



East Windsor Police Department



Department Operational Directive

Chapter: 52 – Internal Affairs		Review: Annual
Section: 01 – Internal Investigations		Priority: High
Amends: DOD 52-01 issued 10/01/2002	Issue Date: 5/21/2014	
Rescinds:	Effective Date: 5/21/2014	
CALEA Reference: 52.1.1, 52.1.2, 52.1.3, 52.1.5, 52.1.6, 52.1.7, 52.1.9, 52.1.10, 52.1.11		
State Accreditation Standard: 1.2.33, 1.2.34, 1.2.35, 2.2.17, 2.2.35, 2.2.36		
Authorized – Edward J. DeMarco, Jr., Chief of Police		<i>Chief E.J. DeMarco, Jr.</i>

PURPOSE:

To provide a fair and effective avenue for the redress of legitimate grievances against members of the East Windsor Police Department. In addition, this policy provides protection to Police Department members from false allegations of misconduct and provides them with due process safeguards.

DEFINITIONS:

- Employee: All sworn, non-sworn, on duty or off duty personnel.
- Complaint: An allegation of improper or inappropriate conduct by an employee.
- Counseling: A one on one discussion with an employee meant to correct a weakness, misunderstanding, misinterpretation, or noncompliance with a rule, regulation, statute, directive or common practice.
- Training: An alternative to discipline, or an alternative to be used in conjunction with discipline, with the intent to reinstruct an officer in a specific job skill area, resulting in the officer improving his/her practical application.
- Discipline: A penalty ranging from a verbal warning to dismissal. Disciplinary procedures follow the format established in [Departmental Operational Directive 26-1](#).
- IA-1-83 Form: Civilian Complaint Report: Initial intake form to be completed by the complainant, sworn to and returned to the department.

POLICY:

It is the policy of the East Windsor Police Department that an Internal Investigation system is in effect. This procedure ensures objectivity, fairness, and justice by an impartial investigation and review, whereby maintaining the integrity of the Police Department.

- A. All complaints against members of the East Windsor Police Department will be received, investigated, and will have appropriate action taken.
- B. Complaints may be accepted on a 24 hour basis by any member of this Department. Anonymous complaints will be reviewed by the Operations Commander to determine if a formal complaint will be conducted.
- C. All personnel receiving complaints will be courteous, responsive, and helpful and will adhere strictly to the Departmental Operational Directive.
- D. Nothing in this procedure will preclude the Chief of Police or his designate from enacting a proactive internal investigation without a complaint.
- E. All investigations will normally be conducted by a supervisory officer assigned by the Chief of Police or his designate.
- F. The Operations Commander will have overall responsibility for the Internal Affairs function within the East Windsor Police Department and will report directly to the Chief of Police.

PROCEDURES:

- A. Complaints from Sources Outside of the Department
 - 1. By mail: Referred to the Chief of Police. The Operations Commander will then ensure the following:
 - a. A letter of acknowledgment is sent to the complainant assuring that the complaint is under consideration;
 - b. A preliminary investigation is initiated, if appropriate.
 - 2. Walk-in or telephone complaints will be advised to complete the Civilian Complaint Report.
 - a. The completed Civilian Complaint Report will be referred to the Operations Commander.
 - 1) A letter acknowledging receipt of the Civilian Complaint is to be sent assuring that the complaint is under consideration.
 - 3. In the field
 - a. Any Police Department member approached by a complainant expressing allegations of police misconduct will direct the complainant to the Shift supervisor.
 - b. If a supervisor is approached in the field, he will handle the complaint as if it were a walk in complaint.

- 1) If a complaint is of such a nature that the supervisor is able to handle it at his level he is to take all appropriate action and make the Operations Commander aware of the complaint and any action taken.

c. Lawsuits and Civil rights complaints

- 1) As soon as the Department receives notification of intent to sue, a civil rights violation or other similar legal action the Chief of Police or his designate may initiate an internal affairs investigation. He will also ensure that the Police Commission, First Selectman and the Town Attorney are notified.

