

Truro Police Department

INTERNAL COMPLAINTS

Policy Number: ADM-3.04
REFERENCE:

Effective Date: June 1, 2000
Revised Date:

Accreditation Standards:
Mass. Gen. Law: M.G.L. Chapter 149 Section 185
Other:

POLICY:

It shall be the policy of the Truro Police Department to encourage employees to raise concerns internally when employees have complaints.

PROCEDURE:

1. Employees are encouraged to bring concerns to the attention of their immediate supervisors, or at monthly patrol division meetings.
2. If an employee has a valid concern about a policy, practice, activity, or incident, that may violate the law or regulation, or that may endanger the public health, safety or the environment, a complaint may be filed without fear of any retaliatory action.
3. If an employee desires to file a complaint or discuss a concern, the employee may do so by contacting one of the following:

Chief of Police
Second-in-command of the department
Internal Affairs Investigator

These people are available to discuss any concerns that an employee may have and will promptly conduct an investigation. Upon completion of said investigation, a report will be forwarded to the Chief of Police, and said report will include any recommendations that will correct the concern.

In the event that the complaint is against the Chief of Police and the investigation reveals that there is merit to the complaint, and that there is no in-house remedy, then the report shall be forwarded to the Board of Selectmen for their action.

**MGLA 149 § 185,
Retaliation against employees reporting violations of law or risks to public health, safety or environment;
remedies**

'40-422 MGLA 149 § 185

**MASSACHUSETTS GENERAL LAWS ANNOTATED .PART L ADMINISTRATION OF THE GOVERNMENT TITLE
XXL LABOR AND INDUSTRIES CHAPTER 149. LABOR AND WORKFORCE DEVELOPMENT MISCELLANEOUS
PROVISIONS**

Current through 1996 2nd Annual Sess.

§ 185. Retaliation against employees reporting violations of law or risks to public health, safety or environment;
remedies

(a) As used in this section, the following words shall have the following meanings:--

(1) "Employee", any individual who performs services for and under the control and direction of an employer for wages or other remuneration.

(2) "Employer", the commonwealth, and its agencies or political subdivisions, including, but not limited to, cities, towns, counties and regional school districts, or any authority, commission, board or instrumentality thereof

(3) "Public body", (A) the United States Congress, any state legislature, including the general court, or any popularly elected local government body, or any member or employee thereof, (B) any federal, state or local judiciary, or any member or employee thereof, or any grand or petit jury; (C) any federal, state or local regulatory, administrative or public agency or authority, or instrumentality thereof, (D) any federal, state or local law enforcement agency, prosecutorial office, or police or peace officer; or (E) any division, board, bureau, office, committee or commission of any of the public bodies described in the above paragraphs of this subsection.

(4) "Supervisor", any individual to whom an employer has given the authority to direct and control the work performance of the affected employee, who has authority to take corrective action regarding the violation of the law, rule or regulation of which the employee complains, or who has been designated by the employer on the notice required under subsection (g).

(5) "Retaliatory action", the discharge, suspension or demotion of an employee, or other adverse employment action taken against an employee in the terms and conditions of employment.

(b) An employer shall not take any retaliatory action against an employee because the employee does any of the following:

(1) Discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer, or of another employer with whom the employee's employer has a business relationship, that the employee reasonably believes is in violation of a law, or a rule or regulation promulgated pursuant to

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MGLA 149 § 185, Retaliation against employees reporting violations of law or risks to public health, safety or environment; remedies

law, or which the employee reasonably believes poses a risk to public health, safety or the environment;

***40423** (2) Provides, information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated pursuant to law, or activity, policy or practice which the employee reasonably believes poses a risk to public health, safety or the environment by the employer, or by another employer with whom the employee's employer has a business relationship; or

(3) Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes is in violation of a law, or a rule or regulation promulgated pursuant to law, or which the employee reasonably believes poses a risk to public health, safety or the environment.

(c)(1) Except as provided in paragraph (2), the protection against retaliatory action provided by subsection (b) (1) shall not apply to an employee who makes a disclosure to a public body unless the employee has brought the activity, policy or practice in violation of a law, or a rule or regulation promulgated pursuant to law, or which the employee reasonably believes poses a risk to public health, safety or the environment to the attention of a supervisor of the employee by written notice and has afforded the employer a reasonable opportunity to correct the activity, policy or practice.

(2) An employee is not required to comply with paragraph (1) if he: (A) is reasonably certain that the activity, policy or practice is known to one or more supervisors of the employer and the situation is emergency in nature; (B) reasonably fears physical harm as a result of the disclosure provided; or (C) makes the disclosure to a public body as defined in clause (B) or (D) of the definition for "public body" in subsection (a) for the purpose of providing evidence of what the employee reasonably believes to be a crime.

(d) Any employee or former employee aggrieved of a violation of this section may, within two years, institute a civil action in the superior court. Any party to said action shall be entitled to claim a jury trial. All remedies available in common law tort actions shall be available to prevailing plaintiffs. These remedies are in addition to any legal or equitable relief provided herein. The court may: (1) issue temporary restraining orders or preliminary or permanent injunctions to restrain continued violation of this section; (2) reinstate the employee to the same position held before the retaliatory action, or to an equivalent position; (3) reinstate full fringe benefits and seniority rights to the employee; (4) compensate the employee for three times the lost wages, benefits and other remuneration, and interest thereon; and (5) order payment by the employer of reasonable costs, and attorneys' fees.

(e)(1) Except as provided in paragraph (2), in any action brought by an employee under subsection (d), if the court finds said action was without basis in law or in fact, the court may award reasonable attorneys' fees and court costs to the employer.

***40424** (2) An employee shall not be assessed attorneys' fees under paragraph (1) if, after exercising reasonable and diligent efforts after filing a suit, the employee moves to dismiss the action against the employer, or files a notice agreeing to a voluntary dismissal, within a reasonable time after determining that the employer would not be found liable for damages.

(f) Nothing in this section shall be deemed to diminish the rights, privileges or remedies of any employee

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under **any** other federal Or state law or regulation, or under any collective bargaining agreement or employment contract; except that the institution of a private action in accordance with subsection (d) shall be deemed a waiver by, the plaintiff of the rights and remedies available to him, for the actions of the employer, under any other contract, collective bargaining agreement, state law, rule or regulation, or under the common law.

(g) An employer shall conspicuously display notices reasonably designed to inform its employees of their protection and obligations under this section, and use other appropriate means to keep its employees so informed. Each notice posted pursuant to this subsection shall include the name of the person or person [FN II the employer has designated to receive written notifications pursuant to subsection (c).

CREDIT(S)

1996 Main Volume

Added by St. 1993, c. 4 71.

ffNI | So in original.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL NOTES

HISTORICAL AND STATUTORY NOTES

1996 Main Volume St.1 993, c. 471, was approved Join. 13,1994.

REFERENCES

LIEBRARY REFERENCES 1996 Main Volume Comments.

Whistle-blowing conscientious employees, retaliatory action prohibited, see M.P.S. **vol.** 18, Randall and Franklin, 288.5.

*POSTED NOVEMBER 10, 1997

**PURSUANT TO SUBSECTION (C) THE CHIEF OF POLICE, JOHN J. THOMAS, SHALL
RECEIVE WRITTEN NOTIFICATIONS.

***COPY GIVEN TO EACH EMPLOYEE NOVEMBER 10, 1997.

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