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**Chapter 1**  
**Administration**

**POLICY AND PROCEDURE**  
**INVESTIGATION OF EMPLOYEE MISCONDUCT,**  
**CITIZENS COMPLAINTS,**  
**and**  
**The DISCIPLINARY PROCESS**

**I. PURPOSE**

The purpose of this policy is to inform all employees and the public of procedures for accepting, processing and investigating complaints concerning all allegations of employee misconduct. It is also intended to guide personnel in the proper handling of the disciplinary process and the proper procedure to use in the investigation of employee misconduct.

**II. POLICY**

The establishment of procedures for investigating complaints and allegations of employee misconduct is crucial to demonstrate and to protect this agency's integrity. This agency shall accept, investigate and process, fairly and impartially all complaints, including anonymous complaints, written or not written, of employee conduct to determine the validity of the allegations and to impose any disciplinary or non-disciplinary actions that may be justified in a timely, consistent, and fair manner. All complaints of employee misconduct shall be investigated regardless of whether the complaint is in writing, verbal, in person, by mail, by facsimile, by telephone (or TDD), by electronic form or is anonymous. All members and employees of this Department shall assist and cooperate in the reporting and investigating of any citizen complaint.

It is also the policy of this agency that the following standards be applied:

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

**III. DISCIPLINE**

A. General Information:

1. Procedures within this policy shall be followed by each manager, commander or supervisor charged with imposing discipline.

2. Commanders or supervisors may encounter personnel problems, which require an official response and sanction.
3. Some personnel problems can be handled by counseling or evaluation and some by the imposition of discipline.
4. Any employee who withholds information from, or fails to cooperate with internal investigations, or who fails to report misconduct of employees is subject to disciplinary action that may result from the investigation.
5. Discipline is a tool of last resort taken against employees for action or inaction that result in undesirable conduct, undesirable behavior or unproductive work.
6. The level of discipline should reasonably be tied to and related to the seriousness of the proven offense(s) as well as the employee's employment and work history.
7. The disciplinary process is used to deter employee misconduct and encourage compliance with department rules, practices, policies, procedures, regulations, directives, and orders.

#### **IV. DEFINITIONS**

##### **A. Assigned Investigator**

An assigned investigator is any investigator, regardless of title or assignment, who is assigned to conduct an Internal Investigation (IA) or an Administrative Review (AR).

##### **B. Explanatory and Informational Reports**

Explanatory or informational reports document the facts and circumstances of an incident. They are identified as follows:

1. Formal explanatory report-a report prepared by an employee who is the subject of an investigation.
2. Informational report- a report prepared by an employee who is a witness or person who may possess information related to the investigation.
3. Explanatory report- a report prepared by an employee who is not the subject of a formal investigation at the time and is used to gather written facts of an incident.

##### **C. Insubordination/Insubordination to a Superior Officer**

Insubordination is a significant and intentional act of disobedience/misconduct of such a serious nature that the employee's actions, directly undermines the foundations of authority within the department.

##### **D. Just Cause**

Just cause means that before discipline can be imposed there is a reason for the disciplinary action to be taken which is neither arbitrary nor capricious, but is supported by a thorough and accurate investigation.

##### **E. Misconduct**

Misconduct is any act or omission, by an employee which violates a criminal law or regulation of the United States, or which violates State Law, a State regulation or a municipal ordinance, or which violates a department rule or regulation, special order (memo) or general order (memo), or policy and procedure of the department.

##### **F. Complaint**

An allegation of employee misconduct or malfeasance

##### **G. Complainant**

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

##### **H. Complaint Control Number**

A unique numerical or alphanumeric code used to identify and track citizen complaint investigations

- I. Discipline  
Adverse action taken by the agency against an employee as the result of a sustained internal affairs investigation including, but not limited to, a written reprimand, suspension, demotion, dismissal or other authorized action.
- J. Employee  
Any person employed by this agency, whether sworn or non-sworn.
- K. Malfeasance  
Illegal or dishonest activity especially by a public official.
- L. Supervisor  
Any person who holds the rank of sergeant or above.

