COMMENDATIONS AND COMPLAINTS INDEX

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144.01 PURPOSE AND SCOPE

SUMMARY

Our policy is to document citizen comments about our delivery of Police service, whether positive or negative. This procedure provides citizens a way to offer comment about our employees' performance, competence, attitude and behavior and ensure the professional integrity and creditability of the Department.

The Department also investigates and documents all complaints against employees of this department. We expect and demand our employees be of the highest moral character and have unquestioned ethical and professional standards. We take seriously citizen comments and expect a similar level of accountability from those making the complaints and/or comments. This Department invites and encourages citizen comments and complaints about our employees and department. This policy is designed to ensure compliance of our core values by the employees of this Department and accountability of those making complaints and/or comments about this Department and its employees.

The purpose of this Directive is to provide supervisors and employees with a policy and set of procedures when handling commendations or complaints. The goal is to balance empowerment of first level managers to evaluate, screen and take appropriate action on complaints while insuring all alleged serious policy violations or criminal violations are forwarded through the chain of command to the Chief of Police. The Chief of Police shall retain ultimate responsibility for all administrative investigation procedures. Additional applicable guidance, provisions, changes or additions may be contained in policy set by the City Personnel Department.

144.02 DEFINITIONS

AFFECTED EMPLOYEE – The subject or focus of the commendation or internal investigation and/or an employee who has been specifically commended or accused of misconduct.

CATEGORY I COMPLAINT – An allegation(s) of criminal conduct, on or off duty, by an employee; or allegations of egregious policy violations, such as excessive force, sexual harassment or abuse of official position.

CATEGORY II COMPLAINT – Also an allegation(s) of an act or omission of an act that constitutes disregard for department/city policy or procedure however, due to the nature of the allegation, it is not as serious and/or complex as described in Category I complaints.

CHAIN OF COMMAND REVIEW FORM – A form used to document the chain of command review of a completed Category II investigation.
DEFINITIONS (con’t)

CHAIN OF COMMAND REVIEW - A process where each Supervisor within the affected employee’s chain of command has reviewed and determined if a violation of Policy has occurred. The review is documented and requires written comments and an opinion regarding the outcome of the investigation. (i.e. Unfounded, Unsustained, Sustained, Exonerated, Misconduct not based on Complaint, or Policy/Procedure/Directive error.)

COMMENDATION – A positive comment(s), commendations, praise and/or compliments provided by a citizen, business, or another Law Enforcement agency.

COMPLAINT CATEGORIES - All complaints, regardless if the complaint is internally or externally generated are classified as either a Category I or II complaint, or an Inquiry.

COMPLAINANT ADVISEMENT FORM – The form used to document a complainant’s primary information and provide a written clarification regarding false reporting of allegations.

CONFIDENTIALITY STANDING ORDER – Any Internal Affairs investigation shall be kept strictly confidential as provided by applicable procedure and law. Information is disseminated on a “need to know” basis, as determined by the Chief of Police.

EMPLOYEE TRACKING LOG – An electronic folder which contains a log that is used by Supervisors to document both good performance as well as minor complaints and issues. The Tracking log is accessible by Supervisors one level above the affected employee(s) and is maintained for two years and then purged.

INQUIRY – A question about an employee’s performance, tactic, action or other activity, when the employee followed Department and/or City policies and procedures. Inquiries may include allegation(s) that, if true or proven true, would be in compliance with existing policies and accepted procedures.

NOTE: An Inquiry can and should be resolved by the first level of management supervising the affected employee. If the matter is resolved as an Inquiry no complaint tracking log entry is necessary.

PERSONNEL COMPLAINT DATA-BASE - Supervisors will use the Personnel Complaint Data-base to document all Category II complaints. Sources may include an individual or business owner, an outside Law Enforcement agency, or any other entity or person including other employees. The tracking log is a simple “fill in the form” type of data-base.
Once all of the information has been entered into the various fields, click on “Save” to enter the information into the data-base. Various “search” capabilities can be found in the main menu. The search options were designed to be a tool for Supervisors in retrieving inquiries and complaints already entered in the system.

