



# Village of Oregon Citizen Guide to Policing



## **Introduction**

The administration of police services in the Village involves multiple layers of authority and can be confusing to those trying to get a better understanding of policing in the community. This guide serves as an overview of the different entities involved in policing in the Village and their respective duties and responsibilities. It also provides information about how citizens can become involved in effectuating changes in policies and taking other actions relating to policing in the Village.

### **Role of Village Board.**

Since the Police Department (“Department”) is a subdivision of the Village, the Village Board may make Department policy and issue directives to the Department and Chief of Police. This significant power allows the Village Board to prescribe rules and regulations for the control and management of the Department. For instance, the Village Board could enact use of force policies more restrictive than allowed by law. Thus, the entity with the most power to effectuate changes within the Department is the Village Board. This power includes the ability to issue directives to the Chief of Police. Although the Chief of Police generally supervises the Department, state law requires the Chief to “obey all lawful written orders” of the Village Board. *Wis. Stat. § 62.09(13)(a)*. These orders can be issued as directives to the Chief of Police, or ordinances imposing additional job duties and responsibilities of the Chief.

The Village Board also has final approval of the Department’s budget. Control of Department financing grants the Village Board significant authority to control the structure of the Department. Consistent with that power, the Village Board establishes the rank structure and number of positions within the Department. Thus, the Village Board determines how many officers are needed to serve the Village, and how many supervisory positions to create. Additionally, all salaries are set by the Village Board. Although hiring of police officers is handled by the Police Commission, the Village Board approves the hiring of non-police officer positions within the Department (such as administrative assistants). Since the Village Board approves the Department’s budget, the Village Board may exercise its authority to contract for and purchase all necessary apparatus and supplies for the use of the department, such as police officer equipment, vehicles, or technology. Inclusive of this, is the authority to audit bills, claims, and expenses of the Department.

Consistent with the authority to issue directives to the Chief, the Village Board has granted the Village Administrator supervisory authority over the Chief. The Village Administrator conducts an annual evaluation of the Chief, and the Chief must cooperate with the Administrator in conducting the evaluation. Nonetheless, the Board still reviews the evaluation.

Even though the Board has broad authority over the Department and the Chief, that power is limited by state law in several areas. Only the Police Commission may appoint the Chief of Police. *Wis. Stat. § 62.13(3)*. As a result, the Village Board has no authority to hire the Chief, or even establish criteria for selection of the Chief. Similarly, only the Police Commission can discipline or terminate the Chief. *Id.* Consequently, even if the Board does not approve of the Chief's performance, it cannot terminate or discipline the Chief. Rather, the Board would need to have a designee initiate the formal hearing process to remove the Chief. The Village Board also does not play a role in the hiring, terminating, or disciplining any individual officer. *Wis. Stat. § 62.13(4) and (5)*. That authority is delegated to the Police Commission. A further explanation of the hiring and discipline process is explained in Section 3.

### **Role of Village Administrator.**

The Village Administrator serves as the Chief Administrative Officer of the Village. *Village Code § 1.04(4)*. This includes ensuring the proper administration and coordination of Village services. *Id.* The Village Board has delegated authority to the Village Administrator to supervise the Chief of Police. *Village of Oregon Code § 1.04(4)(a)6*. Included in the delegation is the ability to issue written orders to the Chief of Police. However, the Village Board has the power to overrule any order issued by the Administrator. Thus, the Administrator's authority over the Chief can be limited by intervention from the Village Board.

Although the Chief is supervised by the Administrator, the two coordinate on many matters. One major responsibility of the Administrator is creating an annual budget for the Village. This requires the Administrator to work with the Chief to create a budget for the Department. The Administrator also serves as a liaison between the Chief and the Village Board. The Administrator performs an annual performance evaluation of the Chief and presents it to the Village Board. The Administrator's role as a liaison also encompasses putting Village Board policies and directives into place with the Chief.

### **Role of Police Commission.**

State statutes establish the Police Commission's ("Commission") important, but limited powers. The Commission's primary responsibilities are to hire the Chief and police officers, and to discipline or terminate the Chief or police officers. Indeed, a common misconception is that the Commission has significant authority to put policy changes into effect, however the Commission has a very specific and limited role in Department operations.

