

SPRINGFIELD, MA POLICE DEPARTMENT

# Internal Investigation Unit Manual

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## INTERNAL INVESTIGATION UNIT MANUAL

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### **I. Purpose**

The Internal Investigation Unit (IIU) of the Springfield Police Department (SPD) is operated out of a location separate from SPD Headquarters. IIU is tasked with the investigation and classification of reports and complaints regarding misconduct by department personnel. The IIU investigates complaints from the public regarding alleged misconduct and investigates reports of misconduct filed by SPD supervisory personnel. The authority to order an investigation by the IIU rests solely with the Police Superintendent.

### **II. Staffing**

The IIU is to be staffed by sworn supervisory personnel who will report to the commander of the Quality Assurance Bureau, who shall be at the rank of Captain. The Quality Assurance Captain is ultimately responsible for direct oversight of the investigative work of the IIU and its function. The Quality Assurance Captain will report directly to the Police Superintendent.

A command officer with experience and expertise in investigating officer misconduct and supervision of such investigations shall lead IIU. The IIU will also have an attorney who will advise and assist IIU as set forth in this manual.

### **III. Complaint Intake**

SPD employees will treat all individuals with dignity and respect, and without preference or discrimination. SPD encourages any individual to file a complaint, even anonymously if that is preferred. All complaints, including anonymous complaints, against department employees will be accepted, as set forth in SPD's IIU Policy. No complaint will be rejected solely because it was filed anonymously, as anonymous complaints are often a valuable source of information and need to be considered on their individual merits. Care must be taken, however, to ensure that officers are not subjected to unjust, frivolous, or capricious complaints by individuals with improper motives. The process depends on the integrity and honesty of all participants. SPD officers and employees are required as a condition of their employment to provide truthful information. False statements can result in disciplinary action. For the system to work effectively, members of the public must not knowingly provide false information or file a complaint for malicious purposes. Persons who file a complaint verbally, either in person or via telephone, will be asked to fill out the written complaint form so that SPD may obtain all necessary information regarding their complaint, but a failure to complete a written complaint will not be the basis for rejecting a complaint or refusing to investigate it.

Any attempts by SPD to refuse a complaint from a community member or to dissuade a community member from filing a complaint shall constitute misconduct and be cause for disciplinary action. When applicable, community members who attempt to file a complaint with an officer in the field shall be referred to a SPD supervisor at least a rank above the officer who is the subject of the complaint. If the complaint alleges a potential crime (e.g., excessive force, biased policing) or a serious violation of policy (e.g., use of offensive and inappropriate language, serious neglect of duty, or dishonesty), the officer receiving the complaint will request a supervisor to respond to the scene to hear the complaint. If the complaint alleges a minor violation (e.g., minor rudeness, traffic and parking violations, or profanity not directed at an individual), the officer shall provide the complainant with a business card that sets forth information regarding where community members can file complaints, including a phone number, email, and address. It shall be the responsibility of the on-duty Watch Commander to ensure that any written complaint form that comes in during his/her shift is properly filled out, signed if the complainant agrees to sign the form, and placed in the IIU drop box located in the Squad Commander's office. Community members may also drop off completed complaint forms at the Mayor's Office in City Hall and at the office of the IIU. A photocopy of the completed and signed (if applicable) complaint form shall be furnished to the complaining party at the time the written complaint is filed.

SPD prohibits all forms of retaliation, including discouragement, intimidation, coercion, or adverse action, against any person—community members or employees—who reports misconduct, makes a misconduct complaint, or cooperates with an investigation of misconduct.

#### **IV. Complaint Classification Protocol**

When IIU receives a complaint alleging officer misconduct, IIU shall promptly notify the Superintendent. When an officer or Supervisor receives a complaint, they shall promptly notify the Superintendent or submit it to the Watch Commander's office. When the Superintendent receives a complaint or report alleging officer misconduct, the Superintendent shall promptly notify IIU.

