



# MBTA Transit Police

DEPARTMENT MANUAL  
**CHAPTER 120**

## General Order No. 2016-85

SUBJECT STANDARDS OF CONDUCT Internal Affairs and Citizen Complaints Investigations		DATE OF ISSUE 08/24/2016	EFFECTIVE DATE 08/29/2016
REFERENCES CALEA 12.2.2, 25.1.1, 26.1.4, 26.1.8, 52.1.1-5, 52.2.2, 52.2.3, 52.2.4, 52.2.6, 52.2.8	PAGE 1 OF 8	ISSUING STATUS <input type="checkbox"/> NEW <input checked="" type="checkbox"/> AMENDS <input type="checkbox"/> RESCINDS	ISSUING AUTHORITY  Kenneth Green Chief of Police

1.0 **BACKGROUND.** The responsibility of the Professional Standards Unit is to thoroughly investigate allegations of misconduct originating from all internal and external complaints.

Investigating alleged employee misconduct carries with it the important responsibility of conducting such investigations in accordance with the law and professionally accepted practices. In order for the public to have confidence in the Department, there must be a clearly established mechanism for complaints to be received and investigated in a fair and impartial manner so that a positive and constructive resolution can be achieved. The MBTA Transit Police Department has established policies, rules, and procedures for handling the receipt, investigation, and resolution of allegations of employee misconduct.

These policies, rules, and procedures have been established to clearly set forth the Department's commitment to protect the right of the public, and the right of employees of the Department and complainants to expect efficient, fair, and impartial resolution of investigations and be protected from unwarranted harassment.

2.0 **POLICY.** The MBTA Transit Police Department recognizes the right of all citizens to initiate a complaint and receive a fair and thorough investigation and unbiased adjudication. All elements of the complaint process will be handled in a manner that prohibits discrimination on the basis of race, gender, religion, ethnicity, sexual preference, national origin, or other legally protected class. All citizen complaints of employee misconduct, including anonymous complaints, will be promptly investigated. All reports or accusations made against employees of the Department or the Department in general, from all sources, will be thoroughly investigated in order to ensure the integrity of the Department. The Department is committed to objectivity, fairness, and justice through intensive, impartial review and investigation of all complaints. The public has a right to expect efficient, fair, and impartial law enforcement. All misconduct must be detected, thoroughly investigated, and properly adjudicated to assure the maintenance of these qualities. {52.1.1, 52.1.2}

3.0 **TERMINOLOGY.** The following terms are used:

- 3.1 **IAPRO.** IAPro is a computerized case management system used by the Professional Standards Unit for Citizen's Complaints and Internal Affairs investigations.
- 3.2 **BLUETEAM.** BlueTeam is a web-based program that allows Officers and Supervisors to enter and manage incidents (e.g., use of force reports, vehicle pursuits, etc.) from "the field". Once entered into BlueTeam, the incidents are then reviewed and managed through IAPro.
- 3.3 **CITIZEN.** Any individual not a member of the MBTA Transit Police Department.