**V. ALLEGATIONS OF MISCONDUCT**

General Considerations:

- A. Each allegation shall be investigated fairly and impartially.
- B. Investigations shall be completed to determine the nature of the facts and circumstances of every complaint.
- C. Whenever necessary, investigators shall suggest revisions of agency policies and procedures, where existing deficiencies have been a contributing factor to misconduct.
- D. Allegations, which would result in the imposition of discipline, if sustained, shall be subject to a department administrative internal investigation.
- E. Department administrative internal investigations are classified as either an Internal Affairs Investigation (IA) or an Administrative Review (AR). The determination of whether an investigation is an AR or IA will be determined by the Chief of Police after a brief and preliminary review of the facts and circumstances surrounding any allegation or incident. Generally, an AR is an allegation of administrative misconduct which tends to be less serious in nature and an IA is an allegation of serious misconduct (i. e. abuse of power/authority, excessive use of force, criminality, abusive language, illegal arrests, corruption etc.)
- F. All civilian and sworn employees shall provide assistance to those who express a desire to lodge complaints against any employee of this agency. This includes but is not limited to:
  - 1. calling a supervisor to a scene to conduct a preliminary inquiry into the complaint
  - 2. explaining the agency's complaint procedure
  - 3. providing information and assistance to individuals who wish to make complaints in person
  - 4. explaining alternative means and providing assistance for lodging complaints such as by phone, by mail, by e-mail, by web form, fax, or in person
  - 5. accepting anonymous complaints or third party complaints
  - 6. accepting complaints from minors with or without a parent or guardian
  - 7. accepting complaints no matter how late they are made relative to the event complained about
  - 8. not requiring a complaint be sworn to by the complainant or citizen witness
  - 9. accepting complaints from immigrants regardless of their immigration status and not questioning them about their immigration status
  - 10. Note: 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.
- G. Supervisory officers must generally process citizen's complaints. They will use department approved citizens complaint forms and give to the complainant, the procedures utilized in this process and as outlined in brochures/documents. However, the lack of a department approved

form shall not be a reason for accepting and processing any complaint. NOTE: All citizen and media requests for copies of citizen's statements must go through records personnel.

- H. Nothing contained in these procedures precludes the Chief of Police from enacting a proactive internal investigation without a complaint if, in his opinion, such action is necessary.
- I. 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. Once those fears are identified, investigators will develop reasonable strategies to assist the complainant in dispelling those fears.

#### Validity and Timeliness of Complaints

- J. Persons wishing to make complaints noticeably under the influence of alcohol or drugs will be encouraged to wait until the earliest opportunity after he or she has regained sobriety to do so. When and if the supervisor determines the circumstances require immediate action, preliminary details of a complaint should be taken by a supervisor, if 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.
- K. Complaints of misconduct or malfeasance shall be accepted regardless of when the alleged misconduct or malfeasance is alleged to have occurred. However, the timeliness of a complaint is one of the circumstances that this 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 an alleged misconduct or malfeasance may call into question the veracity of the complaint, 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 must be detailed in the investigator's report. Any allegations of criminal behavior made against employees that may have past the expiration of applicable statute of limitations and potential criminal prosecution, will still be investigated and if warranted, be dealt with administratively.

#### Training Considerations:

- L. This agency has the responsibility for, and will provide to each employee, sufficient and proper training, supervision, and policy guidance to ensure that all employees are apprised of the demands and requirements of this agency with regard to employee conduct, duties and responsibilities.
- M. All supervisory personnel will be required to attend refresher trainings as determined by this agency.

#### Investigation Considerations:

- N. Internal investigations must be thorough and well documented.
- O. Each allegation of misconduct shall be thoroughly investigated in a timely manner and there must be sufficient documentation to prove or disprove each allegation, in whole or in part.

