

TOWN OF VERNON DEPARTMENT OF POLICE STANDARD OPERATING PROCEDURE



SOP: 40

Effective Date: 4/20/2009

Revision: 6/1/2018

Subject: **INTERNAL AFFAIRS INVESTIGATIONS**

PURPOSE

The purpose of this policy is to establish a procedure to be used by the Vernon Police Department to receive, document, investigate and make disposition of complaints made about employees of the Department. This policy is also intended to make the citizens and employees aware of how complaints may be filed and how they are documented, investigated and finalized. The purpose of this order is to also set up a mechanism that accepts and investigates "all complaints" made against Vernon Police Department employees.

POLICY

It is the policy of the Vernon Police Department to provide citizens with a fair and effective method of redress of their legitimate complaints about employee conduct. It is also the policy of the Department to support employees falsely accused of wrong doing and to defend legitimate policies and directives issued to Department personnel. It should be understood that the Department expects and receives the highest degree of integrity from its members and accordingly presumes that all employee's actions are performed in good faith, within the law, and Rules and Regulations of the Vernon Police Department. Unless evidence is discovered to the contrary, that presumption will remain throughout any personnel complaint investigation.

The Vernon Police Department shall respond to allegations of misconduct or malfeasance against its employees consistent with this policy and fairly and impartially investigate all complaints or allegations of such conduct to determine their validity. The Department shall impose any disciplinary or non-disciplinary corrective actions that may be warranted in a timely manner. The Department shall accept and document all complaints against any employee regardless of whether the filed complaint is in writing, verbal, in person, by mail, by telephone (or TDD), by facsimile, electronic, or anonymous. The Vernon Police Department and its employees shall also adhere to the following practices:

1. There shall be no retaliation in any form by any member of this department directed at an individual who makes a complaint.
2. During the complaint intake process, no questions shall be asked of a complainant regarding their immigration status.
3. Officers who are intentionally untruthful, withhold information, fail to cooperate with department investigations or who fail to report alleged misconduct or malfeasance of department employees to a supervisor shall be subject to disciplinary action.

PROCEDURES

A. Internal Affairs Responsibility

1. The Chief of Police has primary oversight and authority over investigation of complaints made against department employees. Upon receipt of a complaint, the Chief of Police will assure that the complaint is assigned to the appropriate division, person or designated supervisor for investigation through the appropriate chain of command.
2. The designated division, person or supervisor shall be responsible for:
 - a. Conducting a thorough, fair and impartial investigation of every complaint received regardless of the method of receipt.
 - b. Investigating and determining the nature, facts and circumstances of every complaint.
 - c. Reporting to a supervisor up to and including the Chief of Police, if warranted, the results of the investigation, any recommendations and the resolution of that investigation.
 - d. Identifying and recommending for appropriate investigation and prosecution criminal misconduct discovered on the part of any individual during the course of an internal affairs investigation.
 - e. Preparing suggested revisions of Agency Policies and Procedures where existing deficiencies have been a contributing factor to misconduct.

B. Acceptance, Filing and Intake of Complaints

1. All sworn and civilian employees shall be required to accept a complaint alleging misconduct or malfeasance by agency personnel. All employees must courteously inform an individual of his or her right to make a complaint if the individual objects to an employee's conduct. Employees have a duty to assist any person who wishes to file a citizen's complaint by documenting the information and allegations they provide, advising the individual how to proceed, and by promptly putting the complainant in contact with a supervisor who can assist them with filing their complaint. No employee shall refuse to assist any person who wishes to file a citizen complaint or discourage, interfere with, hinder, delay, or obstruct a person from making a citizen complaint.
2. Complaints may be accepted in writing, verbally, in person, by mail, telephone (TDD), facsimile, or electronically. Anonymous and third party complaints will also be accepted. Minor complaints of malfeasance which will be handled at the shift commander level will be assigned a case number in LEAS and classified as a CPI (Confidential Personnel Investigation). Complaints rising to a higher level of malfeasance or misconduct will be assigned an Internal Affairs Personnel Complaint number; an example of the number is as follows: PC (Personnel Complaint), 15 (Year), 01 (First number assigned for 15) i.e. PC15-01.