B. Preliminary Investigations

1. The employee receiving a Civilian Complaint form will notify the Shift Supervisor of the receipt of the complaint.
2. The Shift Supervisor will review the complaint and will gather sufficient information to determine the course of the investigation. This may include:
 - a. Gathering of statements, evidence or photographs;
 - b. The Shift Supervisor may ask a subordinate to explain his/her actions and may require a supplement be completed relative to the incident to help in the guidance of the investigation.
 - 1) In some cases, what initially appears to be a complaint may only be a lack of understanding of what occurred. By listening and giving responsive explanation of the activity in question, the concerns of the citizen or employee may be resolved.
 - 2) Nothing in this order is intended to prevent complaints from being resolved at the initial supervisory level.
 - (a) In many cases, minor complaints can be resolved quickly, to the satisfaction of the complainant and the supervisor by contacting the officer(s) involved and re-contacting the complainant with an explanation. In such cases, the Citizen Complaint Report will document the investigatory steps taken and any other important aspects of the complaint. All reports will be forwarded to the Operations Commander for review and filing.
 - (b) Supervisors should keep in mind that if at all possible, an officer should be interviewed while on duty. If there is some urgency requiring an immediate interview, off duty officers called to return to duty will be paid overtime per the prevailing bargaining agreement. The Operations Commander will be called prior to any off duty officer being called in for this purpose.
 - 3) Where a supervisor becomes aware of a situation or information that would constitute a complaint, the fact that a citizen does not wish to complain does

not necessarily resolve the matter. In such cases, the supervisor must consider the seriousness and circumstances of the incident. If appropriate, the supervisor will initiate a complaint and pursue the information received per section #2 above. The final decision to initiate an internal affairs complaint will rest with the Operation Commander upon receipt of the supervisors' report.

- 4) The supervisor who initiates an Internal Investigation will indicate a recommendation as part of the investigatory narrative.
 - (a) For example, if the supervisor believes the incident has been resolved with the complainant, and no further action is necessary, he/she will make that recommendation and support it with a narrative. The narrative must include how the complaint was resolved.
- 5) The following complaints must be referred to the Operations Commander for further Internal Affairs Investigation or review.
 - (a) Corruption
 - (b) Brutality
 - (c) Misuse of Force
 - (d) Breach of Civil Rights
 - (e) Criminal Misconduct
- 6) The Shift Supervisor when he believes that an officer is psychologically or physically unfit to perform his/her job assignment, or for administrative reason (i.e. officer involved in shooting) will notify the Operations Commander of all the facts pertaining to the matter, who will in turn notify the Chief of Police. The Operations Commander or his designee may relieve the officer from duty pending a further investigation. In addition, an incident report will be completed by the supervisor which will include all the circumstances that led the supervisor to recommend this action.

C. Routing of Complaints

1. The completed Civilian Complaint Report and any attached reports will be forwarded to the Operations Commander. This form should reach the Operations Commander upon the first date that he/she returns to work after the receipt of the complaint. If the forms and reports have not been completed the Operations Commander is to be verbally informed of the complaint as soon as he is available.
2. The Operations Commander will then forward a copy of the Civilian Complaint form and any attached reports to the Chief of Police. The employee who is subject of the complaint will be forwarded a copy of the complaint within three working days of the initiation of the investigation.
 - a. No interview will be conducted without a 24-hour notification to the employee who is the subject of the investigation.
 - b. The Operations Commander will keep the Chief of Police apprised of all IA investigations.

- c. If the complaint is not resolved by the Shift Supervisor receiving the complaint, he will inform the complainant that a follow up investigation will be conducted and that a re-contact may be required concerning the investigation and they will be advised of the disposition of the investigation.
3. The Operations Commander will review all Civilian Complaint Reports and after reviewing the complaint will determine if an investigation is warranted and will either perform the investigation himself or assign all or part of the investigation to a supervisor.
4. Within 48 hours of the receipt of the Civilian Complaint Report, the Operations Commander will send a letter to the complainant advising that the complaint had been received.
 - a. This letter will advise the complainant that an investigation into the allegations is being conducted, the name and rank of the investigator or if appropriate that the complaint has no merit on its face and that no further investigation is being conducted.
 - 1) The assigned investigator will periodically advise the complainant of the status of the investigation.
6. Copies of all Internal Complaints and connected reports, whether resolved at the lowest level or assigned for follow up investigation will be maintained by the Operations Commanders.
7. Exceptions to the notification procedures in this section may be necessary when the complaint is of serious criminal nature and such notification would hinder the criminal investigation or any serious internal matter where release of information or notification would interfere with the investigation process.