#### *Make-Up of Commission.*

One unique aspect of the Commission is its composition. All members of the Commission

must be citizen members, meaning no elected Village officials can serve. *Wis. Stat. § 62.13(1)*. The Commission is comprised of five members who each serve staggered five-year terms. As a result, the Village Board must appoint a commissioner every year. *Id.* Interestingly, state law prohibits more than three members being in the same political party. *Id.* The Village President has the power to nominate a person to serve as a commissioner, but the Village Board approves all appointments to the Commission. *Village of Oregon Code § 1.36(1)*. Commissioners must be persons with recognized experience and qualifications. *Village Code § 1.36(2)*. The Commission must meet during May every year and hold at least four meetings per year (but it may choose to hold more meetings as needed). *Village Code § 1.36(4)*.

#### *Powers of the Commission.*

The Commission is solely responsible for hiring the Chief. *Wis. Stat. § 62.13(3)*. Neither the Village Administrator nor the Village Board has a statutory right to be involved in the hiring process. The Commission could seek input from either but is not required to do so. Although the Chief's powers can be limited to a certain degree by the Village Board, the Chief still retains significant authority over the management of the Department. Thus, hiring the Chief is an extremely important responsibility for the Commission, and can affect the culture and goals of the Department. Nonetheless, the Commission does not have the authority to issue orders or set policies for the Chief. Accordingly, once it hires the Chief, the Commission will only have the ability to discipline the Chief under circumstances described below.

Another significant power is hiring and promoting sworn police officers. Before an officer is hired or promoted, the Chief must first appoint the person for the position. The Commission then votes to approve that appointment. *Wis. Stat. § 62.13(4)(a)*. The Commission must adopt a list of people eligible to be appointed by the Chief. However, when creating the list, the Commission may create rules "calculated to secure the best service." *Wis. Stat. § 62.13(4)(c)*. Such rules must "provide for examination of physical and educational qualifications and experience and may provide such competitive examinations as the board shall determine." *Id.* The Chief may only appoint an officer from the approved list. This grants the Commission considerable control over officers selected to serve in the Department. For example, the Commission could establish a rule that all officers must have a four-year degree. The Commission also must promote from within the Department whenever it "can be done with advantage." *Wis. Stat. § 62.13(4)(a)*.

Additionally, the Commission is vested with powers to discipline police officers. The disciplinary process begins with the filing of "charges." *Wis. Stat. § 62.13(5)(b)*. A charge is a written request for discipline with facts supporting the allegation. Charges may be filed by the Chief, a member of the Commission, the Commission as a body, or any aggrieved person. *Wis. Stat. § 62.13(5)(b)*.



Police officers are entitled to a hearing to determine whether there is just cause supporting discipline. The officer must be served with a copy of the charges and have a hearing between 10-30 days after service of the charges. The hearing is similar to a trial. The person filing the charges and the accused are entitled to be represented by an attorney. Both sides may call witnesses, cross-examine witnesses, and present evidence. These hearings are open to the public. During the hearing, the Commission acts as the jury. Its job is to determine whether just cause supports discipline, and what the appropriate discipline is. In making the just cause determination, the Commission must apply the following standards (where applicable):

1. Whether the officer could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct.
2. Whether the rule or order that the officer allegedly violated is reasonable.
3. Whether the chief, before filing the charge against the officer, made a reasonable effort to discover whether the officer did in fact violate a rule or order.
4. Whether the investigation was fair and objective.
5. Whether the chief discovered substantial evidence that the officer violated the rule or order as described in the charges filed against the subordinate.
6. Whether the chief is applying the rule or order fairly and without discrimination against the officer.
7. Whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the officer's record of service with the chief's department.

*Wis. Stat. § 62.13(5)(em)*. If the Commission determines that just cause supports discipline, the Commission may determine the appropriate level of discipline. The Commission may order a suspension, reduction in rank, a combined suspension and reduction in rank, or termination of the officer. *Id.* If the Commission imposes discipline, it must make that finding in writing, and file it with the secretary of the Commission within three days. The officer may then appeal to circuit court. *Wis. Stat. § 62.13(5)(i)*.

