

## TRUMBULL POLICE DEPARTMENT POLICY

	POLICY TITLE <b>Investigation of Employee Misconduct</b>		POLICY NUMBER <b>4.3.3</b>
	EFFECTIVE DATE February 11, 2013	REVISION DATE(S) July 1, 2015, March 4, 2019	
	APPROVAL AUTHORITY SIGNATURE: 		

**I. PURPOSE:**

To provide a uniform policy to accept, process, investigate, take appropriate action upon and resolve complaints made against members of the Trumbull Police Department to meet the minimum standards as set forth in Connecticut Public Act 14-166.

Complaints may allege abuse of authority, corruption, criminality, poor or slow service, or other misconduct or malfeasance on the part of agency personnel.

**II. POLICY:**

It is the policy of the Trumbull Police Department to respond to and fairly and impartially investigate all complaints of alleged employee malfeasance or misconduct to equitably determine whether the allegations are valid or invalid and to take appropriate action. The Department shall impose any disciplinary or non-disciplinary corrective actions that may be warranted in a timely manner. All allegations of departmental or officer misconduct shall be properly investigated whether such complaints are received verbally, in writing, through a third party, by telephone (TDD), by facsimile, electronically or anonymously.

1. There shall be no retaliation in any form by any member of the Trumbull Police Department directed at an individual who makes a complaint.
2. During the complaint process, no questions shall be asked of a complainant regarding their immigration status.
3. 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, up to and including termination.

**III. DEFINITIONS:**

Complaint: An allegation of employee misconduct or malfeasance.

Complainant: Any person who files a complaint regarding misconduct or malfeasance on the part of an agency employee.

Complaint Control Number: A unique numerical or alphanumeric code used to identify and track citizen complaint investigations.

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 dismissal.

Employee: Any person employed by the agency, whether sworn or non-sworn.

Internal Affairs Division or Unit: The designated division, unit or person with primary responsibility to conduct or provide oversight of investigations of administrative or Citizen Complaints of misconduct or malfeasance.

Malfeasance: Illegal or dishonest activity especially by a public official.

Misconduct: Any act or omission by an employee that is illegal or which violates established policy.

Preponderance: The greater weight of the evidence. The more convincing evidence and its probable truth or accuracy, and not on the amount of evidence.

Supervisor: Includes those holding the rank of Sergeant or higher.

#### **IV. PROCEDURES:**

##### **A. INTERNAL AFFAIRS UNIT ORGANIZATION:**

The Internal Affairs Unit function is a component of the Professional Standards Office. Officers assigned to the Professional Standards Office shall report to, and serve at the pleasure of the Chief of Police.

The Professional Standards Unit will ensure that the integrity of the department is maintained through an internal system where objectivity, fairness, and justice are assured by intensive, impartial investigation and review.

The Professional Standards Unit coordinates and exercises staff supervision over investigations of complaints or allegations of misconduct against the Trumbull Police Department and its members.

The Professional Standards Unit shall be staffed by one commanding officer holding the rank of Lieutenant or above and any other personnel that the Chief deems necessary. These additional investigators shall report to the commanding officer, who shall report directly to the Chief of Police.

The Professional Standards Unit is responsible for the following activities:

- Recording and registering investigations of complaints against agency personnel.
- Supervising and controlling investigations of alleged misconduct within the department.
- Maintaining the confidentiality of records of all internal investigations.
- For all complaints alleging racial profiling, forwarding a copy of such complaint along with the findings of the investigation to the CT Racial Profiling Project and/or Office of the Chief State's Attorney as required by law.

##### **B. INTERNAL AFFAIRS INVESTIGATION RESPONSIBILITIES:**

The Chief of Police has primary oversight and authority over the investigation of complaints made against employees. Upon receipt of a complaint, the Chief of Police will assure that the complaint is assigned a control number and designated for investigation by the appropriate division, unit, person or designated supervisor for investigation through the appropriate chain of command.

The designated division, unit, person or supervisor shall be responsible for:

1. Conducting a thorough, fair and impartial investigation of every complaint received regardless of the method of receipt.

2. Investigating and determining the nature, facts and circumstances of every complaint.
3. 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.
4. 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.
5. Preparing suggested revisions of Agency Policies and Procedures where existing deficiencies have been a contributing factor to misconduct.

