

	STAMFORD POLICE DEPARTMENT POLICY AND PROCEDURE GENERAL ORDER	Distribution ALL PERSONNEL	General Order Number 4.02
		Original Issue Date 12/01/21	Effective Date 12/10/21
Order Title: INVESTIGATING MISCONDUCT AND CITIZEN COMPLAINTS		Accreditation Standard: POSTC: 1.5.8(f), 1.5.9 d , 2.8.3, 2.6.12; 2.6.13, 3.3.24	Section 4
		Section Title DISCIPLINARY PROCESS	
Rescinds: 2011 - Complaint Policy Responsibilities of Field Supervisors 2012 – Complaint Policy Responsibilities of the Internal Affairs Division		Timothy Shaw, Chief of Police	

This General Order is for departmental use only and does not apply in any criminal or civil proceeding. This General Order should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this General Order will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

I. PURPOSE

The purpose of this policy is to provide all Stamford Police Department (“Stamford” or “Department”) employees, and the public, the procedures for processing and investigating allegations of officer misconduct or citizen complaints.

II. POLICY

The Stamford Police Department’s public image is determined by a professional response to allegations of misconduct against its employees. The establishment of procedures for the investigation of complaints is crucial to demonstrate and protect the Department’s integrity. This Department shall accept and fairly and impartially investigate all complaints or allegations of misconduct to determine their validity, and to timely impose any disciplinary or non-disciplinary corrective actions that may be warranted. It is the Department’s policy to investigate every instance of alleged misconduct against a member of this Department, whether criminal or administrative in nature, in accordance with federal or local laws, and Department policies and procedures. The Chief of Police is responsible for the overall administration of the investigations of citizen complaints and employee misconduct.

The Office of the Chief shall be responsible for the investigation of all allegations of serious misconduct and serious use of force incidents pursuant to Department policies and procedures. The Chief will have the authority to utilize resources outside the department to conduct investigations including retaining outside investigators.

III. DEFINITIONS

Complaint: Any allegation by an individual regarding Department services, policies, practices or procedures, claims for damages which allege possible misconduct made by a Stamford officer.

Complaint Control Number (CCN): A sequential number used to identify and track citizen complaint investigations.

Critical Firearm Discharge: A discharge of a firearm by a Stamford officer, but does not include range and training discharges and discharges at animals for humane purposes.

Administrative Inquiry: A complaint that originates from the Office of the Chief. Such complaints may be reported (written or oral) by other Department employees or from supervisors who observed, or were informed by other employees, of possible policy violations.

Garrity Warnings: Is the advisement of rights to an employee who may be the subject of an internal investigation.

Misconduct: Any conduct by a Stamford employee that violates Department policy or the law

Preponderance of the Evidence Standard: The quantum of evidence that constitutes preponderance cannot be reduced to a simple formula. A preponderance of evidence has been described as just enough evidence, no matter how slight, to make it more likely than not that the allegation sought to be proved is true or false.

Serious Misconduct: Suspected criminal misconduct and the specific forms of misconduct identified below in Section IV.C. Such conduct can be investigated by the Internal Affairs Division and the Criminal Investigation Division of the Attorney General's Office if reported by the Chief of Police or his designee.

Serious Use of Force: Any action by an officer that involves: 1) the use of deadly force, including all critical firearm discharges; 2) a use of force in which the person suffers serious bodily injury, or requires hospital admission; 3) a canine bite; and 4) the use of chemical spray or Electronic Control Weapon against a restrained person.

Verbal Counsel: An action in the form of an oral reprimand, or counseling documented in writing, taken by an officer's supervisor or commander for minor violations of department rules, policies, or procedures as defined by this department.

