

MASSACHUSETTS DEPARTMENT OF CORRECTION
103 DOC 522
INTERNAL AFFAIRS UNIT
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MASSACHUSETTS DEPARTMENT OF CORRECTION	DIVISION: Deputy Commissioner of the Administrative Services Division
TITLE: INTERNAL AFFAIRS UNIT	NUMBER: 103 DOC 522

PURPOSE: To establish Department of Correction ("Department") policy and procedure for filing complaints of employee misconduct, and conducting fair, impartial, thorough, and timely investigations into such complaints.

REFERENCES: M.G.L. c. 124, § 1 (b), (i), (q);
M.G.L. c. 127, §§ 12, 33, 127

APPLICABILITY: Staff

PUBLIC ACCESS: Yes

LOCATION: Department Central Policy File

Internal

Affairs Policy File

Each Institution's Policy File

RESPONSIBLE STAFF FOR IMPLEMENTATION AND MONITORING OF POLICY:

- Deputy Commissioner of the Administrative Services Division
- Chief of the Office of Investigative Services (OIS)-
- Superintendents/Division Heads

EFFECTIVE DATE: 03/02/2018

CANCELLATION: 103 DOC 522.00 cancels all previous Department policy statements, bulletins, directives, orders, notices, rules or regulations regarding Internal Affairs.

SEVERABILITY CLAUSE: If any part of 103 DOC 522.00 is, for any reason, held to be in excess of the authority of the Commissioner, such decision shall not affect any other part of this policy.

522.01 DEFINITIONS

Administratively Closed - Inquiries or investigations closed as a result of uncooperative complainants when there is no independent evidence to support the continuation of an inquiry/investigation or other good cause that is determined by the Chief of The Office of Investigative Services (OIS)

Administratively Withdrawn - Inquiries or investigations closed as a result of a written withdrawal request submitted by the complainant when no other evidence exists to support the continuation of the inquiry/investigation.

Category I complaints- Complaints investigated by the Superintendent/Division Head, which allege less serious infractions of the rules, regulations, policies, or post orders.

Category II complaints- Complaints investigated by the Internal Affairs Unit, which allege more serious infractions of the rules, regulations, policies, post orders, or federal, state or local laws.

Chief of Office of Investigative Services Director responsible for the Office of Investigative Services which encompasses the Internal Affairs Unit (IAU), Criminal Prosecution Unit (CPU), Fugitive Apprehension Unit (FAU, Central Intelligence Unit (CIU) and the Duty Station. The Chief shall report directly to the Deputy Commissioner of Prison Division.

Complaint- a written or verbal charge, accusation, or allegation of employee misconduct. The facility Superintendent or Division Head must conduct an inquiry into the alleged misconduct and if the elements of the misconduct meet the criteria of either a Category I or Category II complaint, an Investigation Intake Form shall be submitted to the Office of Investigative Services

Division Head- The administrator responsible for the operations of a particular division.

Employee Misconduct- Conduct that violates Department policy, rules, regulations, and/or federal, state or local laws.

Inquiry- A close examination of a complaint in search of additional information to determine if an investigation is warranted.

Internal Affairs Unit (IAU) - The investigative unit within OIS responsible for investigating Category II complaints of staff misconduct and tracking and monitoring each Category I complaint.

Investigation- The collection of evidence that supports or refutes alleged misconduct.

Investigation Intake Form- The form used to record all complaints of misconduct against Department personnel or vendors, whether filed by an inmate, citizen, Department or contract employee, or another governmental agency.

Superintendent- The chief administrative officer of a state correctional institution.

522.02 PHILOSOPHY

It is the Department's philosophy that all complaints of staff misconduct are to systematically examined and investigated when warranted to discover truth.. The Department's success depends on the personal integrity and discipline of its employees. Public image is determined, in part, by the Department's professional response to allegations of misconduct against it or its employees. All investigations shall be conducted in a manner that respects the Department's employees as well as all witnesses, including inmates.

