



# Vernon Police Department

## Standard Operating Procedure

**Chapter: 2 Organization and Management**

**Issued Date: July 26, 2023**

**Section: 2.8 Personnel Complaints and Internal Investigations**

**Chief Marc Petruzzi**

**Rescinds: SOP 40**

**Review:**

*Chief Petruzzi #297*

### **2.8.1 Purpose and Policy**

The honor and veracity of the Vernon Police Department depends on the personal integrity and discipline of each member. To a large degree, the public image of the agency is determined by the quality of the internal affairs function in responding to allegations of misconduct by the agency or its members.

The purpose of this policy is to establish a procedure to be used by the Vernon Police Department to receive, document, investigate and determine dispositions of complaints made about employees of the Department. Additionally, this policy will inform both the public and members of the agency about procedures for addressing complaints of misconduct.

To this end, the Vernon Police Department will provide citizens with a fair and effective method of redress of their legitimate complaints about employee conduct and investigate all complaints of alleged misconduct of its members. To the extent possible, the agency will determine whether the allegations are valid or invalid and take appropriate action. All allegations of departmental or member misconduct will be fairly, impartially and properly investigated. The agency accepts all complaints received in any manner, whether such complaints are received verbally, in writing by letter or email, by telephone, through a third party, or anonymously.

During the course of the complaint intake process, no inquiries will be made regarding the complainant's immigration status and no member of the agency will retaliate in any form against an individual, organization or group who has filed a personnel complaint.

Agency members who are intentionally untruthful, withhold information, fail to cooperate with department investigations or who fail to report alleged misconduct or malfeasance of department employees to a supervisor will be subject to disciplinary action.

This policy as well as personnel complaint forms are available on the Vernon Police Department website. Paper complaint forms are available to the public at police headquarters and at Vernon Town Hall.

## **2.8.2 Acceptance, Filing and Intake of Personnel Complaints**

Employees will assist those who express a desire to lodge a complaint against any member of the agency. This includes the following assistance as necessary:

- 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.
- Calling a supervisor to the scene to conduct a preliminary inquiry and document the complaint.
- 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 surrounding the complaint. The name and identifying information of any person providing such language assistance to a complainant will be recorded on the complaint form or in the body of the report.

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. If a supervisor is not readily available, the agency member will inform the complainant that they will be contacted by a supervisor by the next business day. Sworn and non-sworn employees who receive a complaint about their own conduct will immediately refer the complaint to a supervisor.

Telephone complaints will be referred to a supervisor for proper follow-up.

All complaints will be documented using the form provided for that purpose (VPD 004). All information blocks on the form should be completed to the extent possible. This form is available in both English and Spanish. Additional pages may be used if necessary.

The receiving supervisor should photograph any visible or alleged injuries or any other available potential evidence related to the complaint.

If complaints are received by mail, all correspondence received containing allegations will be forwarded to the Chief of Police or designee where they will be officially received.

Withdrawal of a complaint by the complainant does not prohibit the police department from conducting or completing an investigation.

In addition to the above procedure, the Chief of Police may at any time initiate an internal investigation without a complaint and based on:

- a. a matter of which the Chief has personal knowledge
- b. information brought to the Chief's attention by a member of the department
- c. information brought to the Chief's attention by any other source

### **2.8.3 Validity and Timeliness of Complaints**

**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 will be encouraged to wait until the earliest opportunity after regaining sobriety to do so. When the supervisor determines the circumstances require immediate action, preliminary details of a complaint should be taken by a supervisor, when available, regardless of the person's sobriety. In that event, the investigator should re-interview the person after they have regained sobriety.

**Delayed or Untimely Complaints:** Complaints of misconduct or malfeasance shall be accepted regardless of when the alleged misconduct or malfeasance is alleged to have occurred. However, the timing of a complaint is one of the circumstances that the police department may consider in determining whether misconduct or malfeasance can be reliably substantiated. Where a delay in reporting alleged misconduct may call into question the veracity of the complainant, or has resulted in the loss or destruction of evidence or the inability to locate witnesses due to the passage of time, the facts and circumstances should be detailed in the report.

### **2.8.4 Confidential Personnel Investigation**

Complaints that are relatively minor in nature will be assigned a case number in LEAS and classified as a Confidential Personnel Investigation (CPI) and handled at the shift commander or supervisory level. In general, the types of complaints that will be handled at the supervisory level include (but are not be limited to):

- 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

The supervisor initially receiving the complaint or referral from another employee will normally be assigned to review the complaint and complete the Confidential Personnel Investigation. This investigation should include interviewing the complainant, witnesses, reviewing reports and video evidence as well as interviewing the officer. The supervisor conducting the CPI will complete a report on the matter in LEAS. The report will be reviewed by the Patrol Lieutenant and Captain to ensure the matter was handled appropriately and consistent with policy. The Captain will

contact the complainant in writing if they have not already been informed about the outcome or resolution of the complaint.