- 3.4 **COMPLAINT.** An allegation of misconduct made against a member of the Department. Complaints will generally fall within one of two categories.
- 3.4.1 **INTERNAL AFFAIRS COMPLAINTS.** Internal Affairs complaints are those more serious complaints (see Section 6.1) that will be investigated by the Professional Standards Unit in accordance with this chapter. {52.2.1 b}
- 3.4.2 **CITIZEN'S COMPLAINTS.** Citizen's complaints are minor complaints (see Section 6.2) that are not serious and are non-criminal in nature. {52.2.1 a}
- 3.5 **EMPLOYEE.** Any sworn or civilian, permanent or temporary, member of the MBTA Transit Police Department.
- 3.6 **EXONERATED.** The incident did occur, but the actions of the accused were in compliance with Department policies, rules, and procedures. This definition would also include those allegations not directed at the individual but rather deal solely with a complainant's objection to, or criticism of, a Department policy or procedure.
- 3.7 **NOT SUSTAINED.** The investigation failed to discover sufficient evidence to clearly prove or disprove the allegation(s) of employee misconduct. This definition also includes incomplete investigations. An incomplete investigation is an investigation that cannot be thoroughly or properly completed due to any one of the following:
- lack of cooperation by the complainant or witness(es);
  - the absence of a critical interview, which was necessary to the investigation;
  - a determination that the physical evidence is not available; and/or
  - witness(es) statement is insufficient to permit adjudication of the complaint.
- 3.8 **SUSTAINED.** The investigation indicates there is sufficient evidence to clearly prove the allegation(s) of employee misconduct made in the complaint.
- 3.9 **UNFOUNDED.** The investigation indicates that the acts complained of did not occur.
- 4.0 **FUNCTIONAL RESPONSIBILITIES.** The Professional Standards Unit reports to the Administrative Services Division (ASD) Commander and also has the authority to report directly to the Chief Executive Officer. The ASD Commander, by function, also has the authority to report directly to the Chief of Police. {52.1.3, 52.2.2}

The Professional Standards Unit will be responsible for recording and registering all complaints against the Department and its employees. The Professional Standards Unit will review, assign, control, and oversee the investigation of complaints and will protect the confidentiality of all investigatory files and related records by maintaining them in a secure area. {52.1.2, 52.2.2}

The ASD Commander will:

- ensure that Internal Affairs and Citizen Complaints are thoroughly investigated in the appropriate time line;

- notify the MBTA Department of Organizational Diversity/Civil Rights concerning any allegation or complaint within which an internal MBTA violation of civil rights is alleged;
- maintain a central file of all complaints received;
- assume responsibility for the maintenance and security of all complaint investigation files and records;
- maintain liaison with the appropriate prosecuting authority during investigations involving alleged employee criminal misconduct;
- conduct regular audits of complaints to ascertain the need for changes in training or policy;
- ensure that the Chief of Police is notified immediately, via telephone, text, email, or in person, concerning internal affairs incidents (e.g. the arrest of an employee, complaints against the Department, or an event involving an employee that may cause media inquiry, etc.); and {52.2.2}
- review and analyze trends in numbers and types of complaints.

4.1 **COMPLAINT ANALYSIS SYSTEM.** One function of the Professional Standards Unit is to assure that consistent standards are maintained by reviewing records of complaints that may be filed against an Officer throughout his/her career. If a pattern is identified, an analysis will be conducted to determine if the employee's behavior warrants further action (e.g. training, counseling, etc.).

5.0 **COMPLAINT PROCESSING AND RECORDING.** The Department, being cognizant of its responsibilities to all citizens and its employees, will process, record, and investigate all complaints of alleged employee misconduct.

5.1 **CONFIDENTIALITY.** Prior to the completion of the investigation of either an Internal Affairs or Citizen's Complaint, information concerning such an investigation shall not be released unless authorized by the Chief of Police. The fact that a complaint was received and a departmental investigation is underway may be disclosed unless the ASD Commander determines that for security reasons it should remain confidential.

6.0 **CATEGORIES OF COMPLAINTS.** The Department has established guidelines regarding which categories of complaints will be handled and investigated by the Professional Standards Unit and which complaints will be referred to the appropriate Division Commander for investigation.

