

CITIZEN COMPLAINT PACKAGE

REQUIRED CRIMINAL LAW WARNING—OBETZ GENERAL ORDER 18.1.3

1) Complaint Investigation:

a) It is the policy of this agency that all allegations of employee misconduct be appropriately investigated and promptly adjudicated. All reports or accusations made against employees of this agency, from all sources, shall be completely investigated in order to ensure the integrity of the agency and its employees. Anonymous complaints can be difficult to investigate; however, the agency will carefully review each complaint for validation before disregarding it for lack of a credible complainant. The Agency has the responsibility to protect the rights of all persons within its jurisdiction. This includes protecting its officers and employees from false allegations of misconduct. In this context, complainants should be made aware of the following sections of the Ohio Criminal Code.

(1) Section 2917.32(A)(3) No person shall report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur.

(2) Section 2921.13(A) No person shall knowingly make a false statement, or knowing swear or affirm the truth of a false statement previously made when any of the following apply:

(a) The statement is made with purpose to mislead a public official in performing his function.

(3) Section 2921.15(B) No person shall knowingly file a complaint against a peace officer that alleges that the peace officer engaged in misconduct in the performance of the officer's duties if the person knows that the allegation is false.

****(These crimes are misdemeanors of the first degree punishable upon conviction by a fine not more than \$1,000 and/or imprisonment not more than 6 months.)***

I have read and acknowledge being informed of the foregoing.

Complainant Printed Name

Complainant Signature

Date:

The Complainant has refused to sign above. I have provided a copy of this warning to the Complainant and read this warning to them.


Obetz Investigator/Position

Date:

INFORMATION REGARDING THE PROCESSING AND DISPOSITION OF YOUR COMPLAINT

Below, I have provided you a copy of Obetz General Order 18.1.3. This order explains the process for accepting, investigating, and resolving your complaint. Some highlights—which are explained in further detail in Order 18.1.3 below include:

- You may make your complaint anonymously
- Generally, your complaint shall be fully investigated within 60 days from when you file it.
- You will be advised of the findings and informed whether or not your complaint lead to disciplinary action.

	EFFECTIVE DATE: 11/13/2020	OCCPAB REFERENCE NUMBER: 3.2018.7
	REVISED DATE:	
18.1.3 INVESTIGATION OF EMPLOYEE MISCONDUCT		

Purpose: The purpose of this General Order is to establish general procedures, in addition to those provided in our policies, written Directives, Ohio Revised Code, for reviewing citizen complaints, conducting internal affairs investigations, and initiating corrective and/or disciplinary actions against agency personnel.

Supervisor’s Responsibility: Nothing in this General Order is meant to take away from a Supervisor the responsibility of correcting, admonishing, or reprimanding subordinate personnel whenever it is warranted. Final disciplinary authority and responsibility rests with the Chief of Police/Safety Director. Except for informal counseling, oral reprimands, and emergency administrative leaves, all agency discipline must be approved beforehand by the Chief of Police/Safety Director.

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2) Records Maintenance and Security:

- a) Every internal affairs or citizen complaint investigation report shall be assigned a case reference number. The numbering system will be sequential in nature and will start over each January. Example, the first case of 2020 would be numbered as 20-01; the next case would be 20-02, then 20-03 etc. The original case file will be maintained by the Chief of Police until the case is closed. At the conclusion of the case, the file will be stored in a locked file cabinet in the Chief's office. Only the Chief of Police and the Deputy Chief of Police will have access. The case file will remain in the file cabinet until disposed of under the rules of the Records Retention Schedule.

3) Direct Accessibility to the Chief of Police:

- a) The Deputy Chief of Police is responsible for the Internal Affairs function. The Deputy Chief reports directly to the Chief. Generally, the member's supervisor will be assigned, through the Chain of Command, to conduct the investigation. The Chief may determine it necessary to assign another individual to serve as the Internal Affairs investigator due to extenuating circumstances. In such cases, the investigator may be directed by the Chief to report directly to the Chief regarding matters concerning the internal affairs investigation. All personnel can report directly to the Chief when investigating an internal affairs case.

4) Complaint Registering Procedures:

- a) The Agency makes information available to the public on procedures to be followed in registering complaints against the agency and or its employees. The complaint process is outlined on the Agency website. Complaints shall be accepted in person, by telephone, email or agency complaint form. Commendations shall be made available to the public in the same manner.