3. All employees will assist those who express a desire to lodge complaints against any member of the agency. This includes:
 - a. Calling a supervisor to the scene to conduct a preliminary inquiry and document the complaint.
 - b. Explaining the Department's complaint procedures.
 - c. Providing complaint form(s) and/or complaint filing information and/or giving instructions as to where the complaint forms may be obtained.
 - d. Ensuring that complainants who are unable to read, write or understand the English language with sufficient proficiency to fill out the complaint form, or to be interviewed regarding their knowledge of the incident complained of, receive adequate language assistance to permit them to file their complaint and assist, as needed, in the investigation thereof. The name and identifying information of any person providing such language assistance to a complainant shall be recorded on the complaint form or in the body of the report.
4. All personnel who are approached by a person seeking to make a complaint will, when possible, call a supervisor, obtain a brief description of the allegation, and record contact information from the complainant if provided.
5. If a supervisor is not readily available, the officer will inform the complainant that they will be contacted by a supervisor by the next business day.
6. Sworn and civilian employees who receive a complaint about their own conduct shall immediately refer the complaint to a supervisor.
7. All complaints shall be documented to include the date, time, location, and nature of the complaint, complainant's information (name, address, date of birth, telephone number, or other contact information, if provided, date and time the complaint was received, and the name, rank and/or title of the person receiving the complaint.
8. The withdrawal of a complaint does not prohibit the police department from completing an investigation.
9. If complaints are received by mail, all correspondence received containing allegations shall be forwarded to the Chief of Police or the Chief's designee where they will be officially received. These complaints shall be assigned a PC or CPI number. A letter of acknowledgment must be prepared advising the complainant that the matter is being investigated and that they will be contacted by the investigator assigned.
10. Walk-in complaints shall be referred to a Supervisor. After the complaint is received and properly documented, the complainant may be placed under oath and requested to sign the complaint after reading or having it read to them the warning for perjury or false statement. If the complainant refuses to sign the complaint or acknowledge the oath, the complaint will still be accepted and investigated, however the refusal to sign or acknowledge shall be noted.
11. Telephone complaints shall be referred to a Supervisor for proper follow-up.
12. Complaints from the field in which any member of the agency is approached by a complainant expressing allegations of misconduct or malfeasance shall immediately be

reported to a supervisor. The complainant shall be requested to await the arrival of the supervisor. If a supervisor is unavailable, or the complainant is unable to await the arrival of a supervisor, the complainant should be informed that he/she may respond to police department headquarters to make his/her complaint.

13. The Chief of Police may commence an internal investigation without complaint. Consistent with the philosophy of maintaining a professional law enforcement organization, it is the duty of any employee of the Vernon Police Department to report misconduct of any other employee.

C. Validity and Timeliness of Complaints

1. **Complaints by persons Under the Influence of Alcohol or Drugs:** When a person who is noticeably intoxicated or impaired wishes to make a complaint, he or she shall be encouraged to wait until the earliest opportunity after he or she has regained sobriety to do so. When the Supervisor determines the circumstances require immediate action, preliminary details of a complaint should be taken by a Supervisor, when available, regardless of the person's sobriety. In that event, the investigator should re-interview the person after he or she has regained sobriety.
2. **Delayed or Untimely Complaints:** Complaints of misconduct or malfeasance shall be accepted regardless of when the alleged misconduct or malfeasance is alleged to have occurred. However, the timing of a complaint is one of the circumstances that the police department may consider in determining whether misconduct or malfeasance can be reliably substantiated. Where a delay in reporting alleged misconduct may call into question the veracity of the complainant, or has resulted in the loss or destruction of evidence or the inability to locate witnesses due to the passage of time, the facts and circumstances should be detailed in the report.
3. **Complainant Who Fears Retaliation Associated with Filing a Complaint:** If a complainant expresses fears of retaliation as a result of filing a complaint, they must be assured that those fears will be taken seriously. Complainants should be asked to provide the basis for their concerns, if possible, and the information provided should be noted in the complaint. This will allow the supervisor or internal affairs designee to be aware of these fears and develop reasonable strategies to assist the complainant in dispelling those fears.

