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Wilkesboro Police Department

Electronic Written Directives Document

I. PURPOSE

The purpose of this policy is to inform all employees and the public of procedures for accepting, processing and investigating complaints alleging employee misconduct.

II. POLICY

- A. Establishment of procedures for investigating complaints and allegations of employee misconduct is crucial to demonstrate and protect this department's integrity. It is the policy of the Wilkesboro Police Department to accept and investigate all complaints filed against department personnel to protect the public and Department from misconduct by employees. A thorough investigation further serves to protect the community, the department and its personnel from complaints that are based on misunderstanding or invalid information.
- B. Criminal Investigations and Administrative investigations will be conducted separately. If, during an administrative investigation evidence of criminal activity is discovered, the investigator assigned will confer with the Chief of Police who shall decide if a separate criminal investigation shall be initiated by this department or request an investigation from another agency such as the State Bureau of Investigation.
- C. Information obtained during an administrative investigation cannot be used in a criminal investigation or criminal court proceedings with the exception of perjury. Information obtained in a criminal investigation may be incorporated into an administrative investigation and used in departmental discipline procedures.

III. DEFINITIONS

- A. Complaint. An allegation that an officer has violated a departmental or town personnel rule, regulation, policy, general order, a town/county ordinance, state or federal statute.
- B. Public Complaint Package. Information packages containing forms and information on complaint procedures used by the department and actions the public can expect in response to their complaint.

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C. Dispositions. The following are the five dispositions used by the department, each level of review of the investigation should indicate a disposition.

1. Sustained: The investigation disclosed sufficient evidence to prove clearly the allegation made in the complaint.
2. Unfounded: The allegation is false. The alleged incident never took place.
3. Not Sustained: The investigation failed to disclose sufficient evidence to prove the allegation made in the complaint.
4. Exonerated: The acts which provided the basis for the complaint or allegation occurred; however, investigation revealed that they were justified, lawful, and proper.

D. Disciplinary Actions. The department uses six types of disciplinary actions which are:

1. Verbal Warning
2. Written Warning
3. Suspension Without Pay
4. Probation
5. Demotion
6. Discharge

IV. SPECIAL PROCEDURES INVOLVING INTERNAL INVESTIGATIONS

A. Allegations Involving Alcohol or Illegal Drug Consumption While on Duty.

1. Alcohol and illegal drugs are those items as defined in the North Carolina General Statutes.
2. When the Chief of Police or a supervisor receives indications that an employee has consumed alcoholic beverages in violation of existing departmental rules he/she shall:
 - a. Direct the employee to submit to an Alco-sensor and or Intoxometer test.

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- b. Interview the employee to determine whether the employee is under the influence or has consumed alcohol. This interview should be in the presence of the Division Commander or higher and another law enforcement officer.
 3. If evidence indicates that the employee is under the influence or has consumed alcohol, then the employee shall be suspended immediately pending departmental review/charges.
 4. If there is no evidence of alcohol use, the employee shall be allowed to return to work.
- B. When the Chief of Police or a supervisor receives indications that an employee has consumed illegal drugs or is under the influence of drugs in violation of existing departmental rules he/she shall:
 1. Interview the employee to determine whether the employee is under the influence or has consumed drugs. This interview should be in the presence of the Division Commander or higher.
 2. If evidence indicates that the employee is under the influence of drugs or has consumed drugs then the employee shall be ordered to submit to a urine drug screen and suspended immediately pending departmental review/charges.
 3. If there is no evidence of drug abuse, the employee shall be allowed to return to work.
- C. Excessive Force Complaints
 1. The Professional Standards Unit at the direction of the Chief of Police or designee shall be responsible for directing the investigation.
 2. All excessive force investigations should include:
 - a. With the complainant's or injured party's consent, photographs will be taken of the injured areas.
 - b. Injured areas and their location will be described.
 - c. A signed statement should be taken from the complainant or injured person when possible, utilizing citizen complaint package.

