

WATERBURY POLICE DEPARTMENT

CHAPTER 104 ADMINISTRATIVE SERVICES

ARTICLE 2 - INTERNAL AFFAIRS

2.1 Internal Affairs

- I. **PURPOSE:** The purpose of this Internal Affairs policy is to establish a uniform means to accept, process, investigate and take appropriate action to resolve complaints from a member of the public relating to alleged misconduct or malfeasance committed by sworn members or civilian employees of the Waterbury Police Department.
- II. **POLICY:** It is the policy of the Waterbury Police Department that an Internal Investigation system is in effect. This procedure ensures objectivity, fairness, and justice by an impartial investigation and review to determine the validity of citizen complaints, whereby maintaining the integrity of the Police Department.
 - A. All complaints against members of the Waterbury Police Department will be received, investigated and forwarded to the Chief of Police for further determination as to appropriate action to be taken.
 - B. Complaints may be made by any individual in person, by mail, fax, or telephone on a 24 hour basis to any member of this Department. Complainants shall be encouraged to complete a complaint form(P-58A), but may remain anonymous if they choose and are not mandated to submit their complaint in writing.
 - C. All personnel receiving complaints will be courteous, responsive, helpful, and will adhere strictly to this policy.
 - D. Nothing in this procedure will preclude the Chief of Police or his designee from enacting a proactive internal investigation without a complaint.
 - E. All investigations will normally be conducted by a supervisory officer assigned by the Chief of Police or his designate.
 - F. The Chief of Police will have overall responsibility for the Internal Affairs function within the Waterbury Police Department.
 - G. There shall be no retaliation in any form by any member of this agency directed at an individual who makes a complaint.
 - H. During the complaint intake process, no questions shall be asked of a complainant regarding their immigration status.

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- I. Officers who withhold information, fail to cooperate with department investigations or who fail to report alleged misconduct or malfeasance of employees to a supervisor shall be subject to disciplinary action.

III. DEFINITIONS:

- A. Complaint: An allegation of employee misconduct or malfeasance.
- B. Complainant: Any person who files a complaint regarding misconduct or malfeasance on the part of an agency employee.
- C. Complaint Control Number: A unique numerical or alphanumeric code used the Internal Affairs Division to identify and track citizen complaint investigations.
- D. Discipline: Adverse action taken by the agency against any employee as the result of a sustained internal affairs investigation including, but not limited to, a written reprimand, suspension, demotion or termination.
- E. Employee: Any person employed by the agency, whether sworn or non-sworn.
- F. Internal Affairs Division or Unit: The designated division, unit or person with primary responsibility to conduct investigations of administrative or Citizen Complaints of misconduct or malfeasance.
- G. Malfeasance: Illegal or dishonest activity especially by a public official.
- H. Misconduct: Any act or omission by an employee that is illegal or which violates established policy.
- I. Supervisor: Includes those holding the rank of Sergeant or higher.

IV. PROCEDURES:

A. Internal Affairs Responsibility

1. The Office of the Chief of Police has primary oversight and authority over investigation of complaints made against employees. Upon receipt of a complaint, the Chief of Police

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will assure that the complaint is assigned to the appropriate division, unit, person or designated supervisor for investigation through the appropriate chain of command.

2. The designated division, unit, person or supervisor shall be responsible for:
 - Conducting a thorough, fair and impartial investigation of every complaint received regardless of the method of receipt.
 - Investigating and determining the nature, facts and circumstances of every complaint.
 - 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.
 - 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.
 - 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 persons are encouraged to bring forward legitimate complaints regarding possible misconduct or malfeasance of employees of this agency. 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. Process of Accepting Complaints:
 - The use of a standardized form to record complaints shall be implemented using the standardized form adopted by the Police Officer Standards and Training Council for such documentation or a standardized form that exceeds the model form adopted. Each complaint shall be assigned a Complaint Control Number (CCN) by Internal Affairs Division to track complaints and a copy of this form shall be filed in a separate Complaint File.
 - Complaints may be accepted in writing, verbally, in person, by mail, telephone (TDD), facsimile, and electronically, or by any other means.

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3. All employees will assist those who express a desire to lodge complaints against any member of the agency. This includes:
 - Calling a supervisor to the scene to conduct a preliminary inquiry and document the complaint.
 - Explaining the Department's complaint procedures.
 - Providing complaint form(s) and/or complaint filing information and/or giving instructions as to where the complaint forms may be obtained.
 - 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.

C. Complaints from Sources Outside the Department

1. By mail, e-mail, Fax:

All correspondence received containing complaints against members of this Department will be forwarded to the Chief of Police. The Chief of Police will then ensure that:

- A letter of acknowledgement is sent to the complainant assuring that the complaint has been received and is under investigation;
- A supervisor is assigned to begin a preliminary investigation.
- The receipt of the complaint complies with the existing Collective Bargaining Agreement.