D. Investigation of Personnel Complaints

1. The Chief of Police or the Chief's designee shall assure that all complaints received are processed and investigated appropriately as set forth in this policy. All investigations shall be completed in a timely manner within the time limits determined by the Chief of Police, including extensions granted by the Chief of Police or designee for good cause.
2. If a complaint is received by mail or email, the complainant shall be notified in writing within five (5) business days of receipt, that (1) their complaint has been received by the agency and is currently pending; (2) that a complaint number has been assigned (including the assigned number); (3) that they will be informed in writing of the outcome of the complaint promptly following conclusion of the investigation, and (4) that they may contact the designated investigator (identify by name, telephone and/or email) at any time for further information while the investigation is pending.
3. The subject of the investigation shall be promptly notified of the complaint in accordance with the provisions of applicable labor agreements. Where prior notification of the subject of a complaint is reasonably likely to impede the progress of an investigation, result in

the loss or destruction of evidence, or jeopardize the safety of any individual, the Chief of Police may direct in writing that such notification be delayed, stating the reasons therefore and the anticipated extent of the delay.

4. If both an internal investigation and a criminal investigation are to be conducted, they will be conducted as two separate and distinct cases.
 - a. Separate investigators should be assigned to each investigation (criminal/administrative).
 - b. During an internal investigation (not criminal) of an employee's conduct, the employee must answer questions (Garrity v. New Jersey) as directed by the investigating supervisor. The employee will also be advised that if he/she is found to have been intentionally untruthful during the IA/ CPI investigation, he/she will be subject to disciplinary action up to and including termination. (LaChance vs. Erickson)
 - c. If the employee refuses to provide written and/or oral statements, the supervisor can order the employee to do so (Garrity). Failure of the employee to answer such questions or provide a written statement will result in additional charges against the employee with punishment up to and including termination.
 - d. If after being advised of the Garrity warning, the employee still refuses to answer questions pertinent to the investigation, the supervisor will immediately advise the Chief or Captain of Police who may relieve the employee of duty.
 - e. All completed criminal investigations, after being reviewed by the Chief of Police or his designee, will be brought to the States Attorney for review. If the States Attorney determines that probable cause exists, a warrant application shall be prepared by the investigating supervisor for submission to court.
5. When the investigation of an internal affairs investigation, CPI or criminal complaint is completed, the assigned investigating supervisor shall compile all reports and statements. The investigating supervisor shall submit to the Chief of Police or his designee, a complete typed report detailing;
 - a. Date of the report
 - b. Date, time, and location of incident
 - c. Case number and allegations
 - d. Complaint witnesses. (Names, Addresses, etc.)
 - e. Alleged employee(s) involved
 - f. Summary of incident
 - g. Detailed report of investigation / summary of findings
 - h. Conclusions and recommendations.

6. Supervisors upon closing a Confidential Personnel Investigation shall lock the case allowing access to the Division Commander the employee is assigned to, the Captain of Police and Chief of Police.

E. Investigation Review

1. Upon receiving the completed report/investigation, the Chief or Captain of Police or their designee, will determine if discipline is warranted, and if so, the nature of the discipline to be taken.
 - a. The Chief of Police or his designee will see to it that the employee(s) is notified of the results of the investigation in writing.
2. The complainant shall be promptly notified in writing of the status and/or disposition of his or her complaint at the conclusion of the investigation by the Chief of Police or his designee.
3. Recommendation and the administering of formal discipline will be handled per the employee's Collective Bargaining Agreement and the Vernon Police Department Rules of Conduct and Disciplinary Procedures.
 - a. If the employee is suspended and relieved of duty, the employee shall turn in his/her badge, I.D. card, issued firearm and portable radio.
 - b. The Union shall receive a copy of any disciplinary action within twenty-four (24) hours after such action has been taken.
 - c. No employee shall be suspended, dismissed or demoted without a hearing within five (5) days, unless such employee waives such right to a hearing. (Per Union Contract)
 - d. Any disciplinary action may be grieved as per Union Contract.