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- d. The name of the physician treating the complainant should be obtained along with a medical release form.
- e. Officer(s) and/or witness statements.
- f. Examinations and/or photographs of any other information deemed relevant to the investigating officer.

V. DEPARTMENT MEMBER RESPONSIBILITY

All members of the Wilkesboro Police Department have an important part in any internal investigation. Generally, their responsibilities are as follows:

A. Police Officers:

- 1. When receiving a complaint, officers should have the complainant complete the "complaint packet" and return it to a supervisor so it can be forward it to the Chief of Police via the respective Division Commander.
- 3. The officer taking the complaint will make available to the citizen complainant a copy of the procedures for registering a complaint

To File a Complaint against the agency or an employee;

You do not need to be present in person to file a complaint on an officer.

You can call it in or e-mail it in or have a supervisor come to your home or business and you do not have to give your name or personal information and you can remain anonymous. If you remain anonymous, it makes it difficult to keep you informed or advise you of the results of the investigation.

- a. Ask to speak to the supervisor on duty.
- b. If the supervisor is not available, the officer will take your information and have a supervisor contact you within 72 hours to take the complaint. You may also request a complaint packet to take with you and return it to any supervisor at a later date.
- c. Complete the "Complaint Packet" as completely as you can. If you want to remain anonymous, advise the supervisor taking the report. If you are unable to write, please inform the supervisor taking

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the report, you may file a verbal complaint and the supervisor taking the report will fill out the complaint packet for you.

- d. Please give as much detail as you can so the complaint can be handled correctly and without delay. Incomplete forms and not missing data can delay the investigative process.
 - e. After completing the citizen complaint form, advise the supervisor taking the report that you are finished so he/she can review the form with you and make sure it is correct. Remember, the supervisor taking the report may not be the officer that is investigating the complaint.
 - f. The investigating officer will notify you that the report has been received and will be investigated.
 - g. You will be notified at certain times concerning the status of the investigation.
 - h. Once the investigation has been completed, you will be notified in writing of the results of the investigation.
 - i. A citizen complaint can be completed at any time of the day or week. It does not have to be completed on the same date as the allegation occurrence.
4. The completed citizen complaint form will be forwarded to the appropriate Division Commander.
 5. The Division Commander will then assign the citizen complaint to the appropriate supervisor for investigation into the allegations of the complaint or forward it to the Chief of Police for an Administrative Investigation. A copy of all citizen complaints will be forwarded to the Chief of Police.
 6. The investigating officer will keep the complainant informed of the status of the investigation.
 7. After the citizen complaint has been investigated, the report will be forwarded to the Division Commander for review. The report may need further clarification before it is approved as completed.
 8. After reviewing the citizen complaint Investigative report and approving of it, the complainant will be notified of the findings.

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9. A copy of the citizen complaint investigative report should be put in the officer's personnel file.

B. Supervisors:

1. Supervise subordinates to help instill employee confidence and discipline.
2. Supervisors investigate complaints as assigned from the Division Commanders, as deemed by the Chief of Police.

C. Division Commanders.

1. Supervise subordinates to help instill employee confidence and discipline.
2. Investigate complaints as assigned, by the Chief of Police.

D. Chief of Police:

1. Manages the Department's internal investigation function.
2. Reviews all internal investigations and determines the type of investigation to be performed and the level of investigation criminal, administrative or supervisory. The Chief or his/her designee contacts outside agencies when needed for internal criminal investigative purposes.
3. Supervises employees to instill confidence and employee discipline.
4. Processes employees' discipline decisions such as oral reprimands, written reprimands and suspensions.
5. Hears grievances as outlined in the Town of Wilkesboro grievance policy.

VI. DISMISSAL PROCEDURES

If employee misconduct results in dismissal, the following information shall be provided to the employee:

- A. A written statement from the Chief of Police or his designee, citing the reason for dismissal, to include:
 - B. The effective date of dismissal;
 - C. A statement of the status of fringe and retirement benefits after dismissal; and

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D. A statement as to the content of the employee's employment record relating to the dismissal.