The same procedures outlined above apply to discipline against the Police Chief. Thus, the Commission has the power to discipline the Chief, including termination, following a hearing and a just cause determination.

Additionally, the Commission acts as an appeals body when the Chief imposes discipline against an officer. The Chief may suspend an officer with just cause (using the same standards described above). The officer may then request a hearing before the Commission. The Commission then holds a hearing and must determine if the suspension was warranted. *Wis. Stat. § 62.13(5)(c)*.

Importantly, the role of the Police Commission does not include oversight of the Department or enacting policy. The Village Board possesses the greatest control over policies, while the Chief and Administrator can also implement Department policies subject to Village Board oversight. The Commission's role is limited to hiring and discipline of police officers and the Chief.

Since the Commission's duties and responsibilities are limited to employment decisions, it will often utilize closed session meetings to discuss sensitive information. First, the Commission may enter closed session when considering hiring police officers. *Wis. Stat. § 19.85(1)(c)*. There are legitimate policy reasons for entering into closed session to discuss hiring decisions. Commissioners will want to discuss the strengths and weaknesses of potential candidates. If that information is discussed in public, it could have a chilling effect on commissioner discussion and even on candidates applying for positions. Qualified candidates may decide not to apply if they know the hiring decision will be debated in public. Holding those discussions in closed session helps to ensure that the Commission can make an informed decision, and that good candidates will continue to apply for police officer positions.

Second, deliberations regarding employee discipline may be done in closed session. *Wis. Stat. § 19.85(1)(a)-(b)*. When the Commission conducts a disciplinary hearing, it acts as a quasi-judicial body, meaning it acts as a jury applying facts to the law. After the evidentiary hearing closes, the Commission is permitted by Wisconsin's Open Meetings Law to enter into closed session to discuss the evidence and come to a consensus. Although the final vote will be done in open session, the deliberations can be done in closed session. Again, this allows commissioners to speak freely about the merits and weaknesses of the case. These opinions may be detrimental to the employee and Department morale if done in open session.

Finally, it is possible, through a direct legislation process (ie., a referendum election process initiated by a proper petition), to give a police commission "optional powers," including the power to prescribe rules and regulations for the control and management of the department, the power to contract for and purchase supplies, and to audit bills and expenses. *Wis. Stat. § 62.13(6)*. The Village of Oregon Police Commission does not currently exercise optional powers.

### **Role of Police Chief.**

The Chief's powers and duties are established by state statute, local ordinances, and orders by the Village Board and Administrator. Even though the Village Board and Administrator can issue directives, the Chief retains significant independence and has a major influence over the Department.

#### *Duties Established by Ordinance.*

As noted in the Village Board section, the Chief's power is subordinate to the Village Board's power. The Chief must obey all written orders of the Village Board and comply

with ordinances governing the Chief. The Village has enacted ordinances governing the appointment and the duties of the Police Chief.

The Chief's main duty is to supervise and manage the Department. *Village Code § 4.02(2)(d)*. Thus, the Chief controls day to day operations of the Department, including establishing schedules for officers, evaluating Department employees, and generally managing the Department. Consistent with that power is the authority to discipline and recommend officers for promotion. *Id.* The Chief may impose discipline, with just cause, upon officers, but that discipline is subject to appeal to the Commission. Further, the Chief can recommend promotion of officers, which again is subject to approval by the Commission.

The Village Board has exercised its broad discretion to establish other specific responsibilities and duties of the Chief. The Village has mandated that the Chief "cause the public peace to be preserved" and to enforce the laws of the Village. *Village Code § 4.02(2)(c)*. This requires causing investigations to be made of any complaints made to the Department and referring matters to the Village Attorney or District Attorney for prosecution. Consequently, the Chief must "investigate complaints and question witnesses" when necessary. *Village Code § 4.02(2)(k)*. The Chief is also solely responsible for the care and condition of Department equipment. *Village Code § 4.02(2)(e)*. Additionally, the Chief must keep an "accurate and complete record of all complaints, arrests, traffic violations, convictions and dispositions of the Department and prepare reports..." whenever necessary. *Village Code § 4.02(2)(f)*. The Village also requires the Chief to study "new techniques in crime detection and the apprehension of criminals." *Village Code § 4.02(2)(i)*. Similarly, the Chief must cooperate with "other law enforcement agencies and with civic groups and schools in crime prevention activities." *Village Code § 4.02(2)(j)*. The Chief is also responsible for instructing Department personnel and maintaining discipline and ethics. *Village Code § 4.02(2)(g)*. The Village Code mirrors state law in that the Chief is appointed by the Commission and may only be removed for cause. *Village Code § 4.02(1)*.

