

Personnel Complaints

1010.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Bozeman Police Department.

1010.2 POLICY

All sworn law enforcement officers and civilian employees of the Bozeman Police Department must understand expectations regarding their on and off-duty conduct and be aware of the ethical responsibilities of their position. To ensure adopted behavior and performance standards are upheld, complaints against the agency or its employees will be answered and/or investigated. All investigations will be done in a fair, impartial and timely manner to protect citizens from employee misconduct, redress inappropriate behavior, protect the department and employees who conduct themselves appropriately, and to identify policies and procedures that may need review or change and find ways to improve the quality of our service to the community.

1010.3 DEFINITIONS

Misconduct: A violation of any statute, ordinance, City or Department policy, protocol, rule, regulation, lawful order, or rule of law. This includes conduct that by its nature is detrimental to operations of the Department. Misconduct may be criminal or non-criminal in nature.

Inquiry: Allegations from any source brought to a Supervisor regarding possible employee misconduct which after a conversation between the complaining party and a Supervisor are resolved, and the complainant does not wish to turn inquiry into a Complaint. Inquiries may be provided orally or in writing.

Complaint: Allegations of employee misconduct from any source which, following a conversation with the complaining party and a Supervisor, the complainant chooses to provide their complaint in writing.

Disposition Classifications:

1. **Exonerated:** When the investigation indicates the conduct occurred, but was justified, lawful and/or proper according to current Department policy/protocol.
2. **No Finding:** The investigation cannot proceed for reasons that include but are not limited to: the complainant does not disclose information necessary to further the investigation; the complainant chooses to withdraw the complaint; or, the complainant is no longer available for clarification. This finding may also be used when the information provided is not sufficient to determine the identity of the officer(s) or employee(s) involved.
3. **Not Sustained:** The investigation failed to discover sufficient evidence to support or refute the allegations made.
4. **Sustained:** The complaint and subsequent investigation revealed evidence supporting the complaint by a preponderance of evidence that the misconduct occurred.

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Serious Complaint: If an investigation into a complaint reveals or suggests any of the following conduct, Command Staff must be notified. The Deputy Chief will decide if an Administrative Investigation will be conducted.

1. Excessive Use of Force
2. Violations of Criminal Law
3. Bias Policing
4. Corruption
5. False Arrest
6. Use of Deadly Force

Administrative Investigation: An internal investigation into Serious Complaints. Employees must cooperate fully and be complete, honest and accurate when participating in Administrative Investigations. Any information gathered or evidence obtained will not be used in a criminal investigation. See Administrative Investigations Policy.

1010.4 GUIDELINES

- A. Inquiries may be received by this department in person, over the telephone, by electronic message, or in writing.
- B. Inquiries may be lodged anonymously, by a third party, or by another employee.
- C. Complainants who are intoxicated or otherwise unable to constructively assist with the complaint process, shall be provided with the Supervisor's contact information and advise them to call when they are ready to discuss their concerns.
- D. All inquiries and any subsequent complaints must be handled by an employee holding a rank higher than that of the accused.

1010.5 INQUIRIES

- A. Any employee who receives an Inquiry will report the information immediately to the on-duty Supervisor. If a Supervisor is not available, contact information shall be gathered and the next available Supervisor will contact the complainant.
- B. Whenever possible the Supervisor will record all inquiries.
- C. The Supervisor must add a record to the BPD Complaint Log in Zuercher.
- D. The Supervisor will attempt to understand the citizen's concern, answer any questions, explain department policy and attempt to resolve the issue, if possible. It may be appropriate at this time to offer the complainant the opportunity to review the video/audio from the incident. This would not be an option if it is Confidential Criminal Justice Information.
- E. At the end of the conversation the Supervisor must ask the complainant if they are satisfied with the outcome of the conversation. If satisfied, the Complaint Status will be coded "Inquiry Closed – Complainant Satisfied" and no further action is required.
- F. If the complainant is not satisfied, the Supervisor shall ask if they would like to file a Complaint.

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1. If the complainant indicates they are not satisfied but does not choose to file a Complaint, the Complaint Status will be coded, "Inquiry Closed – Complainant not Satisfied".
2. Any issue settled at this point will be kept separate from any criminal case.

1010.6 INITIATION OF A COMPLAINT

If the complainant is not satisfied with the process described above under Inquiries and desires to file a Complaint, the Supervisor must:

1. Advise the person they will need to file the complaint in writing by filling out the Bozeman Police Department Complaint Form and returning it to the Department. The Supervisor must inform the person of the various ways to obtain a complaint form including requesting it be sent by email or U.S. mail, or picking up a hardcopy at the Law and Justice Center or BPD Substation, using the online form located on the BPD website, or downloading it from the BPD website.
2. Advise the complainant who the investigating Supervisor will be and provide that Supervisor's desk phone number, email address, and work schedule.
3. Indicate the Complaint Status is "Pending." The Complaint should be assigned to the employee's direct supervisor if possible to await the completed Complaint Form.
4. The Supervisor handling any complaint which is related to an underlying criminal case must notify the appropriate prosecution office of the complaint so the prosecution office can determine whether evidence submitted with the complaint or gathered during the investigation is discoverable in the criminal case. Miranda may apply if there is a custodial interrogation (questions likely to elicit an incriminating response).

1010.7 INVESTIGATING A COMPLAINT

- A. After receiving a completed Complaint form, the investigating Supervisor must change the Complaint Status to "Complaint" and begin the investigation.
- B. All Complaints must be promptly investigated.
- C. Whenever possible, the investigation of allegations of misconduct not rising to the level of a Serious Complaint must be conducted by the officer's direct supervisor.
- D. Within 10 days of receiving any Complaint, the investigator must acknowledge receipt of the complaint, in writing.
- E. The supervisor must review all applicable reports, audio and video, and employ generally accepted investigative procedures.
- F. Anytime an investigation reveals or suggests a Serious Complaint, the supervisor must notify a member of Command Staff. The Deputy Chief will review the circumstances and determine how to proceed, including but not limited to determining whether an Administrative Investigation will be conducted (refer to Administrative Investigations Policy).

1010.8 CLOSING A COMPLAINT

- A. At the conclusion of the investigation the supervisor must accurately document the findings of the investigation in the BPD Complaint Log in the records management system.
- B. Choose the appropriate Disposition Classification and update the BPD Complaint Log.

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C. Forward recommendations for discipline or policy revisions, if any, to the appropriate Division Commander.

D. A reasonable effort should be made to contact the complainant and inform them of the following in writing:

1. The investigative steps taken;
2. Explain any related agency policies and/or protocols which apply to the complaint. Explain the Disposition Classification used to close the complaint and what that means.
3. If applicable, complainant will be notified that the City has followed its progressive discipline policy and has taken appropriate disciplinary action against the employee(s) involved.

E. Written notification of the outcome of the investigation must be sent to the complainant.

F. The supervisor will ensure the officer(s) who are the subject of the complaint are informed of the outcome of the complaint and any identified individual training or corrective action must be completed by the supervisor.

G. In the event department wide policy or training deficiencies are identified, correction and related training will be done as soon as practical.

1010.8.1 COMPLAINTS ALLEGING RACIAL PROFILING

The Chief of Police or the authorized designee is responsible for reviewing all written complaints of racial profiling. The Chief of Police or the authorized designee shall ensure that the complainant is notified that the complaint was received and notified of the results of the review as required by § 44-2-117, MCA.