522.03 GOALS AND OBJECTIVES

- A. The Internal Affairs Unit (IAU) shall investigate allegations of staff misconduct and violations of policy and procedure that may result in administrative review and possible discipline against staff, vendors and or contract staff.
- B. The chief will determine which investigative unit (IAU, CPU, CIU, FAU) will conduct the investigation. The designated unit will work cooperatively with the respective District Attorney's Office and external law enforcement agencies to conduct the investigation if it has been determined to be a criminal matter.
- C. IAU will report the results of any criminal investigation involving staff through CPU. CPU will notify the

designated District Attorney's Office for their review and/or action.

- D. At all times, sworn, civilian, and contract employees are expected to conduct themselves in a manner that shall favorably reflect on the Department. Maintaining high standards ensures an atmosphere of trust and cooperation between citizens and the Department. Increased public cooperation enhances the Department's ability to achieve its goals and objectives.
- E. An investigation may inquire into an employee's on-duty or off-duty conduct, if such inquiry is reasonably and directly related to the employee's fitness for duty. The investigation is to be limited to inquiries pertaining to whether the employee's conduct violates any rules, regulations, Department post orders or all applicable laws or in anyway discredits the Department.
- F. The Department shall impose no standard higher than a preponderance of the evidence in determining whether allegations of staff misconduct are substantiated.
- G. The Department shall ensure that the rights of all parties are clear and enforced.

522.04 RESPONSIBILITY OF THE INTERNAL AFFAIRS UNIT

The IAU shall process and track all allegations/complaints of employee misconduct and, if applicable, conduct investigations into such complaints.

- A. The Chief of OIS (or designee), shall:
 - 1. Review all Investigation Intake Forms for processing;
 - 2. Notify the appropriate higher authority when a staff member is accused of employee misconduct;
 - 3. Respond to each complaint by notifying the complainant in writing that the complaint was received and further information shall be forthcoming upon their request for information;
 - 4. Coordinate employee misconduct investigations with the superintendent/division head and/or designees;
 - 5. Establish guidelines, priorities, training, and management systems to ensure an efficient and effective internal affairs operation;

6. Monitor investigative progress and provide functional supervision of all staff assigned to the IAU;
7. Review reports to ensure that investigations are complete, objective, impartial and thorough;
8. Review, revise, and enforce policies and procedures pertaining to employee misconduct;
9. Provide a direct liaison with outside law enforcement agencies, e.g., state/local police, district attorneys' offices and the attorney general's office;
10. Maintain IAU files in an organized, secure, and confidential manner;
11. Direct and assist in the coordination of those investigations involving sensitive and/or complex issues, i.e., involvement with outside law enforcement, surveillance and covert operations; and,
12. Maintain a secure computer database of all investigations and complaints.

B. Investigators assigned to the IAU shall:

1. Conduct internal affairs investigations into allegations of staff misconduct;
2. Obtain necessary documentation and other evidence;
3. Identify, locate and interview all relevant parties (complainant, suspect, witnesses);
4. Work with outside agencies, i.e., surveillance, task forces and covert operations;
5. Form a conclusion based on the information compiled;
6. Prepare comprehensive reports of investigative findings in a timely manner, and
7. Attend various hearing throughout the administrative process, i.e., arbitration, civil service, etc.

522.05 PROCEDURES FOR FILING A COMPLAINT

Any person with knowledge of employee misconduct shall report any such act and cooperate fully in the investigative process. Failure to report or refusal to cooperate in the investigative process, by Department personnel shall be grounds for disciplinary action, up to and including termination.

A. Complaints Made by Department and Contract Personnel

1. Any employee who believes that he/she has been subjected to, a witness of, or has knowledge of employee misconduct shall immediately file a

confidential incident report detailing his/her allegations, and submit the incident report to his/her Superintendent/Department Head/Division Head. The facility Superintendent or division head will conduct an inquiry into the alleged misconduct. This inquiry shall include gathering relevant information in an attempt to verify the credibility, nature and severity of the allegation, and to screen out frivolous claims and those best resolved at the institutional level. In addition, when appropriate, this initial inquiry shall include taking steps to resolve the matter via mediation or other conduct resolution matters. If, after the institution conducts this inquiry, the Superintendent or Division Head believes that a formal investigation is necessary and if the elements of the misconduct meet the requirements of either a Category I or Category II complaint, an Investigative Services Intake Form shall be submitted to the Internal Affairs Unit. Depending on the severity of the allegations the Superintendent or Division Head may, when appropriate, refer the allegation to the Internal Affairs Unit via an investigative intake without completing an inquiry.