### **2.8.5 Internal Investigations**

Complaints that rise to a higher level of alleged malfeasance or misconduct will be assigned an Internal Affairs Personnel Complaint number. An example of the number system is as follows: PC (Personnel Complaint), 23 (Year), 01 (First number assigned for 2023) i.e. PC23-01.

- use of excessive force complaints
- allegations of civil rights violations
- claims of serious unethical conduct which may or may not be criminal
- allegations of biased-based profiling
- allegations of racism, bigotry or prejudice against any race, religion, creed, national origin, sexual orientation,
- as required by other agency directives or by law

After the Chief of Police determines that an internal investigation will take place, the Chief will assign a command officer to conduct the investigation. The assigned investigator is responsible for:

- Conducting a thorough, fair and impartial investigation of the complaint.
- Investigating and determining the nature, facts and circumstances of the complaint.
- Reporting to the Chief of Police, the results of the investigation, any recommendations and the resolution of that investigation.
- Preparing suggested revisions of Agency Policies and Procedures where existing deficiencies have been a contributing factor to misconduct.
- 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.

The subject of the investigation shall be promptly notified in writing of the complaint in accordance with the provisions of applicable collective bargaining agreement. The written notification will include a brief, general statement of the allegations as well as the employee's rights and responsibilities relative to the investigation.

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.

The assigned investigator should attempt to get a signed statement from the complainant.

### **2.8.6 Allegations of Profiling in Motor Vehicle Stops**

The Chief of Police will also record and cause to be investigated, all complaints made by motor vehicle operators who believed they were stopped in violation of the law and Directive 5.2.1. (Uniform Enforcement Procedures) which concerns biased based profiling. The Chief shall forward a copy of such complaint along with written notification of the review and disposition of such complaint to the Office of the Chief State's Attorney as required by §54-1m(e) of the Connecticut General Statutes. No copy of such complaint shall include any other identifying information about the complainant such as the complainant's operator's license number, name or address.

### **2.8.7 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 by a supervisor that those fears will be taken seriously. Complainants should be asked to provide the basis for their concerns, if possible, and the information provided should be noted in the complaint. This will allow the supervisor or internal affairs investigator to be aware of these fears and develop reasonable strategies to assist the complainant in allaying those fears. If the supervisor or investigator(s) determines that the complainant's fears are serious and credible, they may take actions such as:

- Directing the complaint to call 911 if they notice suspicious persons or incidents
- Giving orders to the agency member who is the subject of the complaint to have no contact with the complainant
- Re-assigning the agency member to a non-patrol function
- Providing extra patrols at the complainant's home or business

### **2.8.8 Criminal Investigations**

If both an internal investigation and a criminal investigation are to be conducted, they will be conducted as two separate and distinct cases using separate investigators. The department should coordinate any criminal investigations of this nature with the Rockville State's Attorney's office.

1. Separate investigators will be assigned to each investigation (criminal/administrative).
2. During an internal investigation (not criminal) of an employee's conduct, the employee must answer questions (Garrity v. New Jersey) as directed by the investigating supervisor. The employee will also be advised that if he/she is found to have been intentionally untruthful during the IA/CPI investigation, he/she will be subject to disciplinary action up to and including termination. (LaChance vs. Erickson)
3. If the employee refuses to provide written and/or oral statements, the supervisor can order the employee to do so (Garrity). Failure of the employee to answer such questions

or provide a written statement will result in additional charges against the employee with punishment up to and including termination.

4. If after being advised of the Garrity warning, the employee still refuses to answer questions pertinent to the investigation, the supervisor will immediately advise the Chief or Captain of Police who may relieve the employee of duty.
5. All completed criminal investigations, after being reviewed by the Chief of Police or designee, will be brought to the States Attorney for review. If the States Attorney determines that probable cause exists, a warrant application shall be prepared by the investigating supervisor for submission to court.

### **2.8.9 Questioning during an Internal Investigation**

During an internal investigation (which is not criminal in nature) of an employee's conduct, the employee must answer questions (*Garrity v. New Jersey*, 385 U.S. 493 (1967)) as directed by the investigating supervisor. The employee will also be advised that if they are found to have been intentionally untruthful during the Internal Affairs or Confidential Personnel Investigation, the member will be subject to disciplinary action up to and including termination. (*LaChance vs. Erickson*).

If the employee refuses to provide written and/or oral statements, the supervisor can order the employee to do so (*Garrity*). Failure of the employee to answer such questions or provide a written statement will result in additional charges against the employee with punishment up to and including termination.

