2.6.1 PURPOSE

The purpose of this policy is to comply with Public Act 14-166 and to provide a uniform policy to accept, process, investigate, take appropriate action upon and resolve complaints from a member of the public relating to alleged misconduct or malfeasance committed by law enforcement agency personnel in the State of Connecticut.

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

2.6.2 POLICY

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

No employee shall refuse to assist, discourage, or otherwise interfere with any person who wishes to file a complaint.

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

The Professional Standards Division, within the Administrative Services Bureau, is responsible for the overall administration of investigations of citizen complaints and employee misconduct by and through the Internal Affairs Unit.

2.6.3 DEFINITIONS

Complaint: An allegation of employee misconduct or malfeasance.

Complainant: Any person who files a complaint regarding the conduct of any Department employee, or the Department's policies, procedures, or actions.

Complaint Control Number (CCN): A sequential number used to identify and track citizen complaint investigations, generated through the use of the IA PRO software program.

Discipline: Adverse action taken by the Department against any employee as the result of a sustained internal investigation including, but not limited to, a verbal warning, written reprimand, suspension, demotion, or dismissal. Any such discipline will be imposed

solely in accordance with Section 3.5 of the Fairfield Police Policy and Procedure Manual (Disciplinary Procedures).

Employee: Any person employed by the Department, whether sworn or non-sworn, part-time or full-time.

Internal Affairs Unit: The designated unit within the Professional Standards Division with the primary responsibility for conducting investigations of administrative or citizen complaints of misconduct of 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.

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

2.6.4 PROCEDURES

A. Internal Affairs Unit Responsibility

The Office of 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 to the appropriate division, unit, person, or designated supervisor for investigation through the appropriate chain of command. In most cases of serious employee misconduct of malfeasance, the Chief of Police shall order the Internal Affairs Unit to initiate an internal affairs investigation.

The Internal Affairs Unit shall be responsible for the following activities related to internal affairs:

1. Conducting a thorough, fair, and impartial investigation into every complaint received, regardless of the method of such 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 any criminal misconduct discovered on the part of any individual during the course of an internal affairs investigation;
5. Preparing suggested revisions to Department written directives where existing deficiencies have been a contributing factor to misconduct;
6. Maintaining a central file for complaints in a secured area, and in conformity with records retention requirements of state law;
7. Maintaining the confidentiality of records of all internal investigations;
8. Maintaining statistical and related information to identify trends involving all complaints of use of force, officer misconduct, and/or abuse of authority;
9. Tracking complaints against individual employees to assist in employee risk analysis and the Early Intervention Program (IEP) through IA PRO; and

10. Providing the Chief of Police and the Police Commission with annual summaries of complaints and final dispositions against officers.

Upon the completion of an internal affairs investigation, a report and all supporting documents shall be forwarded through the chain of command to the Chief of Police for final review.

B. Acceptance, Filing and Intake of Complaints:

1. General

All persons are encouraged to bring forward legitimate complaints regarding possible misconduct or malfeasance of employees of this Department. All sworn and civilian employees shall be required to accept complaints alleging misconduct or malfeasance by Department 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 complaint, or discourage, interfere with, hinder, delay, or obstruct such a person from making a complaint.

2. Acceptance of Complaint:

a. The use of the POSTC standardized Citizen Complaint Report Form shall be implemented to record complaints. Each complaint shall be assigned a Complaint Control Number (CNN) to track complaints and a copy of this form shall be filed in a separate complaint file.

b. 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 also be accepted.

c. 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 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 form or in the body of the report.

d. **In Person:**

   1. 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, record

contact information form the complainant if provided and obtain a Complaint Control Number (CCN) which should be provided to the complainant.

2. If a supervisor is not readily available, the officer will gather the complainant's information and inform them that they will be contacted by a supervisor or the Internal Affairs Unit by the next business day.
3. Sworn and civilian employees who receive a complaint about their own conduct shall immediately refer the complaint to a supervisor.
4. The withdrawal of a complaint does not prohibit the agency from completing an investigation.
5. Any complaint reported in the field to any member of this Department shall be forwarded 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 Department headquarters to make his/her complaint. Any supervisor becoming aware of such complaint shall notify the shift commander who will ensure the complaint is investigated, and/or documented and forwarded in accordance with this policy.