IV. PROCEDURE

A. Investigations of Citizens Complaints

1. General

- a. All investigations shall, to the extent reasonably possible, determine whether the officer's conduct was justified. No investigation being conducted by the Office of the Chief shall be closed simply because a subject or complainant is unavailable, unwilling, or unable to cooperate, including a refusal to provide medical records or proof of injury;
- b. All investigations shall be conducted by a supervisor who did not authorize, witness, or participate in the incident, and all investigations shall contain:
 - 1) Documentation of the name and badge/employee number of all officers involved in, or on the scene during, the incident, and a canvass of the scene to identify civilian witnesses;
 - 2) Thorough and complete interviews of all witnesses, subject to the Department's *Garrity* Protocol, and an effort to resolve material inconsistencies between witness statements;
 - 3) Photographs of the subject(s) and officer(s) injuries or alleged injuries; and
 - 4) Documentation of any medical care provided.

B. Role of Internal Affairs Division

- 1. Upon receipt of the Complaint Form, the complaint will be reviewed and determined if the complaint will remain with Internal Affairs or be forwarded to the employee's supervisor for investigation.
- 2. In compliance with the existing SPA contract, unless an ongoing or criminal allegation of misconduct against an officer precludes notification, officers against whom a complaint is being investigated shall be notified by the Internal Affairs within (5) five days of the receipt of the complaint.
- 3. The investigating Supervisor shall evaluate complaints of criminal conduct made against Department employees, and report findings to the Assistant Chief. The Chief may authorize transfer of the criminal allegation investigation to the States Attorney's Office. A parallel Internal Affairs Investigation will be conducted to ensure no administrative or departmental violations have occurred, but may be delayed until the resolution of the criminal investigation.
- 4. Upon completion of the Internal Affairs Investigation Report, the report and all supporting documents shall be forwarded to the Assistant Chief of Police, or designee, for review. The Assistant Chief may accept the report as completed or return the report for further investigation.

5. The Internal Affairs Commander shall have the following additional responsibilities:
 - a. Maintain a complaint log in workshare and/or electronically in IA Pro Software;
 - b. Maintain a central file for complaints in a secured area, and in conformity with records retention requirements of local law;
 - c. Conduct a regular audit of complaints to ascertain the need for changes in training or policy;
 - d. Maintain statistical and related information to identify trends involving all complaints of use of force, officer misconduct, and/or abuse of authority;
 - e. Track complaints against individual employees to assist in employee risk analysis and the Early Intervention Program (EIP) IA Pro; and
 - f. Provide the Police Chief, and/or supervisors with summaries of complaints and final dispositions against officers.

C. Serious Misconduct

Serious Misconduct is understood by the Department to mean suspected criminal misconduct and the following misconduct:

1. All civil suits alleging any misconduct by an officer while acting in an official capacity or against an officer for off-duty conduct (while not acting in an official capacity) alleging physical violence, threats of physical violence, racial bias, dishonesty, or fraud;
2. All criminal arrests or filing of criminal charges against an officer;
3. All allegations of unlawful discrimination (e.g., on the basis of race, ethnicity, gender, religion, national origin, sexual orientation, or disability), including improper ethnic remarks and gender bias, but excluding employment discrimination;
4. All allegations of an unlawful search and seizure;
5. All allegations of false arrests or filing of false charges;
6. Any act of retaliation or retribution against an officer or person for filing a complaint against a member;
7. All allegations of excessive use of force or improper threat of force.

8. The providing of false or incomplete information during the course of a Department investigation, or in any report, log, or similar document;
9. All incidents in which the Department has received written notification from the State's Attorney in a criminal case that there has been: (1) an order suppressing evidence because of any constitutional violation involving potential misconduct by a Stamford Officer, or (2) any other judicial finding of Officer misconduct made in the course of a judicial proceeding, or any request by a federal judge, local judge, or magistrate that a misconduct investigation be initiated pursuant to some information developed during a judicial proceeding before a judge or magistrate. The Department shall request that all such entities provide them with written notification whenever it has been determined that any of the above has occurred.