5) Annual Summaries – Public Availability:

- a) The Chief of Police or his designee will compile an annual statistical summary of all internal investigations that will be made available to the public and all Agency employees.

6) Complaint Procedures:

- a) Complaint Types: Generally, there are two types of complaints, criminal misconduct or non-criminal misconduct. Supervisors receiving a complaint regarding officer or civilian employee behavior shall review the complaint and determine which of the following categories it falls. If, after preliminary review, the supervisor determines that the complaint does not fit either category, he/she should document the complaint in their supervisor notes.

- (1) A complaint against a member which alleges criminal misconduct is considered to be a criminal complaint and is subject to the formal internal affairs function. Criminal misconduct is defined as any action in violation of the Ohio Revised Code.

- (2) Non-criminal misconduct is defined as behavior, which is either unethical or immoral, and has the potential for reflecting negatively upon the reputation and image of the Police Department, but does not constitute a violation of the Ohio Revised Code. A complaint which alleges such behavior is considered a noncriminal misconduct complaint. An investigation of this type of complaint is considered formal, is subject to the formal internal affairs function and the affected employee is advised of his Garrity rights (an

employee being questioned as part of an official internal investigation, must answer all questions or face Agency disciplinary action, and that no statements can be used against him in any subsequent criminal proceeding) and Piper rights (any police officer or employee who is under investigation by internal affairs, shall be permitted to have an attorney present during questioning).

(3) Complaints of a non-serious nature will be taken by the supervisor on duty. An informal inquiry will be conducted which may result in no further investigation or in a request for a formal internal affairs investigation. In informal inquiries, the accused employee will be informed of the complaint.

b) Investigation of complaints of employee misconduct should be conducted by the employee's immediate supervisor. The following types of complaints are examples of those that can be investigated by the immediate supervisor:

- (1) Non-criminal complaints;
- (2) A complaint that does not involve violence; and
- (3) Policy violations.

The results of all informal inquiries will be reduced to writing and documented in supervisory notes with the final disposition noted. The supervisor should advise their superior officer of the inquiry.

7) Notification to the Chief of Police:

a) Whenever the incident allegedly committed by the person is a criminal offense, and the evidence is such that had the crime been committed by a private citizen it would have generated an arrest, the Chief of Police shall be advised of the circumstances and render a decision as to whether personnel should be arrested forthwith; or criminal action should be delayed pending further investigation. The Chief of Police shall be informed as soon as practical of investigations of a lesser nature.

8) Investigation Time Limits:

a) All complaints against the Police Department, or any of its employees, shall be completely investigated within sixty days from the date of the filing of the complaint. The Chief may, on a case-by-case basis, grant an extension to this time limit, at his discretion based on extenuating circumstances.

9) Collective bargaining:

a) Nothing in this policy shall interfere with rights or procedures outline for officers covered by collective bargaining agreement between the employer and the Union. At this time the Obetz Police Department does not have a Collective Bargaining Agreement.

10) Informing Complainants:

a) When an individual wishes to make a complaint the on-duty supervisor will review the complaint process with them and answer any questions that they may have. This process is outlined on the department website: <https://obetz.oh.us/village-services/police/>.

b) Once the investigation is completed the complainant(s) shall be advised of the findings and whether or not any corrective and/or disciplinary action resulted.

11) Statement of Allegations/Rights:

a) When employees are notified that they have become the subject of an internal affairs investigation, the Police Department shall issue the employee a written statement of the allegation(s) and the employee's rights and responsibilities relative to the investigation.

12) Cooperation and Truthfulness:

- a) Agency personnel shall fully cooperate during internal affairs and citizen complaint investigations. All personnel are required to truthfully answer questions, render relevant statements, material, and evidence in connection with such investigations. Personnel who fail to cooperate, or who are not truthful, shall be subject to disciplinary action up to and including termination from the Agency.

13) Dissemination of Findings:

- a) Agency personnel who are the subject of an internal affairs or citizen complaint investigation shall be informed in writing of the findings and, when appropriate, any corrective and/or disciplinary action. The complainant(s) of any internal affairs or citizen complaint investigation shall be advised of the findings and whether any corrective and/or disciplinary action resulted.

