or prior to the imposition of agency discipline, up to and including termination, the Chief of Police shall immediately transmit to the Division of Police Standards a report in a form to be determined by the commission; provided, that the form shall include, but shall not be limited to:

- (i) the officer's full employment history;
- (ii) a description of the events or complaints surrounding the resignation; and
- (iii) a recommendation by the head of the agency for disciplinary action by the commission, including retraining or suspension or revocation of the officer's certification.

Notwithstanding any general or special law or collective bargaining agreement to the contrary, nothing shall limit the ability of the Chief of Police to make a recommendation in their professional judgment to the commission relative to the certification status of an officer, after having followed the agency's internal affairs procedure and any appeal. The Division of Police Standards shall initiate a preliminary inquiry into the conduct of a law enforcement officer if the POST Commission

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receives a complaint, report or other credible evidence that is deemed sufficient by the commission that the law enforcement officer:

- (i) was involved an officer-involved injury or death;
- (ii) committed a felony or misdemeanor, whether or not the officer has been arrested, indicted, charged or convicted;
- (iii) engaged in conduct prohibited pursuant to section 14 {Use of Force};
- (iv) engaged in conduct prohibited pursuant to section 15 {Failed to Intervene}; or
- (v) the commission receives an affirmative recommendation by the head of an appointing agency for disciplinary action by the commission, including retraining or suspension or revocation of the officer's certification.

The Division of Police Standards may initiate a preliminary inquiry into the conduct of a law enforcement officer upon receipt of a complaint, report or other credible evidence that is deemed sufficient by the POST Commission that the law enforcement officer may have engaged in prohibited conduct.

All proceedings and records relating to a preliminary inquiry or initial staff review used to determine whether to initiate an inquiry shall be confidential, except that the executive director may turn over to the attorney general, the United States Attorney or a district attorney of that jurisdiction, evidence which may be used in a criminal proceeding.

The Division of Police Standards shall notify any law enforcement officer who is the subject of the preliminary inquiry, the head of their collective bargaining unit and the head of their appointing agency of the existence of such inquiry and the general nature of the alleged violation within thirty (30) days of the commencement of the inquiry.

The Division of Police Standards may audit all records related to the complaints, investigations and investigative reports of any agency related to complaints of officer misconduct or unprofessionalism, including, but not limited to, personnel records.

The commission shall promulgate rules and regulations establishing an audit procedure; provided, however, that said rules and regulations shall not limit the ability of the division of police standards to initiate an audit at any time and for any reason.

### **Database**

The Division of Police Standards shall create and maintain a database containing information related to an officer's:

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(i) receipt of complaints and related information, including, but not limited to: the officer's appointing agency, date, a description of circumstances of the conduct that is the subject of the complaint and whether the complaint alleges that the officer's conduct:

(A) was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level;

(B) was unprofessional;

(C) involved excessive, prohibited or deadly force;

(D) resulted in serious bodily injury or death;

(ii) allegations of untruthfulness;

(iii) failure to follow commission training requirements;

(iv) decertification by the commission;

(v) agency-imposed discipline;

(vi) termination for cause; and

(vii) any other information the commission deems necessary or relevant.

The Division of Police Standards shall actively monitor the database to identify patterns of unprofessional police conduct. Upon identification of a pattern of unprofessional police conduct, the Division of Police Standards may recommend the evidence in its possession for review in a preliminary inquiry.

The Division of Police Standards shall be a law enforcement agency and its employees shall have such law enforcement powers as necessary to effectuate the purposes of this chapter, including the power to receive intelligence on an applicant for certification or an officer certified under this chapter and to investigate any suspected violations of law.

### **Suspension of POST Certification**

POST shall suspend an officer's certification if the officer is arrested, charged or indicted for a felony.

If after a POST preliminary inquiry concludes by a preponderance of the evidence that the officer has engaged in conduct that could constitute a felony and vote to initiate a proceeding of said conduct, the officer's certification will be suspended immediately.