#### Notification:

- P. Notifications to the Chief of Police or his designee shall be made as soon possible if not immediately with the following:
  - 1. With a complaint of any Felony crime against personnel
  - 1. With a discharge of a firearm which results in death or any injury to a person

2. With a misconduct complaint, other than with a firearm, which results in death or serious injury
3. With a serious motor vehicle accident involving a police vehicle or police pursuit
4. Or any other serious incident or event warranting notification

## **VI. AUTHORITY TO DISCIPLINE and DISCIPLINE**

- A. The Newtown Board of Police Commissioners may upon recommendation of the Chief of Police, suspend without pay for more than 15 days or suspend with pay, demote or terminate/discharge sworn employees.
- B. The Chief of Police or his designee is responsible for the administration of all disciplinary action taken within the NDPS. The Chief of Police or a Police Captain (in consultation with the Chief of Police) may impose discipline against any subordinate up to and including 15 days suspension without pay, in accordance with existing Rules and Regulations and applicable collective bargaining agreements.
- C. Captains, Lieutenants, shift commanders, and supervisors may administer discipline up to and including written reprimands. They may also relieve an employee from duty with pay where warranted for a period not to exceed 24 hours. They shall be responsible for notification up the chain of the command for all discipline.
- D. Not every supervisory interaction or intervention with an employee is to be construed as discipline. Except in cases of direct intent to do wrong or egregious behavior, correcting undesirable conduct, behavior or work product, is at times and when warranted, best handled by the immediate supervisor in a counseling or coaching atmosphere. This is not considered discipline in the scheme of progressive discipline when an employee is trained, or counseled. The following options are available to supervisors and managers but are not to be construed as the progressive disciplinary chain:

### Non-Disciplinary Options

1. Counseling reduced to writing
2. Training reduced to writing

### Disciplinary Options

3. Verbal Reprimand reduced to writing
4. Written Reprimand
5. Reassignment to another shift
6. Suspension from duty without pay
7. Suspension from duty with pay
8. Docking of pay for time not worked
9. Demotion
10. Temporary relief from duty with pay
11. Discharge or termination from employment

### **E. Miscellaneous considerations**

1. Each disciplinary penalty is intended to be imposed within a scheme of progressive discipline. For a minor infraction or a first imposition of discipline, supervisors, commanders or managers should consider imposing a lesser degree of discipline than contemplated or taking corrective or remedial action (counseling or training) if warranted and meaningful.

2. Although counseling or training recommendations are viable supervisory tools, they are not part of the disciplinary process nor considered to be punitive in nature or to be used as punishment.
3. A single performance or behavioral problem can be sufficient cause to discipline or may be remedied by counseling or training.
  - a. That an employee was disciplined for an offense does not preclude using that offense to initiate counseling
  - b. A counseling session/and or training session can be combined with written verbal reprimands/and or written reprimands resulting from the same set of circumstances. They are not mutually exclusive.
4. Nothing precludes a supervisor or commander from using counseling or training to facilitate an employee's effort to conform to future conduct or to conform to department standards. Therefore:
  - a. Counseling or training is not considered discipline.
  - b. Managers, commanders and supervisors must recognize that inefficiency may only indicate a need for additional employee training or retraining
  - c. Formal counseling and training shall be documented and retained in the employee's training file.
5. All discipline or non-disciplinary action taken within this agency will be forwarded to the Chief of Police through the chain of command. Corrective action taken and any discipline taken will be recorded on department-approved forms. All written discipline will be recorded and placed in the employee's permanent personnel file.
6. Rebuttals of employee discipline must be in writing. In addition, any challenges of discipline that may occur, will be attached to the disciplinary form. The appropriate time frame for appeals of discipline is outlined in collective bargaining agreements.
7. Whenever employee misconduct results in the highest form of internal discipline, dismissal or termination from the department, a written statement will be forwarded to the employee citing the reasons for dismissal, the effective date of the dismissal, and a statement of the benefits that the employee will receive upon dismissal. It should be noted that probationary employees are not afforded the same rights as tenured employees and collective bargaining agreements and rules and regulations of the department will be followed in the dismissal of entry-level employees.
8. All written discipline within an employee's permanent personnel file will be subject to applicable state law and collective bargaining guidelines when determining the maintenance of such documents.