VII. PROCEDURES FOR MAINTENANCE OF DISCIPLINARY RECORDS

A. The Wilkesboro Police department requires written records in memorandum form of disciplinary actions, through the chain of command to the Chief of Police

B. Records shall be filed in the employee's personnel file and shall be under the control of the Chief of Police and are locked in the office of the Chief.

VIII. COMPLAINT INVESTIGATION

A. Non-serious complaints in nature such as non-courteous behavior, reporting for duty and abuse of leave should be investigated by the employees direct supervisor.

1. The supervisor shall obtain a complaint number from Professional Standards.
2. Supervisors will follow complaint notification as set out in this policy.
3. A Wilkesboro Police Department employee warning record will be completed by the immediate supervisor. The record will include a synopsis of the complaint and the findings of the investigation.
4. The employee warning record will be forwarded through the chain of command to the Chief of Police.

B. An Administrative/Internal Investigation will be conducted when a person is seriously or critically injured or hospitalized, when the person's injuries are the result of police action, alleged excessive force, brutality, gross misconduct, civil rights violations, and violations of State and Federal laws by an employee, and other acts of misconduct deemed by the Chief of Police.

C. The Chief of Police, and other Administrative Staff members as deemed necessary by the Chief of Police, review citizen complaints and refer them to the Professional Standards Unit or appropriate Division Supervisor/ Commander.

IX. CEO ACCESSIBILITY AND NOTIFICATION

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- A. The Professional Standards Unit will be assigned Administrative/Internal Investigations by the Chief of Police. The Professional Standards Unit will report directly to the Chief of Police.
- B. Any complaint of gross misconduct, by a citizen shall be forwarded to the employee's Division Commander, in his or her absence the employee's supervisor, or in his or her absence any on duty supervisor. These complaints will be forwarded up the chain of command to the Chief of Police. Any complaint from an outside source shall be written on Wilkesboro Police Department Complaint Packet, and forwarded to the Chief of Police. Members of the Department should report to their immediate supervisor all serious violation of Department Directives or acts of violation of Criminal Law. Any member desiring to file a complaint against another member of the department may submit a written complaint, directly to the Chief of Police using the Complaint Packet.

X. INVESTIGATION TIME LIMITS

Administrative/Internal Investigations conducted by the Professional Standards Unit, or other members of the Wilkesboro Police Department, should be concluded within thirty (30) days. However the Chief of police may grant an extension in cases where witnesses are difficult to locate or unavailable, out of town travel is required, conflict with the Investigator's schedule, and other valid reasons.

XI. NOTIFICATION OF COMPLAINT

- A. The Investigator, upon receiving the Investigation, will notify the complainant in writing by utilizing Wilkesboro Police Department Form WPD-A6, that the complaint has been received for processing.
- B. The Investigator shall notify the complainant of the status of the Investigation, at the conclusion of seven (7) day intervals.
- C. Written acknowledgement of the final disposition of the formal complaint shall be sent to the complainant in a timely manner. The Investigator will utilize Wilkesboro Police Department Form WPD-A7.

XII. STATEMENT OF ALLEGATIONS AND RIGHTS

Employees that become the subject of an Administrative/Internal Investigation, the Investigating Officer will issue the employee a written statement of the allegations utilizing Wilkesboro Police Department Notification of Investigation

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Form WPD-A2. The employee will be advised of their rights and responsibilities relative to an Administrative Investigation utilizing Wilkesboro Police Department Reverse-Garrity Form WPD-A1. In Criminal Investigations the employee will be issued a written statement of the allegations utilizing Wilkesboro Police Department Notification of Criminal Investigation Form WPD-A3. In Criminal Investigations the employee is afforded all of the Constitutional Rights in respect to Miranda Warning, as given to any criminal suspect. An employee will not be disciplined for exercising his or her Constitutional Rights. Investigative questioning shall be conducted at a reasonable time and manner. An employee who is required to cooperate in an investigation while off duty shall be compensated for time as actual on duty time. The Department will have the burden of proof in an Administrative or Criminal Investigation. In such an Investigation an employee may be required to answer questions which directly relate to the performance of his or her duties and conduct. Refusal to answer may result in disciplinary action, including dismissal. The employee has the right to make a copy of any written statement he or she made. An employee may consult an attorney while he or she is under Investigation. Employee's attorneys will not be allowed to participate during Administrative interviews without approval of the Chief of Police.

