



Chief of Police

Peter N. Ingvertsen
Peter N. Ingvertsen

Subject: Internal Affairs

General Order/ G.O. 52-1

Date Issued – Distribution
01/28/2002

Rescinds – Amends
02/16/2007
09/18/2008
12/01/2010
06/24/2015

INTERNAL AFFAIRS

PURPOSE

To establish policy to accept, process, investigate, take appropriate action upon and resolve complaints against the department or its members.

POLICY

The Simsbury Police Department shall respond to 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 regardless of how the complaint is made.

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 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.

A. DEFINITIONS:

1. **Complaint:** An allegation of employee misconduct or malfeasance.
2. **Complainant:** Any person who files a complaint regarding misconduct or malfeasance on the part of an agency employee.
3. **Complaint Control Number:** A unique numerical code used to identify and track citizen complaint investigations.

4. **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.
5. **Employee:** Any person employed by the agency, whether sworn or non-sworn.
6. **Internal Affairs Officer:** The designated person(s) with primary responsibility of conducting an investigation of administrative or citizen complaints involving misconduct or malfeasance.
7. **Malfeasance:** Illegal or dishonest activity especially by a public official.
8. **Misconduct:** Any act or omission by an employee that is illegal or which violates established policy.
9. **Supervisor:** Includes those holding the rank of Sergeant or higher.

B. INTERNAL AFFAIRS 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 or designee will assure that the complaint is assigned to an Internal Affairs Officer.

The Administrative Commander and the Operational Commander are hereby designated as Internal Affairs Officers. The Internal Affairs Officer assigned to investigate shall report directly to the Chief of Police. The Chief of Police may designate additional officers and/or agencies to act in this capacity, as warranted.

C. PROCEDURES:

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 agency. All sworn and civilian employees shall be required to accept a complaint alleging misconduct or malfeasance by agency personnel. All employees must courteously inform an individual of his or her right to make a complaint if the individual objects to an employee's conduct. Employees have a duty to assist any person who wishes to file a citizen's complaint by documenting the information and allegations they provide, advising the individual how to proceed, and by promptly putting the complainant in contact with a supervisor who can assist them with filing their complaint. No employee shall refuse to assist any person who wishes to file a citizen complaint or

discourage, interfere with, hinder, delay, or obstruct a person from making a citizen complaint.

2. Acceptance of Complaint:

The Simsbury Police Department Uniform Civilian Complaint Report shall be completed with each complaint. Each complaint shall be assigned a Complaint Control Number (CCN) by the Internal Affairs Officer to track complaints and a copy of this form shall be filed in a separate Complaint File.

Complaints may be accepted in writing, verbally, in person, by mail, telephone (TDD), facsimile, and electronically, or by any other means. Anonymous and third party complaints will also be accepted.

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 officer will inform the complainant that they will be contacted by a supervisor by the next business day. The employee will assist the complainant by:

- Explaining the Department's complaint procedures.
- Providing the complaint form(s) and/or complaint filing information and/or giving instructions as to where the complaint forms may be obtained.

If complaints are received by mail, all correspondence received containing allegations shall be forwarded to the Chief of Police or the Chief's designee where they will be officially received. A letter of acknowledgment must be prepared advising the complainant (if known) that the matter is being investigated and that they will be contacted by the investigator assigned.

Sworn and civilian employees who receive a complaint about their own conduct shall immediately refer the complaint to a supervisor.

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.

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.

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.

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

3. Notification to Chief of Police and Division Commanders:

- a. Supervisors will notify their Division Commander or Duty Officer in a timely manner for all complaints that may be investigated by a line supervisor (Section D.2). This notification will be done by e-mail by the end of the shift in which the complaint was received and followed by a verbal notification within 24 hours.
- b. Supervisors will immediately notify the Division Commander or Duty Officer with a verbal notification of any serious allegations (Section D.2).
- c. Division Commanders will make notification to the Chief of Police of any allegations at the earliest practical availability. Notifications of a serious allegation that will require investigation by a Division Commander will be done verbally. Other complaints may be done by e-mail.

4. 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 Officer or 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.

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 unit, supervisor or internal affairs designee to be aware of these fears and develop reasonable strategies to assist the complainant in dispelling those fears.