## **F. Deciding to Discipline**

1. Duties of managers and supervisors
  - a. After making a decision to impose discipline within their authority, a Lieutenant or Sergeant should:
    - i. Advise the Captain, Bureau Commanders or Chief of Police of their intent to discipline. The Chief or Captain will advise the supervisor of any previous similar disciplinary matters.
    - ii. Notify the employee of the intent to discipline and allow for a pre-disciplinary hearing on the matter.

- b. An incident may contain extenuating circumstances therefore any superior officer imposing any discipline may be required later to articulate a rationale for the discipline imposed.
- c. Police managers deciding on discipline of an employee will follow the same guidelines as stated above.
- d. Discipline to an employee should include:
  - i. written notice to the employee of the charges
  - ii. a meeting with the employee whereby the employee is heard regarding the investigation results
  - iii. contemplation and considerate review of the employee's remarks prior to the final decision on a appropriate discipline level
  - iv. documentation of the employee's remarks
  - v. the delivery of written copies of the discipline to the employee
  - vi. an opportunity for written rebuttal by the employee

## **VII. GUIDELINES AND PROCEDURES FOR INTERNAL INVESTIGATIONS**

### A. General Information

1. Internal investigations shall be uniformly and fairly conducted.
2. It is the policy of this department that all complaints against personnel shall be investigated promptly, accurately, fairly and thoroughly.
3. Department employees will be held to the highest possible standards of integrity.
4. It is essential that citizens and employees are confident in the ability of this department to objectively evaluate its practices, procedures and conduct of its employees.
5. Conformance to this policy demonstrates a willingness and commitment to fairly and properly enforce the law.
6. All internal investigations shall be completed within a reasonable period of time as designated by the Chief of Police, usually within 60 days. If any circumstances cause a delay beyond the time parameter established, a written report must be submitted from the investigator explaining the reasons for the delay and requesting a time extension. Reasonable extensions will be provided if warranted.
7. Police managers shall ensure that any complainant is informed of the status of the complaint, to include at a minimum:
  - a. Verification of receipt that the complaint has been received for processing and
  - b. Periodic status reports if necessary and
  - c. Notification of the results of the investigation upon conclusion.
8. Complaints shall be taken and investigated when made by any person regardless of age, affiliation, gender etc., regardless of the seriousness of the alleged matter so long as the activity complained of directly or indirectly concerns the actions of a member of the Police Department or any employee thereof, whether on or off-duty or connected with police work or not.
9. In all cases of complaints against employees of this department, complainants will be treated with dignity and respect and no member of this department shall do anything, perform any act, or take any steps which
  - a. Dissuades any person or citizen from filing or making a complaint

- b. Discourages a complaint based upon comments or opinions given to the complainant regarding the impropriety or propriety of any action of an employee, or the likely or probable result of any investigation
  - c. Directly or indirectly interferes or obstructs with the filing, investigation, processing, or resolution of a complaint.
10. Employees receiving complaints shall ensure 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; must 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.