D. Internal Affairs Investigations

1. As with any investigation, timeliness is a critical factor. This is especially true for personnel complaints. For the benefit of the employee involved, the complainant, and the Department, the investigation of complaints against personnel is to be considered a priority item by the assigned investigator.
2. If, in the course of the investigation, criminal misconduct is discovered, the internal affairs investigator, if other than the Operations Commander, will immediately notify the Operations Commander. The Operations Commander will advise the Chief of Police. If a criminal investigation is to be conducted a separate supervisor or investigator will be assigned to investigate the alleged criminal misconduct. Any criminal investigation will be conducted prior to any administrative investigation.
3. If the Shift Supervisor believes that a complaint may be criminal in nature, he will notify the Operations Commander immediately, who will in turn notify the Chief of Police. If a criminal investigation is to be conducted, several important points must be adhered to by the investigating supervisor/investigator. In addition, the East Windsor

Police Department will maintain a liaison with the State's Attorney's Office to aid in any legal advice as well as case preparation.

- a. If the complaint is suspected of being criminal in nature, the supervisor will prior to interviewing the subject employee, advise the employee that the matter is criminal in nature and is being investigated as such.
- b. If the complaint is not criminal in nature, the investigator will advise the employee of his/her rights under the Garrity decision utilizing the Garrity Warning Form.
 - 1) Employees must realize that the 5th amendment does not give a Law Enforcement Officer the right to refuse to answer a question during an IA investigations that is specifically, directly, and narrowly related to the performance of the officer's duties.

In this situation, the employer may demand an answer on pain of dismissal even though the answer may tend to or does incriminate. The employer may then move for termination of the employee based on his/her answers or for refusing to answer. Any statements given by the subject employee under Garrity will not be admissible in a criminal prosecution.

4. Written statements are encouraged from citizens as well as employees. Employees or citizens may have a copy of any written statements that they provide.
5. If a citizen refuses to sign or complete a written statement, the investigator will proceed with the investigation as best as he can.
 - a. The failure to sign does not necessarily negate an investigation, depending on the seriousness of the allegation.
6. When the investigation is completed, the investigator, if not the Operations Commander, will submit the information to the Operations Commander with conclusions.
7. The following procedural guidelines will be followed:
 - a. When there are indications an employee is on duty under the influence of alcohol or drugs, the shift supervisor will refer to [DOD 41-50](#) Substance Abuse and Rehabilitation Policy for appropriate action.
 - b. Photographs of all agency employees will be maintained by the department and may be used to conduct photographic lineups in order to identify an employee accused of misconduct.
 - c. An employee may be directed to participate in a line up in order to identify an employee accused of misconduct.
 - d. No employee will be required or requested to disclose any item of his/her property, income, assets, source of income, debts, or expenditures (including those of any member of his family or household) unless it becomes necessary for

the department to ascertain the desirability of assigning the employee to a specialized unit in which there is a strong possibility that bribes or other improper inducements may be offered.

- 1) No such financial information shall become a part of an internal investigation unless that information is obtained under state law or other proper legal procedure.
- e. Polygraph examinations will not be administered in internal investigations unless the officer who is the subject of the investigation, specifically request to be so examined.

Nothing in this order will preclude the Chief of Police from calling in an outside agency (i.e. State's Attorney) to assist or conduct the investigation.

E. Receiving Complaints from Employees about Co-workers

1. Consistent with the philosophy of maintaining a professional law enforcement organization, it is the duty of any employee becoming aware of misconduct on the part of another employee to report the misconduct to his/her supervisor.
2. Supervisors who become aware of misconduct on the part of a subordinate will utilize the procedure set forth under Procedures section A. Officers of a supervisory rank will handle complaints by employees about other department employees.