The Village also requires that the Chief work in conjunction with the Administrator on many issues. The Village Board has empowered the Administrator to issue written directives to the Chief. Therefore, additional duties and responsibilities can be imposed upon the Chief by the Administrator. The Chief must also coordinate with the Administrator on budgetary issues and operational matters. The Chief is expected to keep in regular contact with the Administrator and meet with the Administrator upon request. Since the Administrator supervises the Chief, the Chief must comply with annual evaluation procedures established by the Administrator.

One of the most significant powers entrusted to the Chief is creating a budget. *Village Code § 4.02(2)(h)*. Since the Village Administrator is charged with creating a budget for the whole Village, the Chief works with the Administrator to create a Department budget. Once

the Department budget is finalized, it is presented to the Village Board for approval. The budget will encompass salaries for officers, equipment costs, and other expenses of the Department. It can establish spending priorities and training.

#### *Statutory Duties.*

One of the most significant responsibilities of the Chief is preparing a use of force policy. *Wis. Stat. § 66.0511(2)*. A good use of force policy satisfies constitutional requirements, is clear in its application for officers, and strikes the correct balance between protecting the officers, the public, and suspects. The use of force policy creates a sliding scale of officer responses to threats. In other words, a more serious threat allows for greater use of force. Deadly force may only be used as a last resort by an officer when the officer reasonably believes that deadly force is necessary to protect themselves or the public, or as a last resort to effect an arrest or prevent the escape of a fleeing felon who the officer reasonably believes has committed a felony involving the actual or threatened use of deadly force and the officer has probable cause to believe the suspected felon poses a significant threat of death or bodily harm to the officer, or others, if not immediately apprehended. All Village of Oregon Police Department Policies are available for review on the Village's website.

Another state mandate imposed upon all chiefs of police is to adopt a citizen complaint process. *Wis. Stat. § 66.0511(3)*. The Village of Oregon has a citizen complaint process that is described in more detail below and is also available on the Village's website.

Some of the Chief's actions are subject to Commission oversight. As noted above, the Chief can appoint individuals for hiring or promotion, but the Commission must give final approval. Further, many disciplinary actions require Commission approval. Seeking a reduction in rank or removal of an officer must go through the Commission. The Chief would file charges with the Commission, and then must show just cause supports the recommended discipline.

#### **Wisconsin Law Enforcement Accreditation Group Accreditation.**

The Department is one of 37 law enforcement agencies in Wisconsin to receive accreditation from the Wisconsin Law Enforcement Accreditation Group ("WILEAG"). Accreditation is voluntary, but highly prized recognition of law enforcement professional excellence.

Accreditation is a progressive and time-proven way of helping institutions evaluate and improve their overall performance. Accreditation requires police agencies to comply with state-of-the-art standards in four basic areas: policy and procedures, administration, operations, and support services. The program applies 242 standards, which includes 604 separate dimensions that incorporate the best police practices. Many of the standards go above and beyond what the state and state statutes require in policing.



Accredited agencies are evaluated every three years by a team of assessors. The assessment team is composed of trained law enforcement professionals from other agencies throughout Wisconsin. There is an assessor applicant process and required training that must be completed prior to the WILEAG governing board approving an individual to become an accreditation assessor. The assessors review written material, interview individuals, receive community input on Department activities, and tour the agency to determine compliance with all of the standards. The assessment process takes approximately three days.

The group of assessors is led by a lead assessor who is responsible for preparing a final report that details the following components of the assessment: an introduction/description of the agency and jurisdiction; summary of on-site activities observed during the assessment; details regarding how the public information session and telephone calls with the public went; statistical summary of compliance; summary of agency's compliance; overall quality of law enforcement services; opportunities for improvement; noteworthy programs; policies or practices; and a conclusion. The final report is submitted to the WILEAG Governing Board for review and possible approval.