2. Walk-in or telephone complaints:

All walk-in and telephone complaints will be directed to the Shift Commander, or in his absence, another superior officer.

3. In the field:

Any Police Department member approached by a complainant expressing allegations of police misconduct will direct the complainant to contact the Field Supervisor or in his absence the Shift Commander by phone or in person.

- An officer contacted will also notify the Field Supervisor or in his absence the Shift Commander of the complaint.

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- If a supervisor is approached in the field, he will handle the complaint as if it were a walk in complaint.
 - Sworn and civilian employees who receive a complaint about their own conduct shall immediately refer the complaint to a supervisor.
4. 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.
 - If a 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.
 - The assigned complaint investigator designee should re-interview the person after he or she has regained sobriety.
5. Delayed or Untimely Complaints:
- Complaints shall be accepted regardless of when the alleged misconduct or malfeasance is alleged to have occurred.
 - The timing of a complaint is one of the circumstances that the agency may consider in determining whether misconduct or malfeasance can be reliably substantiated.
 - When 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.
6. 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.
 - The investigating supervisor or internal affairs designee being aware of these concerns should develop reasonable strategies to assist the complainant in dispelling those fears.
7. Lawsuits and civil rights complaints:
- As soon as the Department receives notification of intent to sue, a civil rights violation, or other similar legal action, the Chief of Police or his designate may initiate an Internal Affairs investigation, if deemed appropriate. He will also ensure that the Corporation Council's Office and Mayor are notified.

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8. The withdrawal of a complaint does not prohibit the agency from completing an investigation.

B. Preliminary Investigations:

1. The Shift Commander who receives the complaint will gather enough information to provide a competent written report to the Chief of Police as to the nature and seriousness of said matter. The Shift Commander will gather enough additional information to determine the course of the investigation. This may include:
 - Gathering of statements, evidence, or photographs;
 - The Shift Commander may ask a subordinate to explain their actions and may require a supplement be completed relative to the incident to help in the guidance of the investigation.
2. In some cases, what initially appears to be a complaint may only be a lack of understanding of what occurred. By listening and giving a responsive explanation of the activity in question, the concerns of the citizen or employee may be resolved.
3. Nothing in this order is intended to prevent complaints from being resolved at the initial supervisory level.
 - In many cases, minor complaints can be resolved quickly, to the satisfaction of the complainant and the supervisor by contacting the officers involved and re-contacting the complainant with an explanation. In such cases, a written report will document the investigatory steps taken and any other important aspects of the complaint. All reports will be forwarded to the Shift Commander for review and filing.
 - Supervisors should keep in mind that if at all possible, officers should be interviewed while on duty. If there is some urgency requiring an immediate interview, off duty officers called into Headquarters will be paid overtime per union contract. The Shift Commander will be called prior to any off duty officer being called in for this purpose.
4. Where a supervisor becomes aware of a situation or information that would constitute a complaint, the fact that a citizen does not wish to complain does not necessarily resolve the matter. In such cases, the supervisor must consider the seriousness and circumstances of the incident. If appropriate, the supervisor will initiate a complaint and forward a written report to the Shift Commander. The final decision to initiate an internal affairs complaint will rest with the Chief of Police.
5. The supervisor who completes a complaint report will indicate a recommendation as part of the investigatory narrative. For example, if the supervisor believes they have resolved

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the incident with the complainant, and no further action is necessary, they will make that recommendation and support it with a narrative. The narrative must include how the complaint was resolved.

6. The following complaints must be referred to the Chief of Police for further internal affairs investigation:
 - Corruption;
 - Brutality;
 - Misuse of force;
 - Violation of civil rights;
 - Criminal misconduct.

7. The Shift Commander, when he believes that an Officer is psychologically or physically unfit to perform their job assignment, or should be immediately relieved of duty for administrative reasons, i.e. officer involved shooting, will notify the Chief of Police or his designee. The Shift Commander will inform the Chief of Police or his designee of all the facts pertaining to this matter. The Chief of Police or his designee may relieve the Officer from duty pending a further investigation. In addition, a report will be made out which will include the circumstances that led the Shift Commander to recommend this action.

C. Forwarding of the Complaint:

1. The completed complaint form (P-58A) or report and any attached documents will be forwarded to the Chief of Police. The Chief of Police or his designate will be verbally informed of the allegation of misconduct contained within the complaint as soon as possible.
 - When appropriate and practical, the employee who is the subject of the complaint will be advised as to the nature of the complaint and investigation.
 - Exceptions to the notification procedures in this section may be necessary when the complaint is of a serious criminal nature and such notification would hinder the criminal investigation or any serious internal matter where release of information or notification would interfere with the investigation process.