All inquiries into staff misconduct that may result in administrative action shall be audio recorded.

B. Complaints Made by Inmates

- a. Any inmate who believes that he/she has been subjected to, or a witness of employee misconduct may immediately report the alleged misconduct, either verbally or in writing, directly to a staff member, e.g., Superintendent, Deputy Superintendent, Director of Security, Shift Commander, Inner Perimeter Security, Correction Program Officer, Housing Unit Officer.
- b. If an inmate reports alleged misconduct verbally, it shall be incumbent upon the staff member who received the complaint to document the alleged misconduct by filing a confidential incident report. Such confidential incident report shall then be submitted to the Superintendent/Department Head/Division Head.

Upon receipt of an inmate complaint of staff misconduct, the Superintendent, Department Head/Division Head, or his/her designee shall conduct an inquiry into the alleged misconduct. This inquiry

shall include gathering relevant information in an attempt to verify the credibility, nature and severity of the allegation, and to screen out frivolous claims and those best resolved at the institutional level. If after this inquiry, the Superintendent, Department Head/Division Head, or his/her designee believes that the elements of the misconduct meet the requirements of either a Category I or Category II complaint, an Investigation Intake Form Shall be submitted to the Internal Affairs Unit.

Whenever an inmate, patient or civilly committed individual files an institutional grievance or complaint regarding a use of force (UOF) incident, the institution or division shall conduct an inquiry. The inquiry shall be completed prior to the submission of the UOF package and conducted by a trained investigator (Note: in accordance with the 103 CMR 505 UOF policy, specifically, "505.13: (5) A copy of the report described in 103 CMR 505.13 (1), and a completed UPF reporting form 505-1 (available at <http://www.mass.gov/doc/policy>, and at each inmate library attached to 103 CMR 505.00: Use of Force) shall be submitted to the Director of the Special Operations Division, by the superintendent or special unit directed within 20 business days from the time of the incident." The results of the inquiry shall be attached to the final UOF package and addressed in the superintendent's/special unit director's cover letter, including a determination whether or not there is a reasonable believe staff misconduct occurred. If the superintendent determines that staff misconduct occurred, an Investigative Intake shall be submitted to the Internal Affairs Unit (IAU). Additionally, the Superintendent shall render a final determination regarding whether or not the UOF package is compliant with the 103 CMR 505-UOF policy.

Inmates who are illiterate, who cannot read or write legibly or who cannot speak English are authorized to obtain assistance from their correction program officer or other staff member. Use of the language line is permitted for those inmates who cannot speak English.

4. Inmates shall not be subject to adverse action, including disciplinary charges, for filing a complaint

of staff misconduct, except for inmates who abuse the process by filing false reports, or an excessive number of frivolous and/or unfounded complaints, or for inmates who intentionally and in bad faith misrepresent or omit material information as referenced in Section 103 DOC 522.06 (D). In deciding whether or not to initiate an investigation into the complaints/allegations of inmates, the Chief of OIS may consider whether the inmate making the complaint/allegation had engaged in the aforementioned conduct in the past.

5. It is the responsibility of each Superintendent to include a section in the inmate orientation booklet concerning employee misconduct. A telephone "hotline" has been set up through the inmate telephone system that will allow inmates to report employee misconduct. This number, 508-422-3425, can be universally accessed by all inmates.

C. Complaints Made by Persons Outside of the Department

1. Complaints, regardless of nature, may be lodged in person, by mail (regular and electronic), or by phone (to the Superintendent/Department Head/Division Head or DOC TIP Line) at any time. Every reasonable effort shall be made to facilitate the convenient, courteous and prompt receipt and processing of citizen complaints. Any employee, who interferes with, discourages, or delays the making of such complaints shall be subject to disciplinary action up to and including termination.
2. Persons making complaints by mail or phone shall normally be contacted by an investigator for the purpose of conducting an inquiry into allegations and subsequently completing an Investigation Intake Form, if appropriate. Persons seeking to file a complaint at a correctional facility or at Department Headquarters shall, upon request, be given a copy of an Investigation Intake Form. When complaint forms are given out, the complainant shall be instructed to complete the form and return it as soon as possible to the IAU.