e. **Walk-in Complaints**

Walk-in complaints shall be referred to a Supervisor, the shift commander (if available), shall be summoned to speak with the complainant. If the complaint can be appropriately handled by the shift commander, he shall document the incident and forward it to his division commander, who shall then forward it to the Internal Affairs Unit for tracking purposes. Otherwise, he shall document the complaint and forward it to the Chief of Police or the Internal Affairs Unit for investigation.

f. **By Telephone:**

Complaints received by telephone shall be forwarded to the shift commander, if possible. The shift commander shall then offer to have a supervisor respond to the complainant's location if desired. If the complaint has been handled by the shift commander, he shall document the incident and forward it to his division commander. Otherwise, he shall document the complaint and forward it to the Chief of Police or the Internal Affairs Unit as detailed in this policy.

g. **By Written Communication:**

Complaints received in writing (mail, letter, complaint form, email, etc.) shall be forwarded to the Chief of Police or the Internal Affairs Unit where they will be officially received. These complaints shall be assigned a Complaint Control Number. A letter of acknowledgement must be prepared advising he complainant that the matter is being investigated and that they will be contacted by the investigator assigned.

h. The following steps shall apply to all initial complaints:

1. The supervisor receiving the complaint shall gather all pertinent details regarding the complaint including, but not limited to:
   a) The complainant's information, including their name, address, date of birth, telephone number or contact information;
   b) The date, time, location, and the nature of the complaint;

c) The date and time the complaint was received;

d) The names and addresses of any witnesses to the incident;

e) The name and rank of the person receiving the complaint.

2. The supervisor receiving the complaint may request that the complainant complete a POSTC standardized Citizen Complaint Report Form. The supervisor shall also inform the complainant of the complaint and investigation process.

3. The supervisor receiving the complaint shall forward the completed complaint form, along with any other documentation or pertinent information, to the Chief of Police or the Internal Affairs Unit.

4. The Chief of Police shall review the complaint to determine whether it should be handled at the division or bureau level, or forwarded to the internal Affairs Unit.

5. The withdrawal of a complaint does not prohibit the Department from completing an investigation.

6. The Chief of Police shall base his decision as to whether the nature and seriousness of the allegations warrant an internal affairs investigation on the following criteria. In general, internal affairs investigations will be recommended for:

- Use of excessive force complaints;
- Allegations of civil rights violations;
- Claims of serious unethical conduct, which may not be criminal.

6. If an internal investigation is warranted, the Chief of Police shall order the Internal Affairs Unit to initiate an internal affairs investigation.

7. All complaints shall be assigned a complaint control number.

8. In addition to the above procedure, the Chief of Police may, at any time, initiate an internal affairs investigation based upon:

a) A matter he has personal knowledge of;

b) Information brought to his attention by a member of the Department;

c) Information brought to his attention by any other source.

3. <u>Validity and Timeliness of Complaints</u>

a. <u>Complaints by Persons Under the Influence of Alcohol or Drugs</u>

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 a supervisor determines the circumstances require immediate action, the 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 Unit should re-interview the person after he or she has regained sobriety.

b. <u>Delayed or Untimely Complaints</u>

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 Department may consider in determining

whether misconduct or malfeasance can be reliably substantiated and, if so, the nature and extent of the discipline 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.

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

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 Department to be aware of these fears and develop reasonable strategies to assist the complainant in dispelling those fears.

2.6.5 INVESTIGATION OF COMPLAINTS

A. The Chief of Police shall ensure that all complaints received are processed and investigated appropriately as set forth in this policy. Investigations shall be completed in a timely manner within the time limits determined by the Chief of Police, including extensions granted for good cause.

B. Complainants shall be notified in writing within five (5) business days of receipt that:

1) Their complaint has been received by the Department 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 the conclusion of the investigation; and

4) That they may contact the designated investigator (identified by name, telephone, and/or email) at any time for further information while the investigation is pending.

C. Pursuant to existing collective bargaining agreements, employees who are the subject of a complaint shall be notified in writing of the general nature of the complaint and the dates of occurrence, if known. Employee rights shall be governed by this directive and by existing collective bargaining agreements representing Department employees.

1) Where prior notification of the subject of a complaint is reasonably likely to impede the progress of an investigation, result in the loss or destruction of evidence, or jeopardize the safety of any individual, the Chief of Police may direct in writing that such notification be delayed, stating the reasons therefore and the anticipated extent of the delay.

D. Certain investigations requiring specific expertise may justify assigning other Department personnel to the Internal Affairs Unit 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 Internal Affairs Unit.