14) Appeal:

- a) Notwithstanding the provisions of this Chapter, any Agency personnel who are the subject of disciplinary action shall be afforded the right to appeal as provided in the Human Resources policy and recognized collective bargaining agreements.

15) Submission to Tests, Procedures:

- a) During an internal affairs investigation, specific questions may arise that can be answered through specific testing or procedures. The following guidelines shall be used in such cases:
 - (1) An employee may be required to submit to a medical or laboratory examination, at the Agency's expense, when the examination is specifically directed and narrowly related to a particular internal affairs investigation being conducted by the agency. An example is when there are indications that agency personnel is physically or mentally impaired due to the consumption of alcoholic beverage and/or habit forming drugs or addicting narcotics, the person shall submit to a breath, blood, or urinalysis examination when directed by a commanding officer or supervisor. An employee may be required to be photographed and the photos used in an internal affairs investigation being conducted by the agency.
 - (2) An employee may be required to participate in a line-up when such action is material to a particular formal internal affairs investigation being conducted by the Agency.
 - (3) An employee may be required to submit financial disclosure statements when such requirement is material to a particular internal affairs investigation.
 - (4) A polygraph examination may be used as an investigative aid as per the provisions provided by the labor agreement.

No law enforcement officer who is subject to criminal prosecution shall be ordered or coerced to waive any right granted by law. If there is the potential for criminal prosecution, officers who are ordered to provide statements during an internal investigation are protected under the Garrity Rule.

16) Relieved from Duty:

- a) Upon notification of an incident of alleged misconduct, or personal knowledge of misconduct by Agency personnel, a commanding officer or supervisor may immediately place the person on emergency administrative leave and direct him or her to report to the Chief of Police before returning to duty. The commanding officer or supervisor may order this emergency administrative leave when the action of the person is, for example, grossly immoral, indecent, brutal, involved the physical mistreatment of another person; or when the accused personnel is intoxicated, refused to obey a lawful order of a superior officer or refused to comply with law(s) and/or agency rules, orders, or regulations; or is otherwise unfit for duty. When an accused is

placed on emergency administrative leave, the commanding officer or supervisor shall, as soon as is practical, notify the Chief of Police.

Corrective Action and Involuntary Termination authorizes administrative leave in circumstances when the health or safety of any staff member or of any person or property entrusted to the staff member's care could be adversely affected, or during an administrative investigation.

17) Conclusion of Fact:

- a) All investigations into allegations of misconduct shall result in a "CONCLUSION OF FACT" which will be designated as follows;
 - (1) Unfounded: The investigation conclusively proved that the act(s) complained of did not occur. This finding also applies when the individual personnel was not involved in the act(s) which may have occurred.
 - (2) Exonerated: The act(s) which provided the basis for the complaint or allegation occurred; however, investigation revealed it was justified, lawful and proper.
 - (3) Sustained: The investigation disclosed sufficient evidence to clearly prove the allegation(s) made in the complaint.
 - (4) Not sustained: Insufficient evidence to either prove or disprove allegation(s).

18) Corrective and/or Disciplinary Action:

- a) When a finding of Sustained is included in a final summary report of investigation, the Chief of Police will determine whether immediate corrective and/or disciplinary action will be initiated in conformity with the findings in the report. When disciplinary action is indicated by the findings, one or more of the following actions may be taken by the Chief of Police, or the appointing authority, subject to the provisions of Agency policies, and recognized collective bargaining agreements:
 - (1) Informal counseling
 - (2) Oral reprimand
 - (3) Written reprimand
 - (4) Denial or delay of promotion
 - (5) Suspension
 - (6) Demotion
 - (7) Termination
 - (8) Corrective Action and Involuntary Termination

CITIZEN COMPLAINT FORM

Date Completed: _____
Complainant: _____
Phone Number: _____
Complainant Address: _____

Briefly state the nature of the allegation (include what the employee is alleged to have done, or failed to do, the conditions or circumstances at the time, and what resulted):

Attach additional Pages if Necessary.

Complainant's Signature: _____

Criminal Law Violation Disclosure:

Any person who knowingly files a false complaint alleging Police Officer misconduct is subject to criminal sanctions. A violation of ORC 2921.15 "Filing a False Complaint" is a misdemeanor of the First Degree and upon conviction the violator can be fined up to \$1,000.00 and imprisoned for not more than six months.