3. The Department of Correction shall maintain a toll-free Tip Line in the event that a member of the public has information regarding allegations of staff misconduct. The number of the toll-free Tip Line is as follows:

**1-866-MDOC-TIP
1-866-636-2847**

The staff member shall follow up with the appropriate facility to conduct an inquiry to make a determination if an intake shall be submitted for investigation. When the Tip Line receives an allegation/complaint of employee misconduct, the staff receiving the call shall ensure that all information is documented. If the complainant wishes to remain anonymous, then a notation shall be made. This documentation shall be logged within the information with disposition noted.

4. In addition, information regarding how to file an allegation/complaint of staff misconduct, to include forms for filing an allegation/complaint, shall be posted on the Department WebPages.

522.06 INVESTIGATION INTAKE FORM

- A. Upon receipt of a complaint/allegations of employee misconduct, the Superintendent or Division Head shall conduct an initial inquiry by gathering relevant information and seeking to resolve appropriate matters.
- B. If, after conducting this initial inquiry, the Superintendent/Division Head believes that an official investigation is appropriate, a standard complaint form shall be used to record the complaint. This form shall be referred to as the Investigative Intake Form. This form shall be completed and electronically mailed to the IAU within twenty-four (24) hours of making this determination. If electronic mail is unavailable, such form shall be faxed to the IAU at 508-422-3424 within the same time frame.
- C. The IAU shall assign an identifying number to each Investigation Intake Form. Only those forms with an assigned complaint number shall be considered as official complaints for record keeping purposes.

D. Supervisory issues including disobedience/insubordination shall not be formally intake and shall remain the responsibility of the facility or division to handle. Rudeness and courtesy exhibited on the job shall also remain under the purview of the facility superintendent or Division Head. Staff conflicts not involving physical contact shall also be viewed as an internal matter unless the facility Superintendent or Division Head believe that an investigation may further escalate the situation and therefore possibly lead to a workplace violence incident developing. Allegations of illegal discrimination, sexual harassment and/or hostile work environment harassment may be investigated and be submitted by way of intake.

E. Intakes shall not be submitted for medical errors (e.g. dropped or lost medications) that do not immediately point to staff misconduct. These matters are best handled by the Health Services Division. If during the course of their review it is determined that Department staff misconduct is discovered an investigation intake form shall be submitted. Matters involving conflicts between medical or mental health providers shall be handled by the vendor. Conflicts involving a Department employee and vendor shall be handled by the respective Superintendent unless it involves discrimination, sexual harassment or workplace violence.

F. Any complainant, upon written request, may receive a copy of the completed intake form as receipt their complaint was received.

522.07 TRIAGE

A. IAU shall establish procedures for screening and evaluating allegations of employee misconduct, in part, to determine the validity of such complaints. All investigations shall be conducted in a manner that is fair, impartial, thorough and timely. IAU shall maintain a database of all Category I and Category II investigations.

B. The Chief of OIS or his/her designee and the Captains in charge of IAU shall review and discuss all Investigation Intake Forms submitted to determine if an Internal Affairs intake form merits a formal investigation. The Chief of OIS or his/her designee may screen out all cases that in his/her opinion does not necessitate a formal investigation. The Chief or his/her designee may order an

inquiry to be conducted if more information is required prior to making a decision. If the intake does warrant a formal investigation, the intake shall be assigned as either a Category I or Category II investigation.

- C. The Chief of OIS or his/her designee shall screen all intakes and return to the facility or division any that do not require a Category I or Category II investigation including all those involving supervisory and conflict issues as referenced in Section 103 DOC 522.05 (B).
- D. The Chief of OIS or his/her designee shall screen out all intakes that are considered frivolous, repetitious or are considered knowingly false documents submitted by any party. If the triage team has questions concerning the validity of an intake an inquiry may be initiated to gather more information before a decision is reached.