D. INVESTIGATION OF COMPLAINTS:

1. The Chief of Police or the Chief's designee shall assure that all complaints received are processed and investigated appropriately as set forth in this policy. Internal Affairs investigations shall be completed in a timely manner within the time limits determined by the Chief of Police, including extensions granted by the Chief of Police or designee for good cause.
2. Allegations of rudeness, tardiness, insubordination, and improper or minor violations of policy and procedures may be investigated by line supervisors. More serious allegations, such as allegations of corruption, brutality, misuse of force and major violations of policy and procedure will be investigated by a Division Commander.
3. Complainants shall be notified in writing within five (5) business days of receipt that:
 - a. Their complaint has been received by the agency and is currently pending.
 - b. A complaint number has been assigned (including the assigned number).
 - c. They will be informed in writing of the outcome of the complaint promptly following conclusion of the investigation.
 - d. 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. The subject of the investigation shall be notified in writing within five (5) business days of the receipt of such complaint of:
 - a. The fact that a complaint has been made.
 - b. The identity of the complainant, if known.
 - c. The substance of the complaint.
 - d. The law or policy that is alleged to have been violated.
 - e. The date upon which the investigation is expected to be completed.
5. 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.
6. Nothing in this policy precludes the Chief of Police from referring an internal affairs investigation to an outside agency if such action would be in the best interest of the municipality and of justice.
7. The following investigative techniques may be used under the conditions specified below and in accordance with applicable federal law, state statute, case law, collective bargaining agreements, and administrative decisions.
 - a. When there are indications an employee is on duty under the influence of alcohol, the employee may be required to submit to visual, field sobriety, and blood alcohol tests. The results will be recorded. A blood or urine test may be required of any employee suspected of using any illegal drug or controlled substance on or off duty.
 - b. For the protection of officers and the department, in investigations of shooting incidents, an officer who used a firearm will be required to submit to a blood and/or urine test to determine any use of alcohol or non-prescribed drugs.
 - c. Employees may be required to submit to photographing or participation in a line-up if probable cause exists to believe they were involved in a criminal offense and if the evidence is material to a particular offense being investigated.
 - d. Employees may be required to submit financial disclosure statements when it is material to an internal affairs investigation.
 - e. Polygraph examinations may be administered during the investigation of a very serious incident or complaint.

8. Generally, Internal Affairs investigations shall be completed within 30 days. Verbal status reports shall be presented to the Chief of Police every seven days. Investigations may be extended with the approval of the Chief of Police on an as-needed basis.
9. All aspects of an internal affairs investigation shall be held confidential by ALL parties involved.

E. EMPLOYEE RIGHTS AND RESPONSIBILITIES:

An employee has the following rights and responsibilities during an internal affairs investigation:

1. The right to the presence of a union official whenever an employee is requested or required to give a statement which could result in his/her discipline or discharge and/or at all stages of the Internal Affairs investigation. Unless the employee requests the presence of a union official, he/she will be deemed to have waived that right.
2. Prior to or during an interrogation, the employee may review any reports or statements he/she may have made on the subject of the interrogation.
3. During the interrogation, the employee may consult with his/her union representative in the absence of the interrogator.
4. The employee may be interviewed about his/her off-duty behavior, when the off-duty conduct involves action in his/her capacity as a police officer, or reflects on the department.
5. Prior to or during the interrogation, the employee may invoke the Fifth Amendment. However, the Fifth Amendment cannot be used as a defense to discipline imposed upon the employee for refusing to answer pertinent questions strictly and narrowly confined to performance of his/her police duty.

F. REVIEW OF THE INVESTIGATION:

1. The designated internal affairs investigator's supervisor shall review the investigation to determine the thoroughness, completeness, accuracy and objectivity of the investigation.
2. The completed report of investigation, disciplinary recommendation if any and the recommended disposition shall be reviewed by the Chief of Police or the designee of the Chief of Police.
3. 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.

4. 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.

G. 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 the investigation in one of the following manners:

1. **Exonerated:** The investigation determined by a preponderance of the evidence that misconduct or malfeasance was committed, but not by the subject of the investigation.
2. **Unfounded:** The investigation determined by a preponderance of the evidence that the misconduct or malfeasance complained of did not occur.
3. **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.
4. **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.
5. **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.
6. **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.
7. **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.

8. **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 or her designee. Reconciliation does not preclude further corrective action on the part of the agency.

H. 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 investigation.

I. PUBLIC INFORMATION AND ACCESS:

The Chief of Police will:

- a. Ensure informational materials (complaint policy and forms) are made available to the public through police personnel, the police department facility, the police agency web site, the general government web site of the agency, the internet, libraries, community groups, community centers and at other designated public facilities.
- b. Ensure that copies of this policy and complaint forms are available at the Town Hall or other municipal building located within the municipality served by the law enforcement agency, other than a municipal building in which the law enforcement agency is located. This information should include relevant phone numbers and any addresses where complaints can be made. This information must explain the complaint process in English and Spanish.

The Office of the Chief of Police shall maintain and protect the confidentiality of all internal affairs records in a secure area.

J. INTERNAL AFFAIRS ANALYSIS

The Administrative Commander or the Chief's designee shall compile an annual summary of Internal Affairs investigations that shall be submitted to the Chief of Police and made available to the public and department employees. The summary shall include the year, the number of investigations, and the conclusion of the investigation.

This policy/general order of the Simsbury Police Department may be amended as necessary to ensure its compliance with all applicable state and general laws and regulations. The Simsbury Police Commission is aware that changes in state and federal laws and regulations may require that this policy be amended from time to time. Therefore, the Simsbury Police Commission, without prior approval or review, accepts any changes to this policy that maintains its compliance with all applicable state and federal laws and regulations.