2. If the complaint is not resolved by the Shift Commander receiving the complaint, he will tell the complainant that a follow up investigation will take place and that they may be re-contacted concerning the investigation and will later be advised of the disposition.

3. The Chief of Police will review all complaint reports and will assign a supervisor to conduct the internal investigation when deemed appropriate.

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4. The Commander of the Internal Affairs Division will assign each case an IA case number. The IA case number will then be entered into the IA case number log which will be kept in the office of the Internal Affairs Division.
5. Within 2 business days of the receipt of a complaint, the Chief of Police will cause a letter to be sent to the complainant acknowledging that their complaint has been received and is under investigation as well as notifying the complainant of the name and rank of the individual assigned to conduct the investigation. The supervisor assigned to investigate the complaint will periodically keep the complainant informed of the status of the investigation.
6. All citizen complaints and connected reports, whether resolved at the lowest level or assigned for follow up investigation, will be maintained in a secure file cabinet in the Internal Affairs Division.

V. Internal Affairs Investigations:

1. As with any investigation, timeliness is a critical factor. This is especially true for personnel complaints. For the benefit of the employee involved, the complainant, and the Department, the investigation of complaints against personnel is to be considered a priority item by the assigned investigator.
2. If in the course of the investigation, criminal misconduct is discovered, the internal affairs investigator will immediately notify the Chief of Police. If a criminal investigation is to be conducted, a separate supervisor will be assigned to investigate the alleged criminal misconduct. The Chief of Police may within his discretion determine that the administrative investigation should not commence until the conclusion of the criminal investigation.
3. If the Shift Commander believes that a complaint may be criminal in nature, he will notify the Chief of Police or his designee immediately. The Waterbury Police Department will maintain a liaison with the State's Attorney's Office to aid in any legal advice as well as case preparation.
 - If the complaint is suspected of being criminal in nature, the supervisor will, prior to interviewing the subject employee, advise the employee that the matter is criminal in nature and is being investigated as such.
 - If the complaint is not criminal in nature, the investigator will advise the employee of their rights under the Garrity decision utilizing the Garrity Warning Form. In this situation, the employer may demand an answer even though the answer may tend to or does incriminate. If the employee refuses to answer or supplies false information, the employer may discipline an employee on the basis of their answers or for refusing to answer, up to and including termination. Any statements given by the subject employee under Garrity will not be admissible in criminal prosecution.

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4. Written statements are encouraged from citizens as well as employees.
5. If a citizen refuses to sign or complete a written statement, the investigator will proceed with the investigation as best as he can.
6. When the investigation is completed, the investigator will submit the information to the Chief of Police with conclusions.
7. The following procedural guidelines will be followed:
 - When there are indications an employee is on duty under the influence of alcohol or drugs, they shall be immediately relieved from duty and sent for a physical examination to determine their fitness for duty.
 - Photographs of all agency employees shall be maintained in the Office of the Chief of Police. The photographs may be used to conduct photographic lineups in order to identify an employee accused of misconduct.
 - An employee may be directed to participate in a line up.
 - Nothing in this policy will preclude the Chief of Police from calling in an outside agency (i.e. State's Attorney) to assist or conduct the investigation.

E. Receiving Complaints from Employees about Co-workers

1. Consistent with the philosophy of maintaining a professional law enforcement organization, it is the duty of any employee becoming aware of misconduct on the part of another employee to report the misconduct to their supervisor.
2. Supervisors who become aware of misconduct on the part of a subordinate will utilize the procedure set forth under Procedures section A. Complaints by employees about other department employees will be handled by officers of a supervisory rank. As with civilian complaints, written reports will be completed.

F. Disposition:

1. The Chief of Police will determine if discipline is warranted and if so, the nature of the discipline. The determination may be based on the finding of the investigating officer. If the decision is that formal discipline is not appropriate, yet the complaint was sustained or misconduct was noted, other alternatives to improving employee performance are to be considered.
 - Further training may be determined to be appropriate for the employee. Records of his retraining will go into the IA file and in the officer's training file.

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- Counseling may also be a viable alternative.
- 2. The investigator will be a finder of fact for each allegation.
- 3. The Chief of Police will determine the final disposition of all complaints and allegations.
- 4. Within 10 business days of determining the final disposition, the Chief of Police or his designate will notify the complainant as well as the subject officer of the findings of the investigation.
- 5. Dispositions standards 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:
 - **Exonerated:** The investigation determined by a preponderance of the evidence that misconduct or malfeasance was committed, but not by the subject of the investigation.
 - **Cleared exceptionally:** The investigation determined by a preponderance of the evidence that misconduct or malfeasance was not committed and the actions taken by the subject of the investigation were reasonable, legal and justified.
 - **Unfounded:** The investigation determined by a preponderance of the evidence that the misconduct or malfeasance complained of did not occur.
 - **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.
 - **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.
 - **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.
 - **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.