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POST may suspend an officers certification if an officer is arrested or indicted for a misdemeanor if the commission finds that the crime affects the fitness of the officer to serve in such capacity. The commission may also suspend the certification if it is in the best interest of the health, safety, and welfare of the public.

Suspensions continue in effect until revocation or final ruling by the Commission.

The POST Commission shall administratively suspend the certification of an officer who fails to complete in-service training requirements of the commission within 90 days of the deadline imposed by the commission; provided, however, that the commission may promulgate reasonable exemptions to this subsection, including, but not limited to, exemptions for:

- (1) injury or physical disability;
- (2) a leave of absence; or
- (3) other documented hardship.

The commission shall reinstate the certification of an officer suspended pursuant to this subsection upon completion of the in-service training requirements of the commission.

The commission shall administratively suspend the certification of an officer with a duty to report information to the commission who fails to report such information. The commission shall reinstate the certificate of an officer suspended upon completion of said report.

A law enforcement officer whose certification is suspended by the commission pursuant to the above shall be entitled to a hearing before a commissioner within 15 days. The terms of employment of a law enforcement officer whose certification is suspended by the commission pursuant to the above shall continue to be subject to chapter 31 (civil service) and any applicable collective bargaining agreement to which the law enforcement officer is a beneficiary.

### **Revocation of POST Certification**

The commission shall, after a hearing, REVOKE an officer's certification if the commission finds by clear and convincing evidence that:

- (i) the officer is convicted of a felony;
- (ii) the certification was issued as a result of administrative error;

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- (iii) the certification was obtained through misrepresentation or fraud;
- (iv) the officer falsified any document in order to obtain or renew certification;
- (v) the officer has had a certification or other authorization revoked by another jurisdiction;
- (vi) the officer is terminated by their appointing agency, and
  - any appeal of said termination is completed,
  - based upon intentional conduct performed under the color of their office to:
    - obtain false confessions;
    - make a false arrest;
    - create or use falsified evidence, including false testimony or
    - destroying evidence to create a false impression;
  - engage in conduct that would constitute a hate crime, as defined in section 32 of chapter 22C; or
  - directly or indirectly receive a reward, gift or gratuity on account of their official services;
- (vii) the officer has been convicted of submitting false timesheets in violation of section 85BB of chapter 231;
- (viii) the officer knowingly files a written police report containing a false statement or commits perjury, as defined in section 1 of chapter 268;
- (ix) the officer tampers with a record for use in an official proceeding, as defined in section 13E of chapter 268;
- (x) the officer used force in violation of section 14;
- (xi) the officer used excessive use of force resulting in death or serious bodily injury;
- (xii) the officer used a chokehold in violation of said section 14;

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- (xiii) the officer engaged in conduct that would constitute a hate crime, as defined in section 32 of chapter 22C;
- (xiv) the officer engaged in the intimidation of a witness, as defined in section 13B of chapter 268;
- (xv) the officer failed to intervene, or attempt to intervene, to prevent another officer from engaging in prohibited conduct or behavior, including, but not limited to, excessive or prohibited force in violation of section 15;
- (xvi) the officer is not fit for duty as an officer and the officer is dangerous to the public, as determined by the commission.

The commission *may*, after a hearing, *suspend or revoke* an officer's certification if the commission finds by clear and convincing evidence that the officer:

- (i) has been convicted of any misdemeanor;
  - (ii) was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level in their conduct;
  - (iii) has a pattern of unprofessional police conduct that commission believes may escalate.
  - (iv) was suspended or terminated by their appointing agency for disciplinary reasons, and any appeal of said suspension or termination is completed; or
  - (v) has repeated sustained internal affairs complaints, for the same or different offenses.
- (c) The commission may reinstate the certificate of an officer suspended pursuant to subsection (b) at the expiration of the suspension, if the commission finds that all conditions of the suspension were met.
- (d) The commission may, after a hearing, order retraining for any officer if the commission finds substantial evidence that the officer:



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- (i) failed to comply with this chapter or commission regulations, reporting requirements or training requirements;
  - (ii) was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level in their conduct;
  - (iii) used excessive force;
  - (iv) failed to respond an incident according to established procedure;
  - (v) has a pattern of unprofessional police conduct;
  - (vi) was untruthful, except for a statement or action that mandates revocation pursuant to legislation above.
  - (vii) was suspended or terminated by their appointing agency for disciplinary reasons, except those reasons which mandate revocation pursuant to legislation (see above)
  - (viii) fails to intervene to prevent another officer from engaging in prohibited conduct or behavior, except a failure to intervene in conduct that mandates revocation pursuant to said subsection (a); or
  - (ix) would benefit in their job performance if retrained.
- (e) The commission shall immediately notify the officer and the head of the appointing agency of the officer who is decertified, suspended or ordered to undergo retraining of the order.
- (f) The commission shall conduct preliminary inquiries, revocation and suspension proceedings and hearings, and promulgate regulations for such proceedings and hearings, pursuant to sections 1, 8 and 10 to 14, inclusive, of chapter 30A. Any decision of the commission relative to a preliminary inquiry, revocation and suspension proceeding shall be appealable pursuant to chapter 30A. No adverse action taken against a certification by the commission pursuant to this section shall be appealable to the civil service commission established under chapter 31. No employment action taken by an appointing authority that results from a revocation by the commission

pursuant to subsection (a) shall be appealable to the civil service commission established under chapter 31.

(g) The commission shall publish any revocation order and findings. The commission shall provide all revocation information to the national decertification index. No officer may apply for certification after that officer's certification has been revoked pursuant to this section.

(h) An appointing agency shall complete an internal affairs investigation into officer misconduct and issue a final disposition within 90 days of receiving a complaint or notice from the commission of the complaint being filed [52.2.3 (2)].

- The commission may, upon a showing of good cause, extend the time to complete the investigation. The commission shall not institute a revocation or suspension hearing pursuant to this section until the officer's appointing agency has issued a final disposition or 1 year has elapsed since the incident was reported to the commission, whichever is sooner.
- If the officer notifies the commission that the officer wishes to suspend such hearing pending an appeal or arbitration of the appointing agency's final disposition, the commission shall suspend the hearing. Any such suspension of the hearing shall not exceed 1 year from the officer's notice to the commission; provided, however, that at any time during which the hearing is so suspended and upon a showing of good cause by the officer, the commission shall further suspend the hearing for a period of not less than 6 months and not more than the commission determines is reasonable; provided, however, that any delay in instituting a revocation or suspension hearing shall not exceed 1 year from the officer's request. If the officer notifies the commission that the officer wishes to suspend such hearing pending the resolution of criminal charges, the commission shall suspend the hearing; provided, however, that the officer's certification shall be suspended during the pendency of any delay in such hearing. This subsection shall not impact the commission's authority to suspend a certification pursuant to the suspension section above.

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Decertified Officers are not eligible for employment in an agency in any capacity including, but not limited to, as a consultant or independent contractor.

Weingarten Rights

## EMPLOYEE'S RIGHT TO UNION REPRESENTATION

Employees have Weingarten rights only during investigatory interviews. An investigatory interview occurs when a supervisor questions an employee to obtain information which could be used as a basis for discipline or asks an employee to defend his or her conduct.

If an employee has a reasonable belief that discipline or other adverse consequences may result from what he or she says, the employee has the right to request union representation. Management is not required to inform the employee of his/her Weingarten rights; it is the employee's responsibility to know and request.

When the employee makes the request for a union representative to be present management has three options:

- (1) it can stop questioning until the representative arrives.
- (2) it can call off the interview or,
- (3) it can tell the employee that it will call off the interview unless the employee voluntarily gives up his/her rights to a union representative (an option the employee should always refuse.)

Employers will often assert that the only role of a union representative in an investigatory interview is to observe the discussion. The Supreme Court, however, clearly acknowledges a representative's right to assist and counsel workers during the interview.