522.08 CATEGORIES OF EMPLOYEE MISCONDUCT INVESTIGATIONS

Guidelines have been established to identify employee misconduct that shall be investigated by the IAU, and those that shall be investigated by the Superintendent/Department Head/Division Head. The Chief of OIS shall have ultimate discretion to determine which office shall conduct the necessary investigation.

- A. CATEGORY I- INVESTIGATION BY A SUPERINTENDENT/DEPARTMENT HEAD/DIVISION HEAD
 - 1. Institution and division level investigations, in general, involve allegations/complaints that may reasonably be addressed and resolved by the superintendent/department head/division head responsible for the employee about whom the complaint is made.
 - 2. Supervisory issues including disobedience/in-subordination, rudeness and courtesy as well as conflicts not involving physical contact shall normally be handled internally without the need for a formal investigation. Although all of these instances shall be addressed and taken seriously by facility or division staff they are best handled through the internal disciplinary or the supervisory process.

3. The following are some, but not necessarily all, examples of employee misconduct that would be reviewed and/or investigated as a Category I complaint:

- a. Serious security violations.
- b. Misuse of state property.
- c. Serious staff conflicts that if not addressed may lead to workplace violence issues.
- d. Infractions of the rules, regulations, policies, or post orders if serious enough to warrant an investigation. Minor infractions of these issues shall remain with the facility Superintendent or Division Head to handle.
- e. Introduction of Contraband.
- f. Other cases as determined by the Chief of IAU

4. Reoccurring allegations of these types of complaints of staff misconduct, however, may be addressed by the IAU.

B. CATEGORY II- INVESTIGATION BY IAU

1. IAU investigations, in general, involve allegations of serious employee misconduct, or complex or sensitive matters, requiring an investigation.

2. The following are examples of some, but not necessarily all, Category II complaints to be investigated:

- a. Felonious conduct.
- b. Use of alcohol or drugs at the workplace.
- c. Undue familiarity with an inmate, former inmate, parolee, or his/her family or friends.
- d. Staff sexual misconduct with inmates.
- e. Excessive force on an inmate.
- f. Theft of state property.
- g. Assaults.
- h. Physical abuse.
- i. Workplace violence.
- j. Civil rights violations.
- k. Existence and/or violation of an Abuse Prevention Order
- l. Staff arrests.
- m. Infraction involving discrimination, harassment and retaliation.

3. It is important to note that while staff misconduct is at times based on limited information, as an investigation unfolds, the level of seriousness may increase or decrease, thereby redirecting who shall be responsible for conducting the investigation. If, during an investigation, a Superintendent/Division Head believes that a Category I complaint has risen to the level of a Category II complaint, he/she may contact the Chief of OIS to request a reconsideration of the category level of the complaint. The Chief of OIS shall make the final determination of the category level of complaint. The Chief of OIS may also elevate on his/her own initiative to either increase or decrease an investigation.

522.09 INVESTIGATIONS

A. As detailed above, the majority of Category I complaints shall be assigned to the Superintendent/Division Head of the area in which the employee, against whom the complaint was filed, is assigned. All category II complaints shall be assigned to an IAU investigator.

All Category I and II investigations shall be formatted as follows:

Section One Introduction
Section Two Investigative Action, Summary of Evidence
 And Witness Statements
Section Three Findings and Conclusions

B. Category I investigations shall normally be completed within ninety (90) days of assignment for non-criminal cases. Category II investigations shall normally be completed within one hundred eighty (180) days of assignment for non-criminal cases. Extensions of time may be granted by the Chief of OIS or designee, upon written request stating sufficient grounds for the request (Attachment A).

C. The assigned investigator shall complete a fair, impartial and thorough investigation. Most investigations shall involve conducting interviews of the complainant, the employee against whom the complaint was filed, and witnesses, as well as collecting all available evidence that supports or refutes the allegations in the complaint.

The investigator shall inform all persons interviewed of the existence of a complaint and the general nature of its allegations.