This information can be valuable for a Supervisor in determining if an employee has been the subject of prior inquiries or complaints. It can also assist a Supervisor in determining if a complainant has previously reported multiple “Unfounded” or “Exonerated” complaints.

SUPERVISOR DOCUMENTS THE COMMENDATION –
Supervisors should gather the information from the citizen about the commendation and complete a log entry into the employee’s tracking file.

If a Supervisor believes the employee deserves special recognition or an award as a result of the commendation from a citizen, he/she should refer to the City’s “Employee Recognition Program” or the Department’s “Awards” (ADM-142) directive. A “Thank You” note may be sent to the citizen at the discretion of and by the Chief of Police.

- **Intoxicated or drug altered state** - Intoxication of a complainant should not preclude a Supervisor from taking the complaint, however additional interviews may be necessary at a later time.

- **Truthfulness** - While the Department will investigate all allegations of misconduct, intentional deception on the part of the complainant may subject the complainant to the criminal charge of “False Reporting.”

- **Chronic Unfounded Complainants** - Documented and repeated unfounded complaints by the complainant may result in denial of the complaint process AFTER review by the appropriate level of Supervisor, Services Commander, Deputy Chief or Chief of Police, and/or the City Attorney if applicable.

- **Third Party or Anonymous Complaints**
Third party or anonymous complaints will be taken by Supervisors. The Supervisor should attempt to validate the complaint prior to conducting an extensive investigation by attempting to identify and locate the actual person who was subjected to the alleged misconduct. Supervisor discretion should be used in third party or anonymous complaints, with weight being given to the seriousness of the allegation and the anonymity of the complainant.
INVESTIGATIVE CONSIDERATIONS REGARDING THE ACCEPTANCE OR INTAKE OF COMPLAINTS (con’t)

If a third party or anonymous complaint is received and the subject is located, original reporting procedures including a completed/signed “Complainant Advisement Form” should be completed by that person.

If the Supervisor has sufficient articulable justification for not taking a third party or anonymous Category II complaint, he/she will document such information in the narrative portion of the Personnel Complaint Data Base. Notification shall be made to the Commander within the Chain of command.

144.05 - CATEGORY I COMPLAINTS

Category I complaints involve more serious allegation(s) that require a comprehensive investigation such as allegations of misconduct involving violations of civil rights, sexual harassment, violations of criminal statutes, and/or any complaint designated as such by the Chief of Police or designee. Examples of Category I complaints include but are not limited to:

- Excessive Force allegations (As determined or assigned by the Chief of Police)
- Sexual Harassment (As determined or assigned by the Chief of Police)
- Criminal law violations or failure to report such violations committed by the employee or another employee.
- Untruthfulness, intentional falsification, or material omission in the application for employment or falsification of personnel records, time reports, department reports, documents, statements, or other City/Department records.
- Ethnic harassment, intimidation, discrimination, profiling or other violation (or attempted) of civil rights.
- Loss or suspension of a license, certification or related authorization required in or for the performance of the job.
- Conviction of, or a plea of guilty or nolo contendere to, a felony or misdemeanor when such conviction or plea may adversely affect the City of Grand Junction and/or the Police Department and its reputation. (As determined by the Chief of Police)
- Using, threatening or attempting to use personal or political influence in an effort to secure special consideration or benefit as a City/Department employee.
- Vending, soliciting or collecting contributions on the employer’s time or premises without proper authorization.
144.06 INTAKE OF CATEGORY I COMPLAINT

Such complaints may be taken by any Supervisor and shall be immediately processed in the following manner: All information regarding Category I complaints should be documented in a written memo format and forwarded through the chain command to the appropriate Deputy Chief. Category I complaints shall not be entered into the on-line complaint data base.

- The Chief of Police, or his/her designee, shall be informed of the allegation(s) and may decide to assign the matter internally, initiate a request for the Critical Incident Team, or obtain an independent (outside) criminal justice agency to conduct the administrative and/or criminal investigation.

- The Service Commander shall also be notified upon receipt of an allegation of a criminal violation in order to coordinate the administrative investigation with any assigned outside criminal Investigator(s).