Accreditation status is granted for three years, during which time the agency must submit annual reports attesting continued compliance with the standards. WILEAG evaluates the Department based on the following criteria:

1. Organization and Management
2. Personnel Services
3. Recruitment and Selection
4. Commendations/Disciplinary Procedures.
5. Management of Resistance and Aggression.
6. Operations.
7. Transport, Processing, and Temporary Confinement of Detainees.
8. Community Relations.
9. Communications.
10. Records.
11. Evidence and Property Integrity.
12. Training.
13. Critical Incidents.
14. Victim/Witness Assistance.

The Department takes pride in its accreditation from WILEAG. Accreditation promotes excellence and professionalism within the Department through voluntary compliance. It demonstrates commitment to law enforcement excellence by its compliance to a body of standards deemed essential to the protection of the life, safety, and rights to the citizens of the Village of Oregon by exemplifying the best professional practices in the conducts of its responsibilities to the community it serves. Importantly, it provides the community a

level of assurance and confidence that the agency is not only in compliance with all state mandated policies but goes beyond those minimum requirements. The process also adds additional accountability for the Department. It is a stamp of approval from outside assessors, that the Department is in compliance and functioning through state approved practices and procedures. Accreditation also provides access to model policies and procedures in the State of Wisconsin, and networking opportunities with other professional organizations.

### **Citizen Role.**

The Village encourages its citizens to take an active role in the community, including matters of policing. Often members of the public would like to get involved but are unsure of the ways to do so. There are several avenues of public engagement.

Citizens can submit policy action requests to the Village Board to take certain action. Although the Village Board has the most control to establish policies, a policy action request will typically require consultation and recommendation by the Chief of Police. Thus, citizens should engage with the Chief of Police if they have any policy proposals.

The Village Board also encourages citizens to attend Board meetings, and to utilize the public comment process. Village Board meetings will generally have a portion where the public can comment. During public comment periods, members of the public can speak on any issue, and bring issues to the attention of the Village Board. Due to Wisconsin's Open Meetings Law, Board members cannot discuss any topics that are not specifically on the Board's meeting agenda. However, the public comment process is important. It notifies the Board of community issues, and the Board may discuss those topics at later dates, or it could lead to policy shifts or ordinances in the future.

The Department created a citizen complaint procedure for when members of the public wish to file formal misconduct complaint against specific officers. A complaint must be signed by the complainant, and the complainant must swear to the truth of the allegations. Sometimes individuals who file complaints against officers or the Department would like to remain anonymous. However, the Department cannot keep complaints confidential. First, Wisconsin's Public Records law applies to any complaints filed. *Wis. Stat. §§19.31-39*. If a record request for complaints were submitted to the Village, the Village would be required to provide copies of any complaints to the requester. The Village would be prohibited from redacting any information from the complaint in most situations. Second, to properly investigate the complaint, the Chief must be able to discuss the complaint with the complainant. Thus, if someone were to submit an anonymous complaint, the Department would not be able to conduct a proper investigation into the matter. Even though an investigation would still take place, it is unlikely that an anonymous complaint would lead to any tangible action.

After receiving a complaint, the Department will conduct an investigation. The Department always conducts an investigation after receiving a complaint. The investigation will include reviewing any relevant reports, videos, relevant evidence, and interviews of witnesses and the complainant. Absent exigent circumstances, the investigation will be completed in 30 days. Once the investigation concludes, the Department will draft a summary of the investigation. A summary includes conclusions reached by the Department and any actions taken. The Department may find that there was no misconduct, or if the investigation does reveal misconduct, discipline of the officer will follow. The complainant will be apprised of the outcome of the investigation. The citizen complaint form and its related procedures are available on the Village's website or upon request at the Police Department.

If the citizen is unhappy with the result of any investigation, they may file charges with the Police Commission. As explained above, charges are written allegations of misconduct that are filed with the Police Commission. Filing charges will result in a formal hearing before the Police Commission. However, the citizen is responsible for prosecuting the charges before the Police Commission. After the hearing, the Police Commission will determine whether the charges have any merit and may discipline the officer if the charges are true.