The investigator shall instruct the staff person being interviewed of his/her obligation to cooperate in the investigation and that failure to cooperate may lead to disciplinary action, up to and including termination. Investigations with the potential of a criminal complaint being filed shall be issued an internal investigation waiver form (Attachment B) after consultation with the Chief of OIS.

The investigator shall instruct the inmate being interviewed that frivolous or false complaints may lead to discipline.

All category I and II interviews shall be tape-recorded. Upon written request and at the conclusion of the investigation, a copy of the tape recording shall be provided to the employee if disciplinary charges are brought against him/her.

All Department employees/vendors shall be required to submit to a tape recorded interview. Inmates and/or citizens shall be recorded as long as they do not object. If inmates and/or citizens do object, the refusal shall be read onto the digital tape recorder, the tape recorder shall be turned off, and the refusal statement shall be documented in the investigative report. Investigations involving cell phones, as potential evidence shall be given an Employee/Vendor Staff Permission to Search Personal Cellular Telephone form (Attachment C).

D. At the conclusion of the investigation, a written report shall be prepared by the investigator, which shall include the following:

1. A copy of the original complaint.
2. Copies of any statements taken from the complainant or from witnesses to the alleged incident.
3. Copies of any statements or reports submitted by the Department employee under investigation.
4. Tape-recorded interviews.
5. A summary of all evidence gathered.
6. An evaluation of the complaint and a recommended finding.

E. The Superintendent/Division Head/Department Head shall review all final reports of Category I complaint investigations. The Superintendent shall recommend a decision based on his/her review at which time the investigation shall be forwarded to the Chief of OIS for administrative review and final approval.

F. The Chief of OIS (or designee) shall administratively review all final reports of Category II complaint investigations. The final report shall be placed in a six part folder and include the following:

1. Investigative Report/Executive Summary
2. Executive Review/Decisions
3. Reports
4. Supportive documentation and Evidence
5. Miscellaneous

After acceptance by the Chief, the final report of Category II complaints shall be forwarded to the Deputy Commissioner of the Prison Division or final review.

In addition, all final reports of Category II complaints made by staff, alleging discrimination, harassment or retaliation, shall be forwarded to the Office of Diversity/Equal Opportunity (ODEO) to determine whether, based on the facts found, a violation of the discrimination/retaliation policy has occurred. After a determination is made by the ODEO, the final report shall be forwarded to the Chief of OIS for preparation for the Deputy Commissioner of Prison Division's final review.

G. Also at the conclusion of the investigation, both the complainant and the employee who was charged with misconduct shall be promptly notified, in writing, as to the final results of the investigation. Notifications of Category I complaints shall be made by the Superintendent/Department Head/Division head. Notification of Category II complaints shall be made by the Chief of OIS (or designee).

H. When warranted, the initiation of appropriate disciplinary action following an investigation shall be done in accordance with Department policy, and applicable civil service laws.

Also, when warranted, the respective District Attorney's Office shall be notified when the allegations against an employee may result in criminal prosecution.

- I. If during the process of an internal investigation, the complainant indicates a desire to withdraw the complaint, every effort shall be made to ensure that this decision is made voluntarily, and a signed statement to this effect shall be obtained from the complainant. The Chief of OIS shall make the final decision if an investigation should be withdrawn after the withdrawal request is presented to the investigator. A withdrawn complaint does not necessarily end an investigation; however, if no evidence has been found to sustain the allegations, the investigation may be administratively withdrawn with the approval of the Chief of OIS (or designee). Any attempt, directly or indirectly, on the part of a Department employee to obstruct any internal investigation or to threaten or persuade a complainant to withdraw a complaint is prohibited and shall result in disciplinary action, up to and including termination.
- J. The departure of the alleged abuser or victim from the employment or control of the Department shall not provide a basis for terminating an investigation.
- K. If an investigation is administratively withdrawn, the investigator shall submit a brief but thorough report chronicling the actions taken, reason for the complainant's withdrawal and any documentation/evidence gathered which refutes the initial allegations. A copy of the written withdrawal request from the complainant shall be included in the report package along with any other pertinent documentation and forwarded to the Chief of OIS (or designee) for review and approval.
- L. If an inmate or civilian complainant refuses to cooperate during the investigation process, e.g. shall not provide an interview statement, and no other evidence has been found to sustain the allegations made within the complaint, the investigation may be administratively closed with the approval of the Chief of OIS (or designee). All staff members are required to fully cooperate in all investigations in accordance with the rules and regulations.