- At the discretion of the Chief of Police or designee, he/she may also initiate an Internal Affairs Investigation concurrent to the criminal investigation based upon briefing by the Deputy Chief. Credible allegations of egregious policy violations (i.e. Category I complaints) shall generally be assigned to the Services Commander by the Chief or Deputy Chief. Unless otherwise directed, the Services Commander may notify the affected employee’s Supervisor of the investigation and will have the authority to report directly to the Chief of Police.

144.07 CATEGORY II COMPLAINT INVESTIGATION PROCEDURES

The personnel complaint data-base can generally be used to document the entire category II investigation. In some cases, the supervisor may elect to document the investigation in memorandum format.

If a Supervisor determines that a Category II complaint may or could result in disciplinary action of a Letter of Reprimand or greater, he/she must follow the procedures set forth below for handling and documenting the Category II complaint investigation. The Supervisor will then follow the specific report format (formal) as indicated in the Personnel Complaint Data-Base.
If a Supervisor has any question or doubt about how to document a complaint, it is recommended that they check with their Commander/Manager or the Services Commander. The following outlines the sections of the Personnel Data-base.

**Complaint Summary**
A summary detailing the allegation(s) and/or alleged violation(s) of policy or procedure. (A one or two paragraph description/summary of the complaint as conveyed by the citizen/complainant.)

**Witness Interviews**
Witness statement(s) as it relates to the specific alleged violation(s) including statement(s) by all employees involved. Also includes any statement(s) by the affected employee.

**Affected Employee Interview**
Statements and answers to relevant questions regarding the alleged misconduct and/or behavior.

**Other Information or Reports**
May include citizen letters, e-mails, 9-1-1 tapes, CAD data, recorded conversations, memorandums, police reports, etc. when applicable and pertinent to the investigation of the complaint.

**Applicable Department/City Policy Violations**
Identifying specific behavior, action, etc. and the possible violation(s) of existing Department and/or City policy, procedures, or directives. (May include multiple violations)

**Disposition**
Explains the results and findings of the Supervisor’s investigation and the determination into each allegation/violation of the complaint. (Unfounded, Unsustained, Sustained, Exonerated, Misconduct not based on Complaint, or Policy/Procedure/Directive error.) Refer to Section 144.15 for additional details.

**Disciplinary Recommendation by Investigating Supervisor**
Recommendation by the immediate Supervisor (or investigating Supervisor) regarding any disciplinary action(s) of the affected employee(s).

**Chain of Command Review (Letter of Reprimand or greater)**
Once the Investigating Supervisor completes an Investigation, he/she will prepare the “Chain of Command” section found in the Personnel Complaint Data-Base. The completed investigation (forms and all associated reports and documents) will be forwarded through the affected employee’s chain of command to the Deputy Chief. The Chief of Police may review the investigation at his/her discretion the case of serious discipline, as defined by ADM144.19.
The Commander/Manager will review the investigation and complete the Chain of Command Section as required. The Commander/Manager may, in his/her judgment or discretion, return the investigation back to the investigating Supervisor for additional follow-up or clarification. The approved investigation will then be forwarded to the Deputy Chief. The Deputy Chief, after review and approval, may render a recommendation regarding disposition and any disciplinary action to the Chief of Police. Additionally, the Deputy Chief, after consulting with the Chief of Police, may elect to convene a Command Staff Review (CSR) to obtain recommendations regarding the appropriate course of action for a disposition and appropriate discipline.

**144.08 ADMINISTRATIVE LEAVE**

As described in City Policy “7.100 IV. Administrative Leave” An employee placed on administrative leave may be subject to the following guidelines:

- An employee placed on administrative leave shall continue to receive regular pay and benefits pending the resolution of the complaint.
- An employee placed on administrative leave may be required by a supervisor to relinquish any badge, Department identification, assigned weapons and any other Department equipment.
- An employee placed on administrative leave may be ordered to refrain from taking any action as a Department employee or in an official capacity. The employee shall be required to continue to comply with all policies and lawful orders of a supervisor.
- The employee on administrative leave may be required to remain available for contact and report as ordered.