## B. Internal Investigations

1. Internal investigations are divided into two classifications:
  - **Administrative Review (AR)- which is an internal investigation of a less serious matter**
  - **Internal Affairs (IA) Investigation-which is an internal investigation of a serious matter**
2. The initial level of any internal investigation, the type of case number assigned, and who conducts the investigation, will be governed by the apparent circumstances, and as determined by the Chief of Police. Reconciliation of a complaint can be considered under certain circumstances and only at the direction of the Chief of Police.
  - a. A complaint or an investigation, which would result in no more than a Letter of Reprimand, will normally require an AR investigation.
  - b. The Chief of Police may designate any supervisor as the assigned investigator, to conduct an AR investigation. Typically, the employee's immediate supervisor may and should conduct AR case investigations.
  - c. If reconciliation is authorized, then superior officers to the extent possible, will bring together the complainant(s) and officer(s) in an attempt at reconciliation.
3. Incidents, which would involve more serious discipline, require an IA investigation.
  - a. Any complaint or investigation which if proven would result in the filing of a criminal charge or the imposition of serious discipline greater than a Letter of Reprimand, or any incident involving the improper discharge of a firearm, unless otherwise provided for shall require an Internal Affairs (IA) internal investigation.
  - b. IA investigations will normally be conducted by investigators as designated by the Chief of Police. Typically, Captains and Lieutenants will be the assigned investigator.
  - c. Determination as to who will conduct any internal administrative investigation will ultimately lie with the Chief of Police. This includes bringing in outside agencies and personnel to conduct or assist in the investigation. Any assigned investigator will report directly to the Chief of Police with all pertinent information.
4. On completion of an IA or AR investigation, the assigned investigator will present their findings to the Chief of Police for adjudication.

### C. Complaint Classifications

1. Serious discipline is any discipline, which may lead to discipline greater than a Written Reprimand.
2. Any incident, which from past experience may result in the imposition of serious discipline, will be recorded using an IA case number.
3. If more than one employee is involved in the same incident and serious discipline is possible for at least one employee, an IA case number shall be used, listing all employees in the report.
4. If an initial AR investigation determines that serious discipline may be warranted an IA investigation would be followed.
5. General Rules – Internal Investigation Classifications
  - a. An IA investigation is required but is not limited to the following offenses:
    - i. A complaint for a violation of state, local, federal law.
    - ii. Willful and malicious illegal arrest
    - iii. Complaints of excessive force.
    - iv. Civil rights violations, including discrimination complaints as defined by federal regulation or state statute, and Commission on Human Rights and Opportunities (CHRO) complaints.
    - v. Improper discharge of a firearm
    - vi. Serious violations of the Rules and Regulations
    - vii. Conduct unbecoming an officer or employee
    - viii. Nonfeasance and incompetent performance
    - ix. At the discretion of the Chief of Police
6. Either an IA or AR investigation may be appropriate for:
  - a. Violation of a department rule (whether written or not) or any complaint not easily incorporated within either category.
  - b. Citizen's exceptions of performance including complaints involving improper performance not concerned with a crime or use of excessive force or civil rights violations.

### D. Discharging a Firearm

1. A formal explanatory report and an IA investigation is always required for:
  - a. Any incident involving the discharge of a firearm by a police officer or by any armed police employee, other than for training or recreational purposes or for other exceptions specified within this policy, or
  - b. Any intentional or unintentional (accidental or unauthorized) shooting incident.
    - i. The exception to the reporting requirement is the humane dispatch of a suffering animal or a wild or domestic animal which may be rabid
    - ii. This includes complaints about an animal with a high incidence of rabies infection [dogs, raccoons, skunks, squirrel, etc.] and which animal is in close proximity to humans or exhibits unusual behavior or physical signs of rabies infection.

2. All discharges of firearms as defined within this section shall be reported immediately through chain of command to the Chief of Police.
3. If a serious injury or death occurs due to a shooting. The involved police officer shall be removed from the field and will normally be assigned to administrative duties pending completion of an IA investigation. Note: If a serious injury or death occurs, then all laws and policies as established must be followed (i. e. proper notification to the State's Attorney and any other agency)
4. Investigators will determine if the police officer was in compliance with state statutes and law regarding the use of deadly force.
5. Investigators will determine whether the police officer was in compliance with department written policy regarding the proper use of firearms and deadly force.
6. An accidental discharge of firearm is a serious matter because of the potential for death or serious injury to another person or the person discharging the firearm.
  - a. Retraining or counseling will be one of the remedies to this situation
  - b. Discipline should be considered for any reoccurrence or when the circumstances of the incident show gross negligence or a reckless disregard for the safety of himself or other persons or the employee is resistant to training or supervision.