When a complaint is received, the IIU Attorney will recommend that the complaint be classified under one of the following three designations:

1. **Administrative Inquiries (A.I.'s)**- Complaints that do not allege misconduct, handled by supervisory officers in the affected officer's chain of command and tracked by IIU.
  - An example of a complaint that would be properly classified as an A.I. would be a citizen who receives a traffic citation and files a complaint against the officer who issued the citation with no allegation of rudeness or other misconduct on the part of the officer.
2. **Preliminary Investigations of an Employee (P.I.E.'s)**- Complaints that are investigated by a supervisor in the designated officer's chain of command with their squad or unit and tracked by IIU.
  - An example of a complaint that would be properly classified as an P.I.E. would be a complaint that alleges rudeness or minor violations of SPD Rules and Regulations, such as minor rudeness, traffic and parking violations, or profanity not directed at an individual.
3. **Special Orders (S.O.'s)**- Complaints that should be investigated by IIU. All misconduct complaints involving any allegation related to a use of force will be classified as S.O.
  - Examples of complaints that would be properly classified as an S.O. include allegations of serious misconduct, such as the use of excessive force, corrupt acts, or an alleged violation of a community member's constitutional rights.
  - The IIU will investigate any custodial death of a prisoner, officer involved shooting, or departmental vehicle pursuit that results in death or serious bodily injury.
  - The above are provided as examples only and further categories of complaints may also be ordered to be investigated by the IIU per order of the Police Superintendent.

The IIU Attorney will independently conduct a review of each complaint and make their recommendation to the Police Superintendent as to how the complaint should be classified. The Superintendent will review the IIU Attorney's recommendations regarding classification, make a final decision, and, where applicable, issue a S.O. If the Superintendent determines not to investigate an allegation of a use of force or decides to delay an investigation of an allegation of use of force, the Superintendent shall document the reasons for that decision in the file.

## **V. Scope and Manner of IIU Investigations**

In conducting investigations of alleged employee misconduct, all appropriate investigative techniques and methods should be employed, consistent with legal requirements and all necessary concern for the individual rights of employees, complainant(s) and witnesses. An internal investigation may inquire into a department employee's on-duty or off-duty conduct if such inquiry is reasonably and directly related to the employee's performance of duty, if such conduct affects the employee's fitness or ability to continue in the police service, or if it reflects discredit on the department. An internal administrative investigation is to be conducted with the same degree of professionalism as is devoted to a criminal investigation. IIU investigations shall be handled with an open and questioning mind, integrity, objectivity and fairness, and in a timely manner; rigorously testing the accuracy and reliability of information from all sources and presenting the facts and findings without regard to personal beliefs or concern for personal, professional or political consequences. The head of IIU shall take appropriate steps to ensure that IIU investigators shall have no involvement in cases where they have a conflict of interest, such as a case where a family member is involved as a subject or a witness.

IIU investigators will make thorough efforts to find and interview witnesses and exhaust all leads. Investigators are required to make at least three (3) attempts to contact complainants and potential witnesses. In the event no contact is made after three attempts, the investigator will leave a business card at the witness's residence or business address and with a request to contact the investigator. If no contact is made after a business card is left at the witness' residence or business, as a final attempt the IIU will send a letter via first-class mail requesting the individual to contact the IIU.

It is important that internal investigations be kept confidential in order to preserve the rights of the accused officer during the course of an investigation. Witnesses, both community members and SPD employees, shall be informed of the confidential nature of such investigations, and of the preference not to discuss the content of the investigation or interview with others.

All investigations of SPD misconduct complaints, including all supervisory reviews of the completed investigation, shall be thorough to reach reliable and complete findings. Specifically:

I.IIU investigators shall attempt to interview all witnesses, including officers witnessing or involved in an incident that becomes the subject of a personnel complaint, as described below;

II.IIU interviews will be audio-recorded. If a community member refuses to submit to a recorded interview, the IIU investigator will document the refusal and obtain a written statement from the witness;

III.SPD shall investigate every allegation of misconduct that arises during an investigation even if an allegation is not specifically articulated as such by the complainant;

IV.Investigators will report and analyze all relevant evidence, including circumstantial, direct and physical evidence, as appropriate;

V.IIU reports shall clearly set forth each and every allegation of misconduct, the SPD policy or policies that governs each allegation of misconduct, and the evidence the investigation identified that bears on each allegation of misconduct; and

VI.IIU reports shall be well-organized, not repetitive, clear, and easy to review and understand.

An investigation shall not be closed simply because the complaint is withdrawn. If the complainant or a witness is unable or unwilling to provide additional information beyond the initial complaint, the investigation will continue as necessary to resolve the original allegation(s) where possible based on the available evidence and investigatory procedures and techniques.

Upon completion of an IIU investigation of a complaint, IIU personnel will consult with the IIU Attorney to determine specifically which SPD Rules and Regulations/Policies are potentially at issue based on the facts of each case. A cover memo will be added to the case file detailing the applicable policies implicated in the investigation and the evidence related to each potential violation of policy.