D. Investigation of Public Complaints: Supervisor's Role/Responsibility

1. The supervisor assigned to investigate a citizen complaint shall ensure the following protocols are applied in all investigations:
 - a. Every complaint must be investigated and evaluated based on the Preponderance of Evidence standard.
 - b. Any supervisor who is the subject of a complaint, or who authorized the conduct that led to the complaint, is explicitly prohibited from investigating said incident.
 - c. Supervisors shall ensure that all officers who use force, or are involved in the use of force, shall submit a written statement regarding the incident, using the Use of Force Report form.
 - d. During the investigation of a citizen complaint, all relevant evidence including circumstantial, direct, and physical will be considered, and credibility determinations made, if feasible.
 - e. The Supervisor will not close an investigation because the complaint is withdrawn, the alleged victim is unwilling or unable to provide medical records or proof of injury, or the complainant will not provide additional medical statements or written statements.
 - f. The Supervisor will consider whether any rule, policy, or procedure of the Department was violated.
 - g. Conduct an investigation in accordance with the procedures outlined in this policy.

2. At the conclusion of the investigation, the supervisor shall prepare an investigative report in accordance with the requirements outlined in this policy.

E. Employee Responsibilities to Report Misconduct

1. An employee must report any instances of employee misconduct as soon as practicable following receipt of information regarding the misconduct.
2. In applicable circumstances, employees are to prevent the deterioration or destruction of any evidence that would support or refute the allegation of misconduct.

F. Confidentiality of Complaints

1. All employees who have knowledge that a complaint has been submitted, or will likely occur, are prohibited from discussing material issues related to the matter.

G. Time Limits on Completing Internal Affairs Investigations

1. Citizen Complaints and Administrative Inquiries conducted by the Internal Affairs Commander, or designee, shall be a priority for the Department, and should be expeditiously investigated and reviewed. These investigations should be completed and forwarded to the Chief of Police for review within ninety 90 days. The Chief of Police may waive the 90-day requirement for complex investigations and investigations involving extenuating circumstances.
2. Time limits governing disciplinary action which may arise from internal investigations for police officers and civilian employees shall comply with any applicable State or Federal statutes, Stamford City Ordinances, and provisions of the respective labor agreements for sworn and non-sworn employees.

H. Notifying Complainant Regarding Status of Complaint Investigation

1. Upon receipt of a complaint, the investigating supervisor can provide a copy of the Complaint Form to the complainant, acknowledging its receipt. For formal investigations, the investigating supervisor will also send a letter to the complainant (if known) under the signature of the Chief of Police, acknowledging its receipt. In some cases, this may be accomplished in person, telephone and/or email.
2. The assigned investigator of an internal affairs case is responsible for providing periodic status reports to complainants on all pending internal

investigations. Such contact can be accomplished by telephone or email, in lieu of a written letter.

3. For formal or informal investigations, the reporting party shall be notified in writing, by the Chief of Police or designee, informing him/her of the results of the Department's investigation. Such notification should normally occur within ten (10) days after the conclusion of the investigation and the determination by the Chief of Police.

I. Investigative Interviews and Procedures of Officers

1. Prior to being interviewed, the officer against whom a complaint has been made shall be provided written notice of the allegations of the complaint and the employee's rights and responsibilities relative to the investigation.(refer to applicable CBA)
2. The complete interview shall be electronically recorded. The recording will note the time at which breaks are taken in the interview process, who requested the break, and the time at which the interview resumed.
3. The Officer shall be provided with the name, rank, and command of all persons present during the questioning.
4. Subject to the approval of the Chief of Police, Officers will be administered the applicable warnings prior to interview:
 - a. Garrity Warnings: For compelled statements if the inquiry is administrative.
 - b. Miranda Warnings: Where the inquiry is criminal and the officer is under arrest or in custody.
5. Officers may have Union representation and/or Legal representation during the Internal Interview.
 - a. Officers, under internal (administrative) review, may have present a union representative and/or legal counsel with them during any administrative internal investigative interrogation so long as the representative is not involved in any manner (*i.e. a witness or subject of the complaint*) with the incident under investigation, or a conflict of interest does not exist. (*Note: refer to applicable CBA*)
 - b. The representative's role is primarily that of an observer and shall not be permitted to interrupt the interview except for the purpose of

advising and/or conferring with the officer who is concerned about a contractual right.

- c. In criminal investigations, the employee has the right to talk to legal counsel or to have one present during questioning.
- d. To protect the rights of members of the Stamford Police Department in an official department investigation, the rights and procedures outlined in the Collective Bargaining Agreement between the City of Stamford and the Stamford Police Association will be adhered to.