E. Nothing in this policy precludes the Chief of Police from referring any complaint filed against an employee to an outside agency if such action would be in the best interest of the municipality and of justice.

F. Should probable cause exist to substantiate a criminal charge, the Chief of Police shall direct the Investigative Division Commander to conduct a criminal investigation of the matter. Any criminal investigation shall be separate and apart from any Internal Affairs Unit investigation. During all criminal investigations involving a member of the Department, liaison shall be maintained with the prosecutor of the superior court.

2.6.6 INVESTIGATIONS CONDUCTED AT THE DIVISION OR BUREAU LEVEL

If the Chief of Police assigns a complaint to be investigated at the division or bureau level, such investigation shall be assigned to the commanding officer or his designee. The types of investigations that may be conducted at the division or bureau level may include:

1. Failure to follow procedures
2. Slow or no response to calls for service
3. Failure to take proper action
4. Improper operation of Department vehicles
5. Tardiness in reporting for duty
6. Violations of Department dress code
7. Poor demeanor or rudeness

Complaints resolved at division or bureau levels shall be forwarded to the Chief of Police who shall review all relevant details to ensure that appropriate procedures were followed, that an adequate investigation was conducted, and that an acceptable resolution was reached. After resolution, the case shall be forwarded to Internal Affairs Unit for review and recording purposes. The Chief of Police shall retain final disposition approval.

2.6.7 REVIEW OF THE INVESTIGATION

A. The Administrative Division Commander shall review all Internal Affairs Unit investigations to determine their thoroughness, completeness, accuracy and objectivity.

B. The completed report of investigation, recommended disposition, and disciplinary recommendations, if any, shall then be reviewed by the Chief of Police or his designee.

C. 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.

D. Findings of completed investigations and disciplinary recommendations, if any, shall be promptly conveyed, in writing, to the employee through his or her chain of command. Any disciplinary action will be carried out solely in accordance with Department Policy 3.5 Disciplinary Procedures.

2.6.8 EMPLOYEE RIGHTS AND PRIVACY

Employee rights shall be governed by this policy and existing collective bargaining agreements representing Department employees.

No employee shall have an assigned locker or storage space searched except with their consent, or unless a valid search warrant has been obtained. This section shall not prevent such searches if there are exigent circumstances.

If a Department member is ever arrested or charged with a criminal offense, the Chief of Police shall be notified immediately.

If any member of this Department is found to be under the influence of alcohol or drugs while on duty, the Chief of Police or his designee shall be notified immediately. The commanding officer shall ensure that the incident is documented and shall forward such report(s) through the chain of command to the Chief of Police.

Employee Photographs

Photographs of all employees shall be maintained on file with the Administrative Services Bureau. These photographs may be used to conduct lineups in order to identify an employee accused of any misconduct. Any lineup conducted pursuant to this section shall meet the standards required for photographic lineups for criminal investigations. Employees may be required to participate in a lineup if probable cause exists that they were involved in a criminal offense.

Disclosures

No employee shall be required or requested to make financial disclosures unless required by law. No such financial information shall become a part of an internal investigation unless it is obtained under state law or other proper legal procedure.

2.6.9 CASE 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 that 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.

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 complaint 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 Department that he/she wished the investigation to be discontinued and concurrence for this action was obtained from the Chief of Police.

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. 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:

a. Discredit upon the agency,

b. Discredit upon the involved employee;

c. Commission of a criminal offense; or

d. Allegations of racism, bigotry or prejudice against any race, religion, creed, national origin, sexual orientation, or circumstances beyond the individual's control.

Reconciliation must be documented through the chain of command to the Chief of Police or his designee. Reconciliation does not preclude further corrective action by the Department.

2.6.10 TRAINING

All police personnel shall be trained in the Department's policy and procedures regarding the complaint process and the appropriate responses to handling citizen complaints.

All supervisor personnel will be required to attend periodic refresher training regarding the policies and procedures contained herein, as well as professionally accepted practices related to conducting internal investigations.

2.6.11 PUBLIC INFORMATION AND ACCESS

The Professional Standards Division shall:

a. Ensure informational materials are made available to the public through police personnel, the police department facility, the internet, libraries, community groups, community centers and at other designated public facilities;

b. Ensure that copies of this policy and complaint forms (English and Spanish versions) are available at the town hall or other municipal building located within the town of Fairfield, 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.

c. Ensure the complaint policy and forms are also available online via the Department or municipality website *http://www.fpdct.com.*