At the conclusion of any IIU investigation, a comprehensive written report shall be prepared. The report will include the original complaint report, any additional statements taken from the

complainant or statements taken from witnesses, any statements made or reports submitted by the department employee under investigation, and a summary of all evidence gathered, including but not limited to photographs, medical records, body worn camera video (BWC), private videos, audio recordings, and department records.

## **VI. Time Requirements for IIU Investigations**

Internal and administrative investigations are required to be conducted in compliance with contractual language for both International Brotherhood of Police Officers (IBPO) Local 364, which represents SPD patrol officers, and the Springfield Police Supervisor's Association, which represents SPD Sergeants, Lieutenants, and Captains. For investigations involving supervisors, investigators have ninety (90) days from the date of the alleged event to complete the investigation and notify the accused officer. For investigations involving patrol officers, investigators have 120 days from the date of the alleged misconduct to complete the investigation and notify the accused officer. Once a patrol officer has been formally notified of pending departmental charges, a hearing must be held within sixty (60) days unless the officer who is being charged agrees to waive the sixty-day requirement. The 60-day hearing requirement does not apply to SPD supervisors.

## **VII. Notification to Officers and Interview Recording**

SPD requires sworn officers to cooperate with administrative investigations to the fullest extent permitted by law, including appearing for an interview when directed and providing all requested documents and evidence.

When an IIU investigator needs to interview a sworn officer of the department, the officer will receive written notice of the requirement to appear at the IIU to be interviewed. This written notice will notify the sworn officer of the date and time that the officer must appear at the IIU office. The written notice shall include language advising the officer that they may, if they so desire, have a union representative present with them during the interview. This written notification will be served in hand to the sworn officer no less than 72 hours prior to the interview date. Weekends and holidays are not to be counted in the 72-hour notice requirement.

At the beginning of any recorded interview, a lead-in statement by the IIU investigator shall announce on audio the date, time, and location of the interview as well as the names and titles of every person present. In some, but not all cases, the recorded interview with the sworn officer will eliminate the need for a written report to be submitted by the sworn officer. Absent unusual circumstances, all IIU interviews with department employees should be scheduled during the employee's regular work hours.

All sworn department officers, when requested by the Police Superintendent or by a Police Supervisor designated by the Superintendent, must respond fully and truthfully to all questions regarding their performance of either their official duties or their off-duty conduct which affects their fitness or ability to remain in the police service. Any failure by the officer to answer completely and truthfully all such inquiries will be subject to appropriate disciplinary action, including dismissal from the department. In all misconduct investigations, prior to taking a statement from or questioning a subject officer, the officer shall be informed of their rights and potential consequences related to providing a voluntary or compelled statement and shall be required to sign a form indicating that the officer has been advised of these rights and potential consequences and indicating whether the statement is being compelled or provided voluntarily.

### **VIII. Investigation of Criminal Conduct**

If during the course of an internal investigation any possible criminal conduct by a department employee is discovered, this information shall immediately be made known to the head of IIU and the Police Superintendent and documented appropriately. The Police Superintendent will then determine whether a separate criminal investigation is to be conducted by the SPD Detective Bureau or by an outside law enforcement agency. In any event the IIU will continue to conduct a separate administrative investigation with the stipulation that it does not unduly hamper or interfere with any prospective criminal investigation of the department employee. IIU will consult with the Commanding Officer of the Detective Bureau and representatives of the Hampden County District Attorney's office or applicable investigative agency and prosecutor's office for guidance to ensure any potential conflicts of interest will be avoided. In the event that an administrative investigation must be delayed pending any criminal inquiry of SPD personnel, the reasons for the delay will be noted in a written report and approved by the Superintendent.

Where an officer believes that providing an oral or written statement will be self-incriminating, they must affirmatively state this in writing at the time the request for the statement is made and before the statement is due, and will not be required to provide a statement unless formally compelled upon approval by the Superintendent, who will consult with the relevant prosecuting agency as appropriate. If the officer objects to reducing their refusal to writing, the IIU investigator will document the refusal.

A police officer's personal property, including their home, car, or other personal property is protected from unreasonable search and seizure under both the U.S Constitution and Massachusetts Constitution, including Article 14. Department property furnished to officers, such as desks, lockers, vehicles, BWC, computers, or cellular telephones, are owned by the department and therefore no expectation of privacy exists for SPD employees with respect to these items. Nor does the placing of a personal lock by an employee on either a department issued locker or desk create any such expectation of privacy. Any department issued desk, locker,



vehicle, BWC, computer, cellular telephone or any other Department issued equipment may be searched by appropriate departmental supervisory personnel without a search warrant.