6. Examinations and Searches

- a. The department may order that the officer undergo a breath, blood, urine, psychological, polygraph, medical examination, or any other exam, including submission of financial disclosure statements that are not prohibited by law, if it is believed that such an examination is pertinent to the investigation, so long as they do not violate law, or any CBA.
- b. An on-duty supervisor may order an officer to submit to a breath, blood, or urine test when there is reasonable suspicion that alcohol and/or drug usage is suspected as the factor directly related to allegations of misconduct. However in cases of either being involved in a traffic crash with a department vehicle or involved in a discharge of a firearm on or off-duty, an officer will be required to submit to such test, if there is reasonable suspicion as indicated above.
- c. An officer may be ordered to participate in a lineup if it is used solely for administrative purposes. This does not in any way affect the requirements of a legal order to participate. This includes photographic identifications if the investigator deems it necessary.
- d. Desks, lockers, storage space, rooms, offices, equipment, information systems, work areas, and vehicles that are the property of the City of Stamford and are subject to inspection. They may also be searched to retrieve city owned property, or to discover evidence of work related misconduct, if there is reason to suspect (*reasonable suspicion*) such evidence is contained therein.
- e. Private property can be stored in areas mentioned above; however, employees will not expect privacy in those areas. Only those employees who are acting in their official capacity may be authorized to search or inspect areas assigned to other employees.

J. Disposition and Adjudication of Complaints

1. All citizen complaint allegations of officer misconduct will be fully investigated and documented.
2. All summary actions shall be documented and copies and disposition(s) provided to the subject officer.
3. Once the investigation is deemed complete, the Internal Affairs Commander shall review the complaint report and investigative findings. This authority will compile a report of findings and make a “conclusion of fact” for each allegation and provide a disposition for each allegation as follows:
 - a. *Sustained*: where the investigation determines, by preponderance of the evidence, that the person’s allegation is supported by sufficient evidence to determine that the incident occurred and the actions of the officer were improper;
 - b. *Not sustained*: where the investigation determines, by preponderance of the evidence, that there is insufficient fact(s) to decide whether the alleged misconduct occurred;
 - c. *Exonerated*: where the investigation determines, by preponderance of the evidence, that the alleged conduct did occur but did not violate Department policies, procedures, or training; or
 - d. *Unfounded*: where the investigation determines, by preponderance of the evidence, that there are no facts to support that the incident complained of actually occurred.

Where the investigation determines that at least one of multiple allegations is supported by sufficient evidence to determine that the incident occurred and the actions of the officer were improper, it would be reported as *partially sustained*.

4. Investigative findings shall also include whether: (i) the police action complied with policy, training, and legal standards regardless of whether the complainant suffered harm; (ii) the incident involved misconduct by any officer; (iii) the incident indicates a need for additional training, counsel, or other non-disciplinary corrective measures; and (iv) the incident suggests that the Department should revise its policies, training, and tactics.
5. Disciplinary action shall be administered in accordance with Department policy and the applicable CBA.

6. Following final disposition of the complaint, a letter shall be sent to the complainant, addressed from the Chief or his/her designee, explaining the final disposition.
7. Final Disciplinary Authority is with the Chief of Police.
8. In cases where there exists probable cause to believe that a fraudulent complaint was logged (*officially documented*) in violation of Connecticut law, the case may be referred to the State Attorney's Office for a prosecutorial determination.

K. Internal Affairs Records and Confidentiality

1. Internal Affairs shall be informed of all final disciplinary decisions.
2. Internal Affairs may forward a copy of all final disciplinary decisions to the Department's personnel authority.
3. Internal Affairs case files and information shall be maintained separately from personnel records.
4. Internal Affairs information is considered confidential and will be retained under secured conditions within the Internal Affairs Division.
 - a. Internal Affairs case files and personnel dispositions may not be released to any source without prior approval of the Chief, unless otherwise provided by law.
 - b. Case investigation files shall be retained for a period of time as defined by law, CBA, or the Chief.

4.02 Revision History

December 10, 2021 (New) - TS