#### C. COMPLAINT PROCEDURES:

##### 1. Employees of the Trumbull Police Department Required to Accept ALL Complaints:

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 the supervisor on duty who can assist them with filing their complaint. If a complaint involves a supervisor, an officer of the next higher rank shall receive the complaint. A complainant is never to be told to return at another time, or that no one is available to handle his or her 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. Acceptance of a Complaint:

- a. Complaints may be accepted in writing, verbally, in person, by mail, telephone, TDD, facsimile, and electronically, or by any other means. Anonymous and third party complaints will be accepted.
- b. All employees will assist those who express a desire to lodge complaints against any member of the agency. This includes:
  - 1) Calling a supervisor to HQ or the scene to conduct a preliminary inquiry and document the complaint.
  - 2) Explaining the department's complaint procedures.
  - 3) Providing complaint form(s) and/or complaint filing information and/or giving instructions as to where the complaint forms may be obtained.
  - 4) 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.
- c. 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.

- d. If a supervisor is not readily available, the officer will inform the complainant that they will be contacted by a supervisor or the person or unit assigned to conduct internal affairs investigations no later than the next business day.
- e. Sworn and civilian employees who receive a complaint about their own conduct shall immediately refer the complaint to a supervisor.
- f. 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.
- g. The withdrawal of a complaint does not prohibit the agency from completing an investigation.
- h. If complaints are received by mail, all correspondence received containing allegations shall be forwarded to the Chief of Police or the Chiefs designee where they will be officially received. 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.
- i. 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.
- j. Telephone complaints shall be referred to a Supervisor. The party who receives the complaint shall obtain the details of the complaint and as soon as practicable, dispatch a supervisor to the complainant's location or obtain all contact information for follow-up by a supervisor.
- k. 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 the agency headquarters to make his/her complaint.

### 3. Validity and Timeliness of Complaints:

- a. **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 internal affairs designee should re-interview the person after he or she has regained sobriety
- b. **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 agency may consider in determining whether misconduct or malfeasance can be reliably substantiated and, if so, the nature and extent of discipline to be imposed. 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.

- c. Although allegations of criminal behavior may be made past the expiration of the applicable statute of limitations and criminal prosecution may no longer be possible, a criminal violator may still be held accountable administratively.
4. Complainant Who Fears Retaliation Associated With Filing A Complaint:
    - a. 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 unit, supervisor or internal affairs designee to be aware of these fears and develop reasonable strategies to assist the complainant in dispelling those fears.
  5. The following steps shall apply to all complaints:
    - a. A supervisor receiving, the complaint shall gather all pertinent details regarding the complaint including but not limited to:
      - Obtaining names and addresses of any witnesses to the incident.
      - Securing any available physical evidence.
      - Taking necessary photographs.
      - Taking a written statement from the complainant and/or witnesses.
      - Immediately forwarding the complaint documents to the shift or unit commander.
    - b. The supervisor shall attempt to have the complainant fill out the Civilian Complaint Form (TPD Form 65) and give a completed copy to the complainant. The complainant may be placed under oath and requested to sign the complaint after reading or having read to them the warning for perjury or false statement. If the complainant refuses complete a complaint form or 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. The supervisor shall also inform the complainant of the complaint and investigation process.
    - c. The supervisor receiving the complaint shall forward the completed Civilian Complaint Form along with any other documentation or pertinent information to the Shift or Unit Commander. If no form was completed the supervisor shall prepare and forward a written report on department letterhead documenting the nature of the complaint, how it was received and all details as listed above in bullet a.
    - d. The shift or unit commander shall review the complaint and shall forward the complaint to the commander of the specific division with a recommendation for an Internal Investigation to be initiated or with a recommendation that the complaint be handled at the division level. The commander will review the recommendation and forward the information to the Chief of Police, who will obtain a complaint control number from the Professional Standards Unit. The Chief of Police will consider staff recommendations and will decide what course of investigative action, is necessary and assign the investigation.
    - e. The Chief of Police shall base his decision to assign the complaint investigation on the following criteria as to whether the nature and seriousness of the allegations warrant an internal affairs investigation by the Professional Standards Office. This will office will be assigned for:
      - Use of excessive force complaints
      - Racial Profiling Complaints
      - Allegations of civil rights violations
      - Claims of serious unethical conduct which may not be criminal