- M. If an investigation is administratively closed, the investigator shall submit a brief but thorough report chronicling the actions taken and any documentation/evidence, which refutes the initial allegations. All pertinent documentation shall be included in the report package and forwarded to the Chief of OIS (or designee) for review and approval.
- N. If, during the course of an investigation, an investigator develops information that an employee who was not the principal of the original investigation may have violated the Rules and Regulations Governing All Employees of the Massachusetts Department of Correction that accused employee must be notified of these findings verbally prior to the completion of the investigation and allowed to issue a statement in his/her defense. The investigator shall include this information in the Findings and Conclusion Section of the Executive Summary.

522.10 DISPOSITION OF COMPLAINTS

Investigations of employee misconduct shall result in one or more of the following findings:

Sustained- the investigation disclosed sufficient evidence demonstrating that the conduct in question occurred and constituted a violation of Department policy, rules and regulations, post orders, or federal, state or local laws.

Not sustained- there is insufficient evidence to prove or disprove the complaint.

Exonerated- the evidence demonstrates that the behavior in question did occur, but that such behavior did not constitute a violation of Department policy, rules and regulations, post orders, or federal, state or local laws.

Unfounded- the complainant acted in bad faith by either knowing that the allegation was false or recklessly filing the complaint or the facts proved that the event did not occur. Any employee who knowingly makes a false accusation may be subject to disciplinary action, up to and including termination. Any inmate who knowingly makes a false accusation may be subject to disciplinary action.

Misconduct Not Based on the Original Complaint - The investigation revealed there was misconduct by an employee,

contract employee or Vendor which was not mentioned in the original complaint.

Administratively Closed - Inquiries or investigation closed as a result of uncooperative complaints when there is no independence evidence to support the continuation of an inquiry/investigation or other good cause that is determined by the Chief of OIS.

Administratively Withdrawn - Inquiries or investigations closed as a result of a written withdrawal request submitted by the complainant when no other evidence exists to support the continuation of the inquiry/investigation.

522.11 CONFIDENTIALITY OF INTERNAL AFFAIRS

- A. All investigations, inquiries, or complaints shall be afforded the highest possible degree of confidentiality.
- B. In order to ensure that the individual rights of employees who are the subject of an Internal Affairs investigation are protected, all materials relevant to an investigation of staff misconduct shall be processed and stored in a manner that prevents unauthorized access.
- C. Investigators, administrators, witnesses, and other parties shall not discuss any aspect of an on-going investigation with any persons without proper approval of the Superintendent/Department Head/Division Head, Chief of OIS, or Deputy Commissioner of Administrative Services.

522.12 DATA COLLECTION

To improve the quality, efficiency and effectiveness of staff misconduct investigations, a database OIS shall be maintained relative to these investigations. The database may be utilized to track all cases to ensure that they are resolved promptly and preserved electronically. In addition to quality control within the IAU, the database shall be utilized as a tool to provide statistical analysis of trends and ensure accountability.

522.13 QUALITY CONTROL

In order to protect the integrity of the investigatory process, the Chief or Deputy Chief of OIS shall review and sign all

Category II investigation reports, as well as review five (5) percent of Category I investigation reports.

In addition, the Chief of OIS shall publish a quarterly and an annual summary of complaint statistics. This report shall include but not limited to the number of complaints filed, by type of complaint, and the disposition of the investigation. These statistical reports shall be developed and maintained in order to identify policy or training issues, which may prevent further occurrences of employee misconduct.

(ON LETTERHEAD)

Attachment A

Department of Correction
Request for Extension of Time for Completion of an Investigation

TO: Patrick T. DePalo, Jr., Chief, Office of Investigative Services

FROM:

DATE:

RE: DOC-

In accordance with the provision of 103 DOC 522.09(b), I am requesting an extension of time to complete the following investigation: .