**144.09 EMPLOYEE NOTIFICATION**

When an employee becomes the subject of an investigation, the Supervisor should notify the employee as soon as possible unless the notification would interfere with the investigation. Notification may be in written form, an e-mail, or verbally with written documentation following the verbal notification.

**144.10 SCHEDULING OF INTERVIEW WITH EMPLOYEE**

The Supervisor may elect to conduct an initial interview with the affected employee, or wait until other witness interviews have been conducted. When an interview with the affected employee is scheduled, the assigned Supervisor will advise the employee who will be conducting the interview. Such advisement will include the name and of the Supervisor and all other personnel that will be present during the interview.
SCHEDULING OF INTERVIEW WITH EMPLOYEE (con’t) Whenever possible and practical, interview(s) will be conducted during on-duty hours. If the interview cannot reasonably be scheduled during his/her work hours, the employee (or other employee witness) may adjust his/her work schedule. If circumstances dictate, an employee may be required to report for an immediate interview.

If any affected or witness employee is scheduled for an interview on his/her off-duty time, the employee shall be compensated by overtime or comp-time pay. The affected employee shall also be provided with an estimated length of time the interview will take and where the interview will be conducted. An investigating Supervisor conducting an interview lasting two hours or longer will allow time for a break and/or other personal needs by the affected employee.

PROFESSIONAL CONDUCT – Absent exceptional circumstances, interviews will normally be conducted at the Police Department and be recorded by audio and/or videotaped. The affected employee is entitled to a transcript of the interview. Both the IA investigator and the affected employee must maintain a professional demeanor throughout the interview.

144.11 FALSE/UNTRUTHFUL INFORMATION

If an employee makes a false statement or lies “during” an investigation, the Supervisor will include that information as part of initial complaint and continue the investigation with assistance of the Services Commander, if necessary or appropriate.

144.12 BRADY AND GIGLIO COURT DECISIONS

The court decision of Brady v Maryland (1963) places an affirmative constitutional duty on a prosecutor to disclose exculpatory evidence to a defendant (or attorney). This duty has been extended to law enforcement through case law, requiring agencies to notify the prosecutor of any potential exculpatory information, including any record of an Officer falsifying reports or other related conduct which could impact their truthfulness.

The Giglio decision requires that the Department provide the prosecution with such information. Such notification and disclosure shall be made after consultation with the City Attorney’s Office. The Chief of Police and/or Deputy Chief shall have the authority and responsibility to review and disclose any “Brady” related information determined as a result of any Criminal or Administrative investigation including but not limited to:

- Administrative Reviews/Investigations
- Category I Investigations
- Category II Supervisory Investigations/Reviews.
144.13 CRIMINAL ALLEGATIONS DISCOVERED

If a criminal violation is suspected or discovered as a result of interviews with an employee, witness(es), or other source during the course of an administrative investigation, the investigation will be suspended immediately. The investigating Supervisor shall notify the Chief of Police through the chain of command. In his/her discretion, the Chief of Police or Deputy Chief may decide to suspend or resume an administrative investigation at any point while a criminal investigation is being conducted.

144.14 COOPERATION IN THE INVESTIGATION

The affected employee may, at any time, be ordered to answer questions truthfully and cooperate fully during the course of an investigation. At the sole discretion of the Chief of Police and/or designee may decide when an instrument of deception can be used during an internal affairs investigation.

Any Supervisor conducting an administrative investigation should consider providing the affected employee with a “Garrity” advisement prior to conducting an interview. When applicable or necessary. A request by the Supervisor for production of documentation and/or other cooperation by the affected employee must relate to the investigation. Refusal to produce and/or cooperate may result in disciplinary action up to and including termination in accordance with Department/City policy and procedures.

144.15 AUTHORITY TO MONITOR AND INSPECT

AUTHORITY TO MONITOR AND INSPECT – The Department has legal authority as an employer to inspect and search all Department-owned desks, lockers, storage space, rooms, offices, work areas, computers, voice-mail, e-mails, electronic files, vehicles and any other Department equipment at any time as deemed necessary by the Chief of Police. An employee shall have no expectation of privacy regarding department-owned facilities/equipment/etc.

- During an investigation, the scope of an inspection or search is narrowly confined to the focus of the investigation. Personal locks may be forcibly removed from lockers or desks if the employee is not available to open them.