The Supreme Court has also ruled that during an investigatory interview management must inform the union representative of the subject of the interrogation. The representative must also be allowed to speak privately with the employee before the interview. During the questioning, the representative can interrupt to clarify a question or to object to confusing or intimidating tactics.

While the interview is in progress the representative cannot tell the employee what to say but he may advise them on how to answer a question. At the end of the interview the union representative can add information to support the employee's case.

## **Randolph Police Department Internal Affairs Garrity Warning Form**

Randolph Police Department

At this time, I am going to question you about:

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This questioning concerns administrative matters relating to the official business of the Randolph Police Department. During the course of this questioning, if you disclose information which indicates that you may be guilty of criminal conduct, neither your self-incriminating statements nor the fruits of any self-incriminating statements you make will be used against you in any criminal legal proceedings. Since this is an administrative matter and any self-incriminating information you may disclose will not be used against you in a court of law, you are required to answer my questions fully and truthfully. This requirement is set forth in our Randolph Police Department Rules and Regulations, Insubordination (sec. 5) and Truthfulness (sec. 4) and our departmental regulations requiring employees of this department to comply with all lawful orders. You are entitled to all rights and privileges guaranteed by the Constitution and the Laws of the Commonwealth of Massachusetts and the Constitution of the United States, including the right to have legal counsel or union representation present with you during this interview. If you refuse to answer all my questions, this in itself is a violation of the rules and procedures of the department, and you will be subject to separate disciplinary action, up to and including termination.

Do you understand what I have just explained to you? \_\_\_\_\_

Do you have any questions concerning what I have just explained to you? \_\_\_\_\_

I, \_\_\_\_\_, by my signature below, affirm that I have been advised of the "Garrity Warning" and have had its meaning explained to me.

Officer's Signature \_\_\_\_\_

Date \_\_\_\_\_

Interviewer/Investigator \_\_\_\_\_

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

Randolph Police Department

To: \_\_\_\_\_

From:

Subject: Complaint # \_\_\_\_\_, IAD Case # \_\_\_\_\_

You are hereby ordered in accordance with Rules and Regulations, to participate in this investigative interview detailing your knowledge of the allegations of \_\_\_\_\_.

You are required to answer all questions concerning the performance of your duties, your fitness to perform those duties, and professional responsibilities honestly and truthfully. You have a right to remain silent about conduct or behavior that would tend to incriminate you in a criminal matter. This must be done on a question by question basis. Invocation of your rights against self-incrimination under the 5<sup>th</sup> Amendment to the US Constitution and Art. 12 of the Massachusetts Declaration of Rights is sufficient to comply with the order but must be invoked on a question by question basis as it relates to the allegations of criminal activity.

You may be able to comply by asserting your 5<sup>th</sup> Amendment privilege against self-incrimination and waiving your Article 12 Mass. Declaration of Rights privilege. If you choose this option, you are waiving your right to transactional immunity and you are required to participate by answering questions or submitting a detailed report.. However, the answers you provide to the allegations of the complaint and any evidence derived from those answers cannot be used against you in a criminal proceeding. Criminal proceedings may be based upon evidence obtained from other independent sources.

Failure to participate in the interview or submit a report absent an assertion by you of your constitutional privilege(s), is considered failure to obey and comply with an order and could result in you receiving disciplinary action.

PLEASE READ, CHECK THE APPROPRIATE BOX, SIGN AND DATE THIS STATEMENT.

- ☐ I wish to claim my constitutional protections under the US Constitution's 5<sup>th</sup> Amendment and the Massachusetts Declaration of Rights Article 12.
- ☐ I assert my 5<sup>th</sup> Amendment privilege against self-incrimination, but agree to waive my Article 12 privilege. I will answer questions and/or submit a report as required, but the contents of that report cannot be used against me in a criminal proceeding. However, I understand that criminal proceeding can be instituted against me based upon evidence obtained from other sources.

Employee' Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Signed in the presence of: \_\_\_\_\_ Date: \_\_\_\_\_  
(Superior Officer)