## **IX. Notifications to Complainants**

Within 21 days of receiving a complaint, IIU shall provide written notification to the complaining party (if known) that the department has received their complaint and whether an investigation into the allegations has been ordered. For cases where an IIU investigation has been ordered, prior to the end of the 90 day period for an investigation, IIU investigators will contact the complainant via telephone to provide the complainant with an update on the status of the investigation. Once an investigation has been completed and adjudicated, either the IIU or the Board of Police Commissioners, as appropriate, will send written notification to the complaining person(s). This notification will include which disposition was reached on each allegation (Sustained, Not Sustained, Unfounded, or Exonerated, as set forth below). The written notification will also inform the complainant whether any disciplinary action was taken against the employee, without identifying the employee by name. Specific information regarding which type of disciplinary action (such as written reprimand, suspension, etc.) was taken will not be referenced in the notification. The IIU shall receive and maintain copies of all such notifications.

## **X. Disposition of Misconduct Complaints**

Upon the conclusion of any case, one of the following four dispositions will be used:

1. **Sustained**- based upon a standard of preponderance of the evidence, the investigation shows that the alleged misconduct did occur and did violate the law or SPD policy.
2. **Not sustained**- based upon a standard of preponderance of the evidence, the investigation is unable to determine whether the alleged misconduct occurred.
3. **Exonerated**- based upon a standard of preponderance of the evidence, the investigation determined that the alleged misconduct did occur but did not violate the law or SPD policy.
4. **Unfounded**- the investigation determined, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject employee.

The procedure for making credibility determinations and findings on misconduct complaints will depend on certain details of the investigation, as set forth below. These procedures are consistent with collective bargaining agreements in place as of the date of this policy and may be subject to change.

A. Cases Involving Allegations of Misconduct by Members of the IBPO

If, following a full investigation, the IIU Attorney recommends that an allegation of misconduct against a member of the **IBPO** collective bargaining unit be Unfounded, Exonerated, or Sustained *and* the SPD disciplinary matrix would call for potential discipline of no more than five (5) days suspension without pay for the affected employee, IIU shall follow the following procedures:

1. The IIU Attorney, in consultation with IIU, will make credibility determinations, as appropriate, including:
  - a. Critically evaluating an officer's statement against other evidence. Misconduct investigators will not disregard a witness's statement solely because the witness has some connection to either the complainant or the officer or because the witness or complainant has a criminal history, but those factors should be considered along with other indicia of credibility;
  - b. Making all reasonable efforts to resolve material inconsistencies between officer, complainant, and witness statements; and
  - c. Making credibility determinations about civilian, officer, and witness statements based on independent, unbiased, and credible evidence.
2. The IIU Attorney, in consultation with IIU, shall make recommendations for a finding of Unfounded, Exonerated, or Sustained (if discipline is a five-day suspension or less) based upon the evidence that bears on the truth of each allegation. The IIU Attorney will have final review and approval of such recommendations.
3. The IIU Attorney will send the full file, along with the recommendations set forth in paragraphs 1 and 2, above, to the Police Superintendent for review. The Superintendent may ask questions of IIU and/or send the file back to IIU for additional investigation. The Superintendent shall then make a final determination as to disposition of each allegation.

If, following a full investigation, the IIU Attorney *cannot* recommend that an allegation of misconduct against a member of the **IBPO** collective bargaining unit be Unfounded, Exonerated, or Sustained *and* the Disciplinary Matrix would call for potential discipline of no more than five (5) days suspension without pay for the affected employee IIU will send the investigative file directly to the Board of Police Commissioners for review, without including any recommendations regarding credibility determinations or findings. The IIU will also send the file to the Superintendent.