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- **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.
 - **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:
 1. Discredit upon the agency.
 2. Discredit upon the involved employee.
 3. Commission of a criminal offense; or
 4. Allegations of racism, bigotry or prejudice against any race, religion, creed, national origin, sexual orientation, or circumstances beyond the individual's control.
6. An employee who may be found guilty of charges and subjected to punitive measures or discharge will only have such action taken for just cause. Employees will have the right as provided in the union contract, to appeal such decision through the grievance procedure including arbitration.

G. Time Constraints:

1. The completed complaint form or report and any attached documents will be forwarded to the Office Chief of Police. These items should reach the Chief of Police no later than 1 business day after the complaint is received. If this is not possible, the Chief of Police or his designee will be verbally informed of the allegation of misconduct contained within the complaint. In addition, if the complaint is of a very serious nature or criminal in nature, the receiving Shift Commander will contact the Chief of Police by phone as soon as possible after receiving the complaint.
2. When appropriate and practical, the employee who is the subject of the complaint will be advised as to the nature of the complaint and investigation within 5 business days, unless the complaint is of a criminal nature or a serious internal matter and such notification would hinder the criminal or administrative investigation.

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3. Investigations will be completed in a timely manner. It is recognized that each investigation is unique and differ with regard to complexity, witness availability, evidence gathering, and other extenuating circumstances. Investigations that cannot be completed in a timely manner should be brought to the attention of the Chief of Police who will determine the time constraints of said investigations.

H. Employee Rights:

1. All officers should be aware that they have the following rights during an internal investigation:
 - An officer has the right to the presence of a readily available Union Representative whenever he is requested or required to give a statement that could result in discipline or discharge. Unless he requests the presence of a Union Representative, he will be deemed to have waived that right. (Weingarten)
 - Prior to an officer's interview, an officer may review any civilian complaint made against them.
 - Prior to or during an officer's interview, he may review any reports or statements he may have made on the subject of his interview.
 - During an officer's interview, to the extent possible without interfering with the investigation, he may consult with his Union Representative in the absence of the interviewer.
 - An officer may be interviewed regarding his off-duty behavior, when his off-duty behavior involves action, which either reflects negatively on the image of, or has any negative effect on, the Waterbury Police Department.
 - Prior to or during an officer's interview, officers may invoke their 5th Amendment right when they have reason to believe their action involves criminal conduct. However, the 5th Amendment cannot be invoked and officers may not refuse to answer questions pertinent to, and strictly and narrowly confined to the performance of their police duty. (Garrity)

I. Internal Affairs Procedures:

1. Normally, investigations that can be resolved at the first line level will proceed as follows:

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- Receiving Shift Commander will make a preliminary investigation gathering enough information to provide a competent written report as to the nature and seriousness of said matter, which will determine the course of the investigation.
 - When appropriate, the subject officer is notified.
 - Investigation report is completed including how the complaint was resolved. If the complainant was advised that the incident would be discussed with the officer, include this in the report.
 - The report is forwarded to the Chief of Police.
2. The Chief of Police either concurs with the resolution or initiates an IA investigation.
 3. If an investigation is deemed necessary, a supervisor will be assigned. The subject officer and complainant are to be notified within proper time constraints of the initial complaint.
 4. The complainant and the Officer who is the subject of the internal investigation will be notified of the resolution when such investigation is completed.
 5. The Chief of Police will ensure that all members of the Department receive updated copies of any changes to this policy.

J. Documentation

1. All complaints against employees shall be kept in a secure location within the Internal Affairs Division.
2. On an annual basis the Commander of the Internal Affairs Division shall compile a statistical summary based upon records of IA investigations. This summary shall be provided to the Chief of Police.

V. 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.

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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.

VI. Public Information and Access:

The Chief of Police will:

1. Ensure informational materials are made available to the public through police personnel, the police department facility, the police agency web site, the general government web site of the agency, the internet, libraries, community groups, community centers and at other designated public facilities.
2. Ensure that copies of this policy and complaint forms are available at the town hall or another municipal building located within the municipality served by the law enforcement agency, other than a municipal building in which the law enforcement agency is located. This information should include relevant phone numbers and any addresses where complaints can be made. This information must explain the complaint process in English and Spanish.
3. The complaint policy and forms should be made available online where the agency, or the municipality served by the law enforcement agency, has an Internet website.