XIII. INTERNAL AFFAIRS PROCEDURES

- A. The Department may require breath, blood, urine, other laboratory examinations, medical examinations, psychological, polygraph and or Computer Voice Stress examinations as part of Administrative Investigations. Employees will be required to sign the Authorization for Release of medical Records Form WPD-A4. Refusal to comply may result in disciplinary action.
- B. Photographs may be taken of departmental employees which can be utilized during Administrative and/or Criminal Internal Investigations involving eye witness identification.
- C. An employee may be asked to participate in a line-up for the purpose of eye witness identification. Failure to participate may result in disciplinary action.
- D. An employee may be asked to submit financial disclosure statements when the records are in relation to the investigation. Failure to do so may result in disciplinary action.
- E. Upon the order of the Chief of Police or his designee an employee shall submit to a polygraph examination and/or the Computer Voice Stress Analyzer, in a non-criminal Administrative Investigation. The examination shall be narrowly related to a particular internal investigation being conducted by the Department. Failure to do so may result in disciplinary action. The

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complainant may also be asked to submit to a polygraph examination and/or a Computer Voice Stress Analyzer, which is specifically directed and narrowly related to the complaint.

- F. Requirements for the submission to such examinations as polygraph/voice stress analysis, medical examinations blood, urine, and other laboratory tests will be in the form of an order from the Chief of Police or his designee. This however, specifically authorizes a supervisor to order a breath test or urine drug screen to determine alcohol or controlled substance consumption.

XIV. EMPLOYEE RELIEVED FROM DUTY

Any on duty supervisor shall have the authority to temporarily relieve from active duty any member/employee under investigation for alleged violations of Departmental Directives if the supervisor feels it would be in the interest of the Department and the supervisor has conferred with the appropriate Division Commander. The employee so relieved and the involved supervisor shall report to the Chief of Police no later than 0900 hours the next working day or in his or her absence, report to the next highest ranking officer. The Chief of Police or his or her designee may relieve from duty any employee pending the outcome of the employee's physical or psychological fitness or pending the out come of an Administrative Investigation.

XV. CONCLUSION OF FACT

If upon review the Investigator determines that the incident did not occur, as alleged, or that the employee's actions were proper, the Chief of Police shall terminate the case without disciplinary action. When the investigation is complete, the investigating officer shall submit a written report to the Chief of Police containing his or her findings. The report should include but not limited to the following: a summary of the allegations filed against the employee, the finding of facts, and a conclusion of facts, which should include the acts that violated a specific directive, Town Policy or Code, or State and Federal Law, and recommendations for discipline. The Chief of Police will consider the recommendations in making his decision of disciplinary actions. The employee under investigation and the complainant will receive a written notification as to the outcome of the investigation.

XVI. RECORDS MAINTENANCE AND SECURITY

At the conclusion of the Investigation the Chief of Police will file the completed report in a secured file cabinet. Each file will be marked with the complaint number which begins with the year and filed in succession until the end of that calendar year. In addition an index file will be maintained with the name of the

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employee investigated, file number (case number) and the disposition/outcome of the case. Files of complaints and Internal Investigations will be retained according to the North Carolina Municipal Records Retention Schedule.

XII. ANNUAL SUMMARIES AND PUBLIC AVAILABILITY

The Office of the Chief of Police, shall include in its annual report, and make available to the public and Departmental employees, statistical information pertaining to citizen complaints and other Internal Affairs Investigations

XIII. COMPLAINT REGISTERING PROCEDURES

The Wilkesboro Police Department will make public its procedures on registering complaints against the Department and its employees, through such means as the annual reports, Community Relation Programs and our police department internet web site.

XIX. REFERENCES

CALEA Chapter 52