- Communications to and from the Department may be monitored at any time in accordance with law. Other communications or conversations may be monitored at any time in accordance with law. Communications that may be monitored may include radios, telephones, cell-phones, portable computers, e-mail, databases, and any other electronic file(s) that are the property of the City.
AUTHORITY TO MONITOR AND INSPECT (con’t) • Conditions may exist under which medical or laboratory examinations may be administered in conducting internal affairs investigations, photographs are taken of employees in conducting internal affairs investigations, an employee may be directed to participate in a line-up as part of an internal affairs investigation, and an employee may be required to submit financial disclosure statements as part of an internal affairs investigation.

• An employee may also be required to be photographed, to participate in a line up, and/or to submit a financial disclosure statement when the actions are material to a particular internal affairs investigation being conducted by the agency.

144.16 15 DAYS TO COMPLETE INVESTIGATION Supervisors will have fifteen (15) calendar days from the date of assignment to complete and submit a written report and summary of the investigation to the appropriate Commander/Manager. Supervisors are responsible for keeping their Supervisor advised of the status of an investigation. If the investigating Supervisor determines he/she will need additional time to complete the investigation, they will notify their Supervisor and the affected employee of any delays.

144.17 DISPOSITION Dispositions of complaints are determined as follows:

- **UNFOUNDED** – The complaint is false or not factual. The conduct did not occur and/or involve the employee named.

- **SUSTAINED** – The complaint is substantiated. The misconduct did occur.

- **UNSUSTAINED** – The complaint is not substantiated. There is not sufficient evidence to prove or disprove the complaint.

- **EXONERATED** – The act occurred but the employee acted lawfully and properly.

- **MISCONDUCT NOT BASED ON ORIGINAL COMPLAINT** – Substantiated employee misconduct NOT alleged in the initial complaint but discovered during the investigation.

- **POLICY/PROCEDURE/DIRECTIVE ERROR** – Conduct was based on faulty policy or no specific policy existed at the time of the employee conduct.
144.18 COMPLETION AND NOTIFICATION TO COMMANDER OR MANAGER

It is the responsibility of the investigating Supervisor to notify his/her Supervisor/Commander upon completion of an investigation. If the investigating Supervisor has determined that a complaint is “sustained”, he/she must then decide what disposition and resolution is appropriate or recommended. Per “City Policy 7.100 Discipline – III – Forms of Disciplinary Action”, such resolutions include:

A. COUNSELING
A Supervisor may counsel an employee in an effort to make the employee aware of a deficiency, as well as to inform the employee of what will take place in order to correct the deficiency. Counseling may include a training program to correct a deficiency. A written summary of the counseling will be made in the Employee Tracking log and the Personnel Complaint Data-base.

B. EDUCATION BASED DISCIPLINE (Performance Agreement)
The Supervisor may believe a customized performance agreement is an appropriate alternative to other forms of disciplinary action. The Supervisor will be responsible for preparing and submitting a plan through the chain of command to the Deputy Chief. Any plan submitted must meet the requirements set forth in “City Policy 7.100 Discipline – III – Chapter 7.100 – Section III – Subsection X – “Performance Agreements

The agreement will detail the terms of the modified behavior and/or corrective action to be taken by the employee. The employee has the option of agreeing to, or rejecting the terms of the agreement. The employee must successfully complete all terms of the agreement. Failure to complete the terms of the agreement will be cause for immediate imposition of the proposed disciplinary action. The agreement will not have a term longer than twenty-four (24) months.

The Chief of Police, and/or the City Manager, has sole discretion to offer a performance agreement as an alternative to disciplinary action. The employee has no right or entitlement to such an agreement.

C. WRITTEN REPRIMAND (Letter of Reprimand)
A Supervisor may reprimand an employee in writing. The written reprimand will identify the offense(s), the necessary corrective action(s) by the employee, and if applicable, the time period in which the employee must accomplish the corrective action. A written reprimand will be signed by the Supervisor and provided to the employee. A signed copy will be delivered to Human Resources for inclusion in the employee’s personnel file.
D. SUSPENSION
A supervisor, with the concurrence of the Chief of Police, appropriate Deputy Chief and Human Resources Manager, may suspend an employee. Such suspension will be without pay. Suspension is an appealable action.