I am unable to complete the above investigation within the required 180 days for the following reason(s): .

I am requesting an extension of days.

Reviewed by Captain: _____ Date: _____

Recommend Approval: Yes _____ No _____

Comments: _____

Approved _____ Denied _____

Comments: _____

Chief's Signature

Date

MASSACHUSETTS DEPARTMENT OF CORRECTION
Internal Investigations Waiver Form

Date: _____

TO:

FR: Chief Patrick T. DePalo Jr., Office of Investigative Services

RE:

You are directed in accordance with the Rules and Regulations Governing All Employees of the Massachusetts Department of Correction to respond fully and promptly to any questions, written or oral, relative to an investigation being conducted by the Department of Correction.

Invocation of your rights against self-incrimination under the 5th Amendment to the US Constitution and Article 12 of the Massachusetts Declaration of Rights is sufficient to comply with this directive. This may be accomplished by checking off the appropriate box at the bottom of this page. You cannot be disciplined for asserting your rights. However, the investigation will continue and a recommendation will be made based on the available information.

You may also comply with this directive by asserting your 5th Amendment privilege against self-incrimination and waiving your Article 12 privilege. If you choose this option, you are waiving your right to transactional immunity and you are required to answer questions relevant to the investigation and/or submit a detailed report. The answers and/or report you provide and any evidence derived therefrom cannot be used against you in a criminal proceeding. Criminal proceedings may be based upon evidence obtained from other independent sources.

Failure to answer questions or submit a report relevant to the investigation, absent an assertion by you of your constitutional privilege(s), is considered failure to obey and comply with an order, which could result in disciplinary action, up to, and including, termination.

I understand my constitutional rights under the 5th Amendment of the US Constitution and Article 12 of the Massachusetts Declaration of Rights, and respond as follows:

- I wish to assert my constitutional rights under both the 5th Amendment of the US Constitution and Article 12 of the Massachusetts Declaration of Rights.*
- I wish to assert my constitutional rights under the 5th Amendment of the US Constitution against self-incrimination, but agree to waive my Article 12 privilege. I will answer questions and submit a report, but my responses and the contents of my report cannot be used against me in a criminal proceeding. I understand, however, that criminal proceedings can be instituted against me based upon evidence obtained from other sources.*

I have read the above statement the Fifth Amendment and Article 12 provisions on the reverse side of this form:

EMPLOYEE'S SIGNATURE: _____ DATE: _____ TIME: _____

CONTRACTOR'S SIGNATURE: _____ DATE: _____ TIME: _____

SIGNED IN THE PRESENCE OF: _____ DATE: _____ TIME: _____

Attachment B (2)

The Fifth Amendment to the US Constitution provides, in pertinent part:

No person shall be...compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law...

Article 12 to the Massachusetts Declaration of Rights provides, in pertinent part:

No subject shall be held to answer for any crimes or offense, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs, that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defense by himself, or his counsel, at his election.

EMPLOYEE'S SIGNATURE: _____ DATE: _____ TIME: _____

CONTRACTOR'S SIGNATURE: _____ DATE: _____ TIME: _____

Attachment C
(ON LETTERHEAD)

MASSACHUSETTS DEPARTMENT OF CORRECTION

**EMPLOYEE/VENDOR STAFF PERMISSION TO SEARCH PERSONAL CELLULAR
TELEPHONE**

Acknowledging my right to refuse to consent to a search of my personal cellular telephone or cellular telephone in my possession or under my control (e.g., in my assigned locker), I, _____, voluntarily and without coercion give my permission to the correctional staff of the Massachusetts Department of Correction to conduct a complete and thorough search of the cell phone (s) located at _____, including but not limited to, the digital call log, photographs, videos, all digital data (e.g., text messages), downloaded materials, search histories of browsers, electronic mail, Face Book, Instagram, and Twitter.

Cell Phone Number: _____

Subscriber Information: _____

Print Name (Owner/Possessor of Cell Phone): _____

Signature: _____

Date Signed: _____

Witness (Print Name): _____

Witness (Signature): _____

Witness (Print Name): _____

Witness (Signature): _____