F. Disposition

1. The Chief of Police will determine if discipline is warranted. If so, the nature of the discipline. The determination may be based on the finding of the investigating officer. If the decision is that formal discipline is not appropriate, yet the complaint was sustained or misconduct noted, other alternatives to improving employee performance are to be considered.
 - a. Further training may be determined to be appropriate for the employee. Records of his retraining will go into the IA file and in the officer's training file.
 - b. Counseling may also be a viable alternative.
2. The investigator will be a finder of fact for each allegation.
3. The Chief of Police will determine the final disposition of all complaints and allegations.
4. Within 7 days of determining the final disposition, the Chief of Police or his designate will notify the complainant as well as the subject officer of the findings of the investigation.
5. Dispositions for each allegation will be selected from the following:
 - a. Exonerated - the actions were justified, lawful and proper

- b. Unfounded - incident is false or not factual and did not occur.
 - c. Not Sustained - insufficient evidence to clearly prove or disprove the complaint or incident.
 - d. Partially Sustained - sufficient evidence to clearly prove at least one of the allegations made is not sustained. However, other allegation(s) are sustained and/or officer(s) action(s) are found to be in violation of Department Rules and Procedures.
 - e. Sustained W/O Discipline - incident did occur, but facts and circumstances are of such a nature that formal discipline is not warranted.
 - f. Sustained With Discipline - incident did occur and the facts and circumstances support the determination that these actions constitute misconduct.
 - g. Withdrawn - complainant wishes investigation discontinued and concurrence of this action is obtained by the reviewers.
 - h. Other - To be filled in by investigator
6. An employee, who may be found guilty of charges and subjected to discipline or discharge, will only have such action taken for just cause. Employees will have the right as provided by the Bargaining Agreement, to appeal such decision through the grievance procedure.

G. Time Constraints

1. Civilian Complaint Report will be forwarded to the Operations Commander no later than 1 business day after the complaint is received. If the complaint is of a very serious nature or criminal in nature, the shift supervisor will contact the Operations Commander and the Chief of Police by phone.
2. The subject employee will be advised by the Operations Commander of the complaint within 3 working days of instituting an Internal Affairs Investigation. Except if the complaint is of a criminal nature or a serious internal matter and such notification would hinder the criminal or administrative investigation. This notification is to be in compliance with the prevailing bargaining agreement.
3. Investigations will be completed within 60 days unless an extension is granted, due to extenuating circumstances. The officer who is the subject of the investigation is to be notified by the Operations Commander of the extension and the length of such extension, not exceed 60 days according to the prevailing bargaining agreement.

H. Employee Rights

1. All officers should be aware that they have the following rights during an internal investigation:

- a. An officer has the right to the presence of a Union Representative whenever he is requested or required to give a statement, which could result in discipline or discharge. The subject officer will sign a waiver of union representation that will indicate that he/she wishes or waives such representation.
- b. Prior to an interview the officer will be notified of the nature of the allegations.
- c. Prior to or during an officer's interview, he may review any reports or statements he may have made on the subject of his interview.
- d. During an officer's interview, he may consult with his union representative in the absence of the interviewer.
- e. An officer may be interviewed regarding his off-duty behavior, when his off duty behavior involves action in his capacity as a police officer, which either reflects or has an effect on the East Windsor Police Department.
- f. Prior to or during an officer's interview, he may invoke the 5th amendment. However, the 5th amendment cannot be used as a defense to discipline imposed upon him for refusing to answer pertinent question strictly and narrowly confined to the performance of his police duty.

I. Internal Affairs Procedures

1. Normally, investigations that can be resolved at the first line level will proceed as follows:
 - a. Shift supervisor receives or completes a Civilian Complaint Report.
 - b. Complainant is provided a copy of the completed Civilian Complaint form and/or his statement.
 - c. Shift supervisor makes a preliminary investigation.
 - 1) Complaint is resolved
 - d. Operations Commander is notified of complaint and reviews results.
 - 1) If concurs notifies Chief of Police
 - 2) If doesn't concur refers back to supervisor
 - e. Chief of Police either concurs or refers back to Operations Commander for further investigation.
2. Complaint is not resolved at first line level
 - a. Complaint is referred to the Operations Commander