E. PROBATIONARY STATUS
A Supervisor, with the concurrence of the Chief of Police and the Human Resources Manager, may change the status of a regular employee to probationary. Disciplinary probation will be for a specific period of time, not to exceed twelve (12) months, during which the supervisor will evaluate the employee’s ability to meet job standards and expectations. Failure to meet performance expectations during the probationary period will result in further disciplinary action, typically in the form of Dismissal. A change in status from regular to probationary is an appealable action. Employees dismissed while on disciplinary probation may not appeal the Dismissal to the City Manager except in cases where the employee feels discrimination has occurred.

While there is no reduction in pay associated with this action, employees on disciplinary probation will not receive market adjustments to their pay or be eligible for promotion or transfer until they have returned to regular status.

F. DEMOTION
The Chief of Police, with concurrence of the Human Resources Manager, may demote or reduce the pay of an employee permanently or temporarily. A demotion is an appealable action.

G. DISMISSAL
The Chief of Police, with concurrence of the Human Resources Manager, may dismiss an employee. A dismissal is an appealable action.

144.19 NOTIFICATION TO EMPLOYEE AND COMPLAINANT
The summary and all attachments shall be forwarded to the Chief of Police through the chain of command for final approval/disposition. The complainant and the affected employee shall be advised of the decision in writing from the Chief of Police and a copy of the decision shall be placed in the internal affairs file.
Upon the completion of an investigation the investigating Supervisor shall have the discretion and/or responsibility to recommend if the investigation should be formally reviewed for the applicability of possible “False Reporting” charges against the complainant. (See C.R.S. 18-8-111- False Reporting) The investigating Supervisor will follow the chain of command up to and including the appropriate Deputy Chief of the factors and justification for recommending False Reporting charges be filed on the complainant.

If the Supervisor believes a violation of Department/City policy/procedure was committed by the affected employee, AND is recommending disciplinary action greater than a letter of reprimand, procedures regarding that recommendation will be in accordance with the procedures set forth in the City of Grand Junction Personnel Manual – 7.100 Discipline – V.

The Supervisor investigating a Category II complaint shall have option of notifying the complainant of the disposition by letter, e-mail, or verbal notification. Verbal notifications shall be documented in the investigative report.

It is the investigating Supervisor’s responsibility handling a Category I complaint to notify the complainant either by e-mail or letter that the complaint has been investigated and a disposition has been determined.

The Supervisor shall not release any details of such disciplinary action other than to advise the complainant that disciplinary action was taken.

**RECORD MANAGEMENT** – Once reviewed and if approved by the Commander/Manager, the completed investigation reports and any attachments shall be forwarded to the Services Commander for recording and tracking purposes.

**SERVICES COMMANDER MAINTAINS RECORDS** – The Services Commander is responsible for all personnel files and specifically for recording, tracking and maintaining records of all inquiries, complaints, commendations, and performance reviews about employees. The Services Commander is also responsible for assigning case or control numbers, maintaining the database information and ensuring that each documented complaint, comment, inquiry and commendation receives a final disposition and is appropriately documented. The Services Commander shall have full authority to meet with any Commander/Manager/Supervisor directly to support them in the proper and successful resolution of complaints.
RECORDS MANAGEMENT (con't)  

All administrative investigation reports, attachments and associated documentation shall be kept in a secure area. Any request made for the release of any written information, documents, or reports will be directed to the City Attorney’s Office for handling. This includes any request made by an affected employee and/or an employee who is/was the subject of an administrative investigation.

TWO YEAR RETENTION REQUIREMENT – Complaint files and other personnel related investigative files shall be retained by the Department for the current calendar year plus the previous year. Files older than two (2) years will be forwarded to the City Human Resources Division for archiving.

PERIODIC STATISTICAL REPORTING – At the direction of the Chief of Police, the Services Commander will compile statistical data regarding internal affairs investigations and citizen complaints. Monthly and annual reports will be prepared and disseminated as determined and directed by the Chief of Police.

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