If after being advised of the Garrity warning, the employee still refuses to answer questions pertinent to the investigation, the supervisor will immediately advise the Chief or Captain of Police who may relieve the employee of duty.

### **2.8.10 Internal investigations - other procedural guidelines**

1. When there are indications an employee is on duty under the influence of alcohol or drugs, actions shall be initiated by the employee's supervisor consistent with this directive, and any applicable provisions of the current Collective Bargaining Agreement(s).
2. Employees may be required to participate in a lineup only if probable cause exists to believe they are involved in a criminal offense.
3. Photographs of all agency employees will be maintained on file with the Chief of Police. 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 must meet the standards required for photographic lineups in criminal investigations.

4. No employee will be required or requested during the course of an internal investigation, to disclose any item of his or her property, income, assets, source of income, debts, or expenditures unless a particular internal affairs investigation involves allegations of bribery, theft or other financial impropriety.
5. Employees may be directed to have medical or laboratory exams conducted only when done to determine an employee's fitness for duty, pursuant to the collective bargaining agreements or when otherwise allowed by law.

#### **2.8.11 Reporting**

When the investigation of an internal affairs investigation, CPI or criminal complaint is completed, the assigned investigating supervisor will compile all reports and statements. and submit to the Chief of Police or designee, a complete report detailing;

- a. Date of the report
- b. Date, time, and location of incident
- c. Case number and allegations
- d. Complaint witnesses. (Names, Addresses, etc.)
- e. Alleged employee(s) involved
- f. Summary of incident
- g. Detailed report of investigation / summary of findings
- h. Conclusions and recommendations

Supervisors, upon closing a Confidential Personnel Investigation will lock the case allowing access to the employee's Division Commander, the Captain and Chief of Police.

#### **2.8.12 Time limits for Internal Investigations**

All CPI investigations should normally be completed within thirty (30) days of the receipt of the complaint. Extensions for extenuating circumstances may be approved by the Patrol Lieutenant or Captain.

All internal investigations will normally be completed within sixty (60) days of receipt of the complaint. However, extenuating circumstances may prevent concluding the investigation within this time period. If these circumstances indicate that it may take longer to conclude the investigation, the employee and the police union will be notified in writing that the investigation will last longer than (sixty) 60 days. Within ten (10) days of the conclusion of the investigation, the Chief shall bring charges, if any, against the employee who was the subject of the investigation.

### **2.8.13 Investigation Review**

Upon receiving the completed report/investigation, the Chief or Captain of Police or their designee, will determine if discipline is warranted, and if so, the nature of the discipline to be taken.

The Chief of Police or designee will ensure that the involved employee(s) is notified of the results of the investigation in writing.

The complainant will be promptly notified in writing of the status and/or disposition of their complaint at the conclusion of the investigation by the Chief of Police or designee.

Recommendation and the administering of formal discipline will be handled per the agency member's Collective Bargaining Agreement and the Vernon Police Department Rules of Conduct and Disciplinary Procedures.

If the employee is a sworn or armed member of the agency and is suspended and relieved of duty, the employee must turn in their badge, I.D. card, issued firearm and portable radio.

The Union representing the employee will be provided a copy of any disciplinary action within twenty-four (24) hours after such action has been taken.

No employee will be suspended, dismissed or demoted without a hearing within five (5) days, unless such employee waives such right to a hearing. (Per Union Contract). Any disciplinary action may be grieved as per Collective Bargaining Agreement.

### **2.8.14 Case Dispositions**

For each charge or allegation of misconduct or malfeasance which forms the basis for an internal affairs investigation, such charge or allegation will 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.

**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.

**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 will 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 or involve:

- Use of excessive force
- Discredit upon the agency
- Discredit upon the involved employee
- Commission of a criminal offense
- Allegations of racism, bigotry or prejudice against any race, religion, creed, national origin, sexual orientation, or circumstances beyond the individual's control, or,
- Any other serious matter at the discretion of the Chief

Reconciliation must be documented through the chain of command to the Chief of Police or designee. Reconciliation does not preclude further corrective action on the part of the agency.

### **2.8.15 Training**

Upon promotion, supervisors will receive training on this policy and the complaint intake and investigation process.

### **2.8.16 Filing and Retention of Personnel Complaints and Investigations**

All Internal Affairs investigations will be kept securely in the office of the Chief of Police in an internal affairs file. This confidential file will be kept separate from employee's personnel files, except a copy of written notices of discipline will be filed in the employee's personnel file.

Copies of investigative files and associated records must be retained for the length of time required in accordance with the Public Safety and Emergency Services Records Schedule M7 from the CT State Library Office of Public Records Administrator.

Internal Affairs investigations may be subject to disclosure pursuant to Freedom of Information requests.