F. Case Dispositions

1. For each charge or allegation of misconduct or malfeasance which forms the basis for an internal affairs investigation, such charge or allegation shall be classified upon closing of the investigation in one of the following manners:
 - a. **Exonerated:** The investigation determined by a preponderance of the evidence that misconduct or malfeasance was committed, but not by the subject of the investigation.
 - b. **Unfounded:** The investigation determined by a preponderance of the evidence that the misconduct or malfeasance complained of did not occur.
 - c. **Not Sustained:** The investigation was unable to determine by a preponderance of the evidence whether or not the misconduct or malfeasance complained of occurred, or whether or not it was committed by the subject of the investigation.
 - d. **Sustained:** The investigation determined by a preponderance of the evidence that the misconduct or malfeasance complained of occurred and that it was committed by the subject of the investigation.

- e. **Misconduct Not Based on Original Complaint:** The investigation determined by a preponderance of the evidence that other misconduct or malfeasance which was not the basis for the original investigation occurred, was discovered during the course of the original investigation, and was committed by the subject of the investigation.
 - f. **Withdrawn:** At some point prior to the completion of the investigation, the complainant notified the agency that he/she wished the investigation to be discontinued and concurrence for this action was obtained from the Chief of Police.
 - g. **Summary Action:** Disciplinary action in the form of an oral reprimand, or counseling documented in writing, was taken by an employee's supervisor or commander for minor violations of department rules, policies or procedures as defined by this agency. Summary actions are the lowest level of disciplinary action or remediation.
 - h. **Reconciled:** At the discretion of the Chief of Police, the process of reconciliation may be encouraged in lieu of any of the above dispositions. When authorized by the Chief of Police, supervisors receiving complaints shall to the extent possible, bring together the complainant and the officer or employee involved in minor violations and attempt reconciliation. This may be used where the complaint is from a misunderstanding on the part of the affected officer, employee or the complainant. Reconciliation may be employed for complaints of a minor nature that do not reflect:
 - a. Discredit upon the agency.
 - b. Discredit upon the involved employee.
 - c. Commission of a criminal offense; or
 - d. Allegations of racism, bigotry or prejudice against any race, religion, creed, national origin, sexual orientation, or circumstances beyond the individual's control.
2. Reconciliation must be documented through the chain of command to the Chief of Police or his or her designee. Reconciliation does not preclude further corrective action on the part of the agency.

G. Training

1. All supervisory personnel will be required to attend training on the department's Complaint Policy and the responsibilities of supervisors conducting internal investigations upon the implementation of this policy.
2. All supervisory personnel will be required to attend periodic refresher training, as determined by the department, regarding the policies and procedures contained herein and professionally accepted practices related to conducting internal investigation.

H. Public Information and Access

1. The Chief of Police will:
 - a. Ensure informational materials are made available to the public through police personnel, the police department facility, the police department web site, the general government web site, and town hall.
 - b. Ensure that copies of this policy and complaint forms are available on the police department web site

I. Filing and Retention of Personnel Complaints and Investigations

1. All Internal Affairs investigations will be kept in a secure file in the Detective Division Commanders office in an internal affairs file. This confidential file will be kept separate from employee's personnel files, except a copy of written notice of discipline will be filed in the employee's personnel file.
2. All investigations will be kept for the length of time required in accordance with Connecticut State law.
3. Under Connecticut law, Internal Affairs investigations are subject to disclosure pursuant to Freedom of Information requests.

By order of,

James L. Kenny
Chief of Police