- f. If an Internal Affairs Investigation is warranted, the Chief of Police shall notify the commanding officer of the Professional Standards Unit in writing to initiate an Internal Investigation. In addition to the above procedure, the Chief of Police may at any time initiate an Internal Affairs Investigation based on:
- A matter of which he has personal knowledge
  - Seriousness of the allegation.
  - Perceived difficulty of the investigation.
  - Political / environmental considerations.
  - Expertise of the investigator.
  - Case load / time allotment.
- g. If it has been concluded by the Chief that due to the nature of the complaint, it is to be handled at the division level, the Chief shall direct that such an investigation be conducted. The commanding officer of the division shall be assigned to conduct such an investigation. In general, the types of investigations that will be conducted at the division level include:
- Failure to follow procedures
  - Slow or no response to calls for service
  - Failure to take proper action
  - Improper operation of department vehicles
  - Tardiness in reporting for duty
  - Violations of department dress code
  - Poor demeanor or rudeness
- h. The Professional Standards Unit shall be a resource to commanding officers of other divisions in conducting investigations of less serious nature.
- Internal Affairs Unit will assign case numbers
  - Provide guidance
  - Conduct a review of the officers disciplinary history prior to any discipline

#### D. AGENCY GENERATED VIOLATIONS AND COMPLAINTS:

1. The Chief of Police shall be notified through proper chain of command of all internally generated complaints against the department or its employees. The only exception to this shall be allegations of Sexual Harassment specifically with regard to chain of command in that policy.
2. Investigations of misconduct or violations of policies, rules and regulations shall be initiated by the on duty supervisor and completed or reviewed by the highest ranking supervisor of the division or unit the employee is assigned to. The Division Commander will be notified of the investigation or infraction prompting the internal investigation and may assign another supervisor or request the chief of the department assign the Professional Standards Unit to investigate. A separate control number system will be utilized and assigned by the Professional Standards office for tracking internally generated misconduct investigations and dispositions.
3. All employee rights listed in this policy for complaints alleging misconduct and the conduct of employee investigations shall be adhered to, including prompt notification of the employee of the violation, the result of the investigation, timely issuing of any discipline and providing copies of all documents as per this policy and the Collective Bargaining Agreement Article 17.
4. The Chief of Police shall be notified immediately in the event a department employee is arrested or charged with a criminal offense or found to be under the influence of alcohol or

drugs while on duty. The required notification will be made by the commanding officer receiving the report. The commanding officer shall ensure that all reports are completed and shall forward copies of those reports through the chain of command to the Chief of Police.

5. When an Internal Investigation has been concluded, the results shall be forwarded to the Chief of Police who will review the findings to determine the appropriate action.

#### E. CONDUCT OF EMPLOYEE INVESTIGATIONS:

1. The Chief of Police or the Chiefs designee shall assure that all complaints received are processed and investigated appropriately as set forth in this policy.
2. Pursuant to existing bargaining agreements, employees who are subjects of the allegations shall be notified in writing of the general nature of the complaint and the dates of occurrence, if known.
3. Complainants 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.
4. Investigations of allegations of employee misconduct shall be completed in a timely manner. Pursuant to the Collective Bargaining Agreement Article 17, all internal investigations shall be completed within ninety (90) days; provided, however, that the officer assigned to conduct the investigation may need to extend this period upon written request to the Chief, indicating that there are extenuating circumstances which have prevented concluding the investigation.
5. Within thirty (30) days of the conclusion of the investigation, the Chief shall bring charges, if any, against the employee who was the subject of the investigation.
6. Certain investigations requiring specific expertise may justify assigning other agency personnel to the Professional Standards Office on a temporary basis. Such assignments shall be made by the Chief of Police as he determines necessary. During the investigations for which the assignment was made, the officer shall be under the functional supervision of the Professional Standards Unit commanding officer.
7. If it becomes apparent during the course of an Internal Investigation that criminal charges could possibly be lodged against an employee, the Chief of Police shall be notified immediately.
8. Should probable cause exist to substantiate a criminal charge, the Chief shall direct the Detective Division commanding officer or his designee to conduct a criminal investigation of the matter.
9. During all criminal investigations involving a member of this agency, liaison shall be maintained with the prosecutor, Superior Court (Assistant State's Attorney for Part A or Part B offenses, depending on the severity of the alleged crime).
10. Any criminal investigation shall be separate and apart from the internal investigation.