6.1 **INTERNAL AFFAIRS/ADMINISTRATIVE INVESTIGATIONS.** Investigations to be conducted by the Professional Standards Unit include, but are not limited to: {52.2.1 b, 52.2.2}

- criminal conduct; {52.2.1 b, 52.2.2}
- untruthfulness; {52.2.1 b, 52.2.2}
- domestic violence; {52.2.1 b, 52.2.2}
- acts indicative of bias (e.g. racial, gender, etc.); {52.2.1 b, 52.2.2}

- divulging confidential police information to unauthorized sources; {52.2.1 b, 52.2.2}
- engaging in conduct, whether on or off duty, that discredits the Department, or the individual in his/her capacity as a Police Officer; and {52.2.1 b, 52.2.2}
- requests from the Chief of Police. {52.2.1 b, 52.2.2}

6.2 **CITIZEN COMPLAINTS/SUPERVISORY COMPLAINTS.** Complaints submitted by citizens alleging improper or unprofessional behavior related to the performance of their duties or sworn status or violations of Department policy will be investigated by the Professional Standards Unit, unless otherwise designated by the Chief of Police or his/her designee. They include, but are not limited to, the following offenses: {52.2.1 a}

- insubordination; {52.2.1 a}
- excessive force; {52.2.1 a}
- rudeness; {52.2.1 a}
- uniform violations; and {52.2.1 a}
- minor rule infractions. {52.2.1 a}

However, the nature, sensitivity, or severity of the offense may indicate a more appropriate assignment to the Professional Standards Unit for investigation. {52.2.1 a}

7.0 **RECEIPT OF COMPLAINTS BY TELEPHONE, EMAIL, OR IN PERSON.** When a Supervisor receives a complaint by telephone or email, arrangements will be made to provide the complainant with a copy of the Citizen's Complaint form by U.S. Mail or email. When the complainant informs the Supervisor that he/she desires to file a complaint, the Supervisor will ask him/her, in private, to describe the complaint. The complainant will then be provided an [Internal Affairs/Citizen Complaint form](#) to fill out. The Supervisor will facilitate the process and provide assistance as necessary. If requested, the complainant will be given a blank Internal Affairs/Citizen Complaint Form to fill out and sign on his/her own at a later time that is convenient for them. The forms will include the language that it is signed under the pains and penalties of perjury.

The completed complaint form will be forwarded to the Office of Professional Standards via email at [professionalstandards@mbta.com](mailto:professionalstandards@mbta.com) or by placing the completed form in an envelope clearly marked Professional Standards and placed in the Administrative Mail Box located in the report writing room. In both cases an email will be sent to [professionalstandards@mbta.com](mailto:professionalstandards@mbta.com) containing the following information:

- name, address, phone number, and email address of person making complaint;
- location, date, and time of the incident;
- Officers involved; and
- nature of the complaint.

- 8.0 **LOGGING AND PROCESSING COMPLAINTS.** All complaints against employees, including complaints filed by mail or electronically, will be processed as outlined in Section 7.0 of this Chapter.

The Professional Standards Unit will:

- review all complaints received;
- complete the necessary entry into BlueTeam for each Internal Affairs/Citizen Complaint Form or Blue Team entry received; and
- notify the complainant in writing that the complaint has been received. {52.2.4 a}

- 9.0 **INVESTIGATION OF COMPLAINTS.** All complaint investigations, including anonymous complaints must be conducted thoroughly and objectively. Every appropriate investigative technique and method may be employed consistent with legal requirements and concern for the individual rights of the accused employee. All complaints require a finding. If the employee resigns or the complaint is withdrawn, the investigator will note that fact in his/her report but will still be required to conclude the investigation based on the information available. {52.1.1, 52.2.8}

9.1 **COMPLAINT REVIEW.** The ASD Commander will review the complaint and assign it to the Professional Standards Unit as indicated by the nature of the complaint.

9.2 **CRIMINAL COMPLAINT.** Whenever, an employee is accused of committing a criminal act, whether on duty or off duty, he/she will notify their Unit, Section, Shift Lieutenant/Supervisor who will immediately notify a member of the Professional Standards Unit and the appropriate Division Commander, who will notify the Chief of Police through the chain of command. {52.1.3, 52.2.2}

An employee who may have been involved as either a participant or witness to the alleged incident being investigated will submit, upon request, a written report concerning his/her actions and observations to the Professional Standards Unit.