**B. Cases Involving Allegations of Misconduct by Members of the SPSA**

If, following a full investigation, the IIU Attorney recommends that an allegation of misconduct against a member of the **SPSA** collective bargaining unit be Unfounded, Exonerated, or Sustained *and* the SPD disciplinary matrix would call for potential discipline of no more than five (5) days suspension without pay for the affected employee, IIU shall follow the following procedures:

1. The IIU Attorney, in consultation with IIU, will make credibility determinations, as appropriate, including;
  - a. Critically evaluating an officer's statement against other evidence. Misconduct investigators will not disregard a witness's statement solely because the witness has some connection to either the complainant or the officer or because the witness or complainant has a criminal history, but those factors should be considered along with other indicia of credibility;
  - b. Making all reasonable efforts to resolve material inconsistencies between officer, complainant, and witness statements; and
  - c. Making credibility determinations about civilian, officer, and witness statements based on independent, unbiased, and credible evidence.
2. The IIU Attorney, in consultation with IIU, shall make recommendations for a finding of Unfounded, Exonerated, or Sustained (if discipline is a five-day suspension or less) based upon the evidence that bears on the truth of each allegation. The IIU Attorney will have final review and approval of such recommendations.
3. The IIU Attorney will send the full file, along with the recommendations set forth in paragraphs 1 and 2, above, to the Police Superintendent for review. The Superintendent may ask questions of IIU and/or send the file back to IIU for additional investigation.

The Superintendent shall then make a final determination as to disposition of each allegation.

If, following a full investigation, the IIU Attorney *cannot* recommend that an allegation of misconduct against a member of the SPSA collective bargaining unit be Unfounded, Exonerated, or Sustained *and* the Disciplinary Matrix would call for potential discipline of five-days suspension without pay or less, IIU will send the investigative file directly to the Board of Police Commissioners for review, without including any recommendations regarding credibility determinations or findings. The IIU will also send the file to the Superintendent.

### C. Cases Reviewed by the Board of Police Commissioners

Notwithstanding the provisions of paragraphs A and B above, the Superintendent can designate any case for Board of Police Commissioners (BPC) review and determination, and the BPC has authority to require a hearing on any allegation of misconduct.

Any recommended disposition (either by the Superintendent or IIU) will be removed from the file prior to sending to the BPC.

IIU shall provide each member of BPC access to the full investigative files of cases to review no less than twenty-one (21) calendar days before the Board meets to decide whether to hold a hearing on the particular matter.

IIU shall make the full investigative files available electronically and in-person to facilitate maximum BPC access to the files. IIU will also ensure that IIU files remain secure from inappropriate dissemination or disclosure. IIU will develop appropriate protocols with the BPC to ensure the necessary security for IIU files.

The full investigative file that the BPC members will review will include:

- A cover letter summarizing the complaint, investigation, and a list of the documents in the file;
- The complaint;
- IIU's full report, including but not limited to incident reports, duty reports, and field reports;
- Audio, visual, or transcripts of interviews of witnesses or parties to the incident;
- Body-worn camera or in-car video and other physical evidence associated with the investigation;
- An IIU memo setting forth the applicable policies implicated in the misconduct investigation and the evidence related to each potential violation of policy.

#### D. Disposition of P.I.E.s and A.O.s

For all P.I.E. and A.O. investigations, the completed investigation file and cover memo summarizing the complaint, investigation, and a list of the documents in the file will be reviewed by the officer's Commanding Officer and Deputy Chief. In the event that the affected officer's Commanding Officer or Deputy Chief filed the administrative complaint against said officer, the Police Superintendent shall assign another supervisor of equal rank to review the case. The officer's Commanding Officer and Deputy Chief will then issue a written analysis of their findings to the Police Superintendent, who will then make a recommendation on the disposition.

#### E. Summary of All Complaints Filed for BPC

IIU will send the BPC a comprehensive summary of all complaints filed with IIU on a bi-weekly basis, including PIEs and S.O.s, with details of allegations using case numbers but not employee names, so that the Board has a sense of the overall number of complaints filed, the types of complaints filed, and the status of those complaint investigations.

### **XI. Departmental Notifications to MA. Division of Peace Officers Standards and Training (P.O.S.T)**

Any credible complaint submitted to the SPD alleging misconduct by a police officer shall be forwarded to the Massachusetts Division of Peace Officers Standards and Training (P.O.S.T) within two (2) business days of receipt. This notification shall include the following information:

1. The name and Commission certification identification number of the involved officer
2. The date and location of the incident
3. A description of the circumstances that form the basis of the complaint
4. 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 (except for minor matters such as discourtesy, grooming violations, tardiness, inattention to detail);
  - c. Involved excessive, prohibited, or deadly force or;
  - d. Resulted in serious bodily injury or death.

Upon the conclusion of each S.O., P.I.E., and A.I. that was conducted pursuant to a complaint, the SPD will provide notification to P.O.S.T. of the findings of that investigation and the final disposition of each case. If applicable, this notification will include whether the disciplinary action imposed consisted of retraining, suspension, or termination of the officer.