#### F. REPORT OF INVESTIGATION:

1. The assigned Supervisor or the Professional Standards Unit shall prepare an Investigation Report detailing the complaint allegations, the dates, times, department member(s) involved or accused and:
  - Summaries of statements made by complainant, witnesses and the department members.
  - Evidence including recordings and original documents obtained during the investigation.
  - Inconsistencies or reasons for not being able to verify or corroborate information.
  - Applicable violations of department policies, rules regulations and laws.
2. The report will conclude with an analysis to determine if the facts and circumstances support the preponderance required to sustain the allegations for each violation listed.

#### G. REVIEW OF THE INVESTIGATION:

1. All completed investigation reports shall be forwarded to the Chief of Police who shall review all relevant details to ensure appropriate procedures were followed, an adequate investigation was conducted and an acceptable resolution was reached.
2. The conclusions and disposition(s) contained in the Investigation Report shall be listed as specified in section H of this policy. The final disposition(s) of all violations and complaints, and all disciplinary actions greater than the issuing of a verbal or written warning, shall be determined by the Chief of Police (unless a Trial Board is warranted) .
3. After resolution, the case shall be forwarded to the Professional Standards Unit for review and recording purposes. The complaint shall be logged in the Internal Affairs records.
4. 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.
5. At the conclusion of any Internal Investigation, the employee(s) shall be notified of the disposition in writing and in accordance with the present Collective Bargaining Agreement.

#### H. DISPOSITION OF CASES:

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:
  - Unfounded - There was sufficient evidence to prove the complaint or incident is false or not factual and did not occur.
  - Exonerated - There is sufficient evidence which indicates that the act or incident did occur, but the actions were justified, lawful and proper.
  - Not Sustained - There is insufficient evidence to clearly prove or disprove the complaint or incident.
  - Sustained - No Discipline - There is sufficient evidence to establish that the incident did occur, but the facts and circumstances are of such a nature that formal discipline is not warranted.
  - Sustained- Discipline - There is sufficient evidence to establish that the incident did occur and the facts and circumstances support the determination that these actions constitute misconduct.

- Misconduct not based on Original Complaint - Misconduct or malfeasance which was not the basis of the original complaint but discovered during the course 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.

I. CITIZEN INQUIRIES:

1. Frequently, citizens contact the agency with questions regarding a policy, procedure, or tactic used by the department. This is a simple inquiry and may be handled by any member of the department.
2. When a citizen questions the actions of a member of the agency, the matter shall be referred to an on-duty supervisor who will determine if the matter is merely an inquiry that may be handled by providing routine information or if it is a matter that may require an investigation pursuant to this directive.

J. RECORDS OF COMPLAINTS:

The Professional Standards Unit is responsible for maintaining accurate and complete records of all complaints against the department and its employees. The unit shall provide annual statistical summaries of investigations for dissemination to the Chief of Police.

K. PUBLIC AND EMPLOYEE NOTIFICATION OF COMPLAINT PROCEDURES:

The Trumbull Police Department shall make available to the public, procedures for registering complaints against the department or its employees. This information consisting of a copy of this policy and civilian complaint forms both in English and Spanish, shall be made available through the department's website, at headquarters and at the Trumbull Town Hall.

L. SECURITY/CONFIDENTIALITY OF INTERNAL AFFAIRS RECORDS:

Internal Affairs records shall be kept in a locked file cabinet in a secure location at HQ. The Chief and the Professional Standards Unit staff shall be the only personnel authorized to access these files, except as otherwise required by law.

M. EMPLOYEE INVESTIGATIONS - OTHER PROCEDURAL GUIDELINES:

1. Photographs of all agency employees shall be maintained on file in the department. These photographs may be used to conduct photographic lineups in order to identify an employee accused of misconduct. Any lineup conducted pursuant to this section shall meet the standards required for photographic lineups in criminal investigations.
2. No employee shall be required or requested to disclose any item of his property, income, assets, source of income, debts, or expenditures (including those of any member of their family or household) unless it becomes necessary for an internal investigation. No such financial information shall become a part of an internal investigation unless that information is obtained under state law or other proper legal procedure.
3. No employee shall have an assigned locker or storage space searched except in his or her presence or with their consent or unless a valid search warrant has been obtained or when he/she has been notified that a search will be conducted. This section shall not apply under exigent circumstances.

4. Photographs shall be taken of any injuries sustained by an officer or any person as a result of any police action or investigation. The photographs shall be maintained within the appropriate records file.

N. 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.