After reviewing the results of the completed investigation, the Professional Standards Unit will indicate, in writing, recommendation(s). The investigative reports, with recommendation(s), will be forwarded to the ASD Commander forthwith. The file must contain the following: {52.2.8}

- a statement of the allegations made by the complainant;
- a statement of the situation as described by the employee involved and/or witness employees;
- a conclusion and statement of what occurred based upon the Professional Standards Unit's analysis of the supporting evidence; and {52.2.8}
- a recommended finding in one of the following classifications: Exonerated, Not Sustained, Sustained, or Unfounded.

- 10.0 **FORMAL INTERVIEW.** In the interest of organizational integrity and fairness, when an Internal Affairs investigation requires that an employee be brought in for a formal interview, he/she will be issued a written statement that will include the allegations against the employee, and the employee's rights and responsibilities. {52.2.5}

All formal interviews will be conducted in accordance with the following procedures:

- 10.1 At the time of the interview, the interviewee under investigation should be afforded all rights guaranteed under the United States Constitution, the Massachusetts Declaration of Rights, [Carney v. Springfield 403 Mass. 604](#), and any other applicable constitutional or statutory rights. If the employee could infer that his responses may result in discipline against him/her, he/she shall be notified that they have the right to consult with a union representative and to have him/her present during questioning. The Department will afford an opportunity for the employee to consult with counsel and/or a union representative before being questioned concerning a serious violation of rules and procedures, provided that the interview is not unduly delayed. In any case, the interview may not be postponed for purpose of counsel. {25.1.1 a-e}
  - 10.2 The questioning will not be overly long. Reasonable respites will be allowed. Time will also be provided for personal necessities, meals, telephone calls and rest periods as are reasonably necessary.
  - 10.3 The complete interview of the employee will be recorded in some manner. There will be no "off-the-record" questions. All requests for recesses during the questioning will be recorded.
- 11.0 **PROHIBITION OF CONTACT WITH COMPLAINANT/WITNESS.** An employee against whom a complaint has been made shall not contact the complainant/witness or attempt, directly or indirectly, by threat, appeal, persuasion, or the payment or promise of money or other things of value, to secure the withdrawal or abandonment of the complaint. Such actions are prohibited and shall be dealt with very strictly by the Department. An employee against whom a complaint has been made shall not conduct any CORI or Registry of Motor Vehicle inquiries involving the complainant.
- 12.0 **EXAMINATIONS.** Upon orders of the Chief of Police or his/her designee, an employee may be compelled to submit to a 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}
- An employee may also be compelled to be photographed, to participate in a lineup to be viewed by witnesses or complainants for the purpose of identifying an employee accused of misconduct, and/or be compelled to submit a financial disclosure statement as part of an internal investigation provided such statement is material to the investigation. {52.2.6 b, c, d}
- Examinations may also include workplace searches. The agency reserves the right to exercise searches of storage/clothing lockers, desks, file cabinets, computers and electronic messaging systems. Such submissions and/or examinations will only be conducted in a manner that is consistent with applicable federal, state, case law, and administrative decisions.
- 12.1 **DETECTION OF DECEPTION.** If necessary, when instruments for the detection of deception are used in any internal affairs investigation, these instruments will be used only by trained and certified personnel who have graduated from an institution providing training for this purpose. These instruments will be used and in accordance with all applicable federal, state, case law and administrative decisions. {52.2.6 e}
- 13.0 **INVESTIGATION REVIEW PROCESS.** The ASD Commander will review the completed investigation and indicate, in writing, whether or not he/she concurs with the Professional Standards Unit's finding and recommendation. The investigative report, with the recommenda-

tion(s), will be forwarded through the chain of command to the Chief of Police for appropriate action.