#### E. Specific Duties

1. The Chief of Police is the designated person within this agency that manages and directs the Internal Affairs functions with notification to the First Selectman and Police Commission as warranted. The Captain, and Bureau Commanders , who report directly to the Chief, will assist the Chief of Police.
  - a. The Chief of Police is responsible for all related administrative procedures and controls governing internal investigation records. All internal investigation records will be secured by the Chief of Police, separate from personnel files.
  - b. The Chief of Police will compile annual statistical summaries based on records of internal affairs investigations.
  - c. The Chief of Police is responsible with the uniform application of discipline.
  - d. The Chief of Police is responsible with legal and administrative guidance to assigned investigators.
2. Investigators assigned to an IA or an AR shall:
  - a. Properly investigate the incident and shall prepare and submit timely written reports.
  - b. Advise superior officers of any change of status of an investigation.
  - c. Advise the Chief of Police whenever they will exceed the stipulated timeframe for completion of the IA or AR.
3. An officer receiving a citizen's complaint shall:
  - a. Notify a supervisor of the complaint immediately or
  - b. If no supervisor is available and an immediate response is required, immediately inform any manager, commander or supervisor of the complaint.
4. This agency shall make available information on procedures to be followed in registering complaints against the agency and personnel through periodic public meetings, on or through

the internet, and information brochures obtainable in the lobby of the police department and other appropriate locations within the town.

#### F. Employment Rights and Responsibilities

1. Department procedures shall ensure that any rights of an employee under investigation are protected and shall also specify the responsibilities of said employee.
2. These procedures shall not constrain managers, commanders or supervisors from maintaining discipline or diminish the authority to conduct department operations, but shall ensure that internal investigations are fairly, uniformly and thoroughly conducted
3. Unless a complaint alleges a crime has been committed, a written notification to the employee is required whenever the employee is the focus of an IA. Notification will advise the employee that a complaint has been made against him or her, the name of the complaining party. Note: A complaining citizen who requests anonymity will not be identified.
4. Notification to the employee shall include a copy of available complaint statements, a copy of the original complaint form signed by the complaining party, and any rules and regulations, policies, practices and procedures that are alleged to be violated.
5. If requested, it shall be the duty of any employee to submit explanatory or informational reports concerning any matter related to the sworn or non-sworn duties and actions of any employee or any matter related to on-duty actions or use of department equipment by any employee.
6. A citizen writing a letter of complaint shall receive written acknowledgement of receipt of the complaint.
7. The employee shall be notified in writing within 3 business days of the disposition of any complaint and the filing of any written formal complaint.

#### G. Conducting Interviews

1. Employees will be afforded reasonable opportunity to speak with union Representation prior to any investigatory interview but will not be allowed to Unreasonably delay the interview.
2. Employee interviews will be conducted at a location normally chosen by the assigned investigator.
3. Questioning shall be reasonable in duration and time shall be provided to the employee for rest, personal necessity or reasonable and necessary telephone calls.
4. If the urgency of an investigation requires the employee to be questioned while on a day leave, the employee shall receive appropriate compensation as set forth in the Collective Bargaining Agreement.
5. Any interview of an employee shall be conducted at a reasonable hour and in a non-coercive manner, without threats or promises and shall preferably occur when the employee is on duty.
6. If during any interview, the employee fears discipline will result and requests union representation, union representation will be provided under applicable law.
7. During an investigatory interview, a union representative may accompany the interviewed employee who is the subject of the investigation, if the employee is a bargaining unit member, unless the employee waives the right in writing.
8. Prior to any interview, the employee shall be made aware of the following information if requested:

- a. Name, rank and assignment or the identify of all persons that will be present at the interview
  - b. Nature of the investigation including allegations made
  - c. Whether the interviewed employee is considered the subject of the investigation or only a witness at the time of the interview; and
  - d. The rights if any of the employee.
9. No recordings of the interview will be made without the knowledge of all participants and copies of any recordings will be provided to the employee on written request and in accordance with law.
  10. If an interviewed employee is arrested or is likely to be arrested or is suspect in a criminal investigation, that employee will be afforded all Constitutional rights and protections.
  11. If the actions of an employee if proven would constitute criminal behavior the employee may refuse to answer questions under the protections of the Fifth Amendment of the Untied States Constitution. The following criteria applies under these situations:
    - a. Upon refusing to answer questions pursuant to Fifth Amendment rights, the employee may be ordered to answer and must answer, but any subsequent answer will be treated as involuntary and may not be used in any manner during any criminal proceeding.
    - b. An order to answer after a first refusal to do will be reduced to writing prior to obtaining the employee's final response. If a criminal prosecution is intended, before the "Garrity Warnings" are given, the assigned investigator must contact a state's attorney for advice on whether to proceed with the warnings or continue the criminal investigation.
    - c. If the employee continues to refuse to answer after warnings are given, the employee may be charged with insubordination.
    - d. The use of the warnings outlined in Garrity v. New Jersey, 385 US 493.
  12. Polygraph tests, blood, breath and urine samples, photographs, attendance in a suspect line-up, financial statements or similar tests and procedures or materials may be requested or demanded to any extent provided by law, or whenever consented to or requested by the employee.

#### H. Disposition of the Charges and Disposition Classifications

1. The authority to make disposition of charges must be a manager, commander or supervisor specifically delegated with such authority for each internal investigation.
2. Disposition will only be made after a thorough review of all investigative reports, appropriate facts and circumstances which results in a conclusion of fact for each investigation into each allegation of misconduct.
3. If more than one complaint or charge was investigated, the disposing authority must indicate the disposition of each complaint.
4. If an investigation establishes that additional or modified charges are appropriate, these charges must be added as separate charges and the disposing authority must indicate a disposition for each original charge and each new charge.
5. There shall be a conclusion of fact(s) for each investigation conducted.
6. The following are the disposition classifications of all internal investigations:

##### a. Sustained – Discipline

This disposition occurs when there is the preponderance of evidence to establish that an incident did occur and facts and circumstances support a determination that

the actions of the employee constituted misconduct and a Written Verbal Reprimand or higher discipline can be imposed.

**b. Sustained – No discipline**

This disposition is similar to above, but the circumstances do not warrant disciplinary action against the employee involved, but one of the following corrective actions may be taken:

1. Oral counseling reduced to writing
2. Oral counseling

**c. Not sustained**

This disposition is appropriate whenever there is insufficient evidence to clearly prove or disprove the complaint or incident.

**d. Exonerated**

This disposition shall be made whenever there is sufficient evidence to indicate that the act or incident did occur, but the actions of the employee were justified, lawful and proper.

**e. Unfounded**

This disposition shall be made whenever the investigation determined by a preponderance of the evidence that the complaint or incident was false or not factual and did not occur.

I. Investigative Records

1. The confidentiality of internal affairs records and administrative review records is important; therefore all records of investigation or review will be kept in a secure area under the direction and control of the Chief of Police.
2. Each year the department will compile statistical information on internal affairs investigations and publish them.

J. Training

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.

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 investigations.

K. Public Information and Access

The Chief of Police will ensure informational materials are made available to the public through police personnel, the police facility, the police agency web site, the general government web site, the internet, libraries, community groups, community centers, and other designated public facilities.

The Chief will ensure that copies of this policy and complaint forms are available at the Town Hall or another municipal building located within the municipality. This information will include relevant phone numbers and any addresses where complaints can be made. This information must explain the complaint process in English and Spanish.

The Chief will ensure that the complaint policy and forms are made available online where the agency or the Town has an internet site.

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