13.1 The employee and the complainant will be notified, in writing, of the disposition of the complaint. {52.1.5 c, 52.2.4c}

14.0 **DEADLINES/PROCESS.** All investigations pursuant to this chapter will be completed by the Professional Standards Unit within thirty (30) days of initiation unless extenuating circumstances exist. Initial contact with the complainant by the Professional Standards Unit will be made within five (5) days of the complaint being made. In all such investigations, after the thirty (30) day initial time period, extensions will be allowed provided status reports are submitted to the ASD Commander. {52.2.3}

14.1 If an investigation arising from a citizen complaint is still pending at the end of forty-five (45) days, the complainant will be notified stating that the investigation is continuing, and estimating when the investigation will be completed. {52.2.4 b}

14.2 A decision on the complaint will be made by the Chief of Police based on one of the following classifications: Exonerated, Not Sustained, Sustained, or Unfounded.

14.3 The employee will be notified, in writing, of the disposition of the complaint.

14.4 The ASD Commander will prepare a written response to the complainant. The response will be signed by the Chief of Police and will apprise the complainant of the results of the investigation. {52.2.4 c}

14.5 If the complaint is SUSTAINED, disciplinary action as appropriate, consistent with policies and procedures on progressive discipline as outlined in this manual, may be initiated.

14.6 If the allegation was true, but the action complained about was not inconsistent with established policies, rules, or procedures, the Department will review its policy to determine what changes need to be made so as to provide clearer guidelines to personnel and prevent a recurrence of the type of action complained about.

14.6.1 The Professional Standards Unit will specify in their report which policy, rule, or procedure was the subject of the complaint and when applicable, will include a draft policy revision for review.

14.6.2 The appropriate Division Commander will review the suggested policy revision for concurrence and forward it in accordance with the Department's policy review process.

15.0 **DISCIPLINARY RECORDS.** In the event disciplinary action is taken, a record of same will be placed in the employee's Personnel File and attached to the IAPro investigation file, in conformance with Massachusetts General Law (MGL), [Chapter 149, § 52C](#). {26.1.8}

16.0 **APPEAL PROCESS.** If an employee wishes to appeal the disciplinary action imposed, he/she may file a signed, written grievance through the employee's bargaining unit in accordance with the respective collective bargaining agreement. {25.1.1 a-e}

16.1 All disciplinary hearings against an Officer will be held in compliance with MGL, [Chapter 31, §§ 41-45](#). {25.1.1 a-e}

Employees may also exercise their right to appeal disciplinary actions (e.g. suspension, discharge, or transfer) to the Civil Service Commission. {25.1.1 a-e}

17.0 **FILES.** A central file of internal investigation complaints will be maintained electronically in IAPro, and secured and treated as confidential investigative files. Hardcopies of these files are kept secured in the Records Room which has limited access. The ASD Commander will assume responsibility for all Internal Affairs and Professional Standards investigation files. {52.1.2, 82.3.5}

18.0 **MONITORING AND EVALUATION.** The system of processing complaints against employees will be monitored in the following manner:

18.1 **ANNUAL STATISTICAL SUMMARY.** The ASD Commander will prepare a quarterly and annual summary of complaint statistics (both Internal Affairs and Citizen Complaints); indicating the number of complaints filed, by type of complaint, the outcome of the investigations undertaken, and by outcome classification. This information will be forwarded through the chain of command to the Chief of Police and published on a Chief's Memo to Department employees and the public at the discretion of the Chief of Police. {52.1.5}

*Section 4.0 revised 2/08*

*All sections revised 6/09*

*Sections 4.0, 6.1, 9.2, 12.0, 15.0, 15.1, 15.5, 19.1 revised 5/12*

*Section 15.0 revised 4/24/2013*

*Section 4.0 revised 10/7/2015*

*Sections 4.0, 7.0, 8.0, 9.1, 9.2, 10.0, 14.0, 15.0, 18.0, 19.1 revised 5/16*

*Sections 3.2, 4.0, 6.2, 7.0-9.0, 13.0, 14.0, 14.6.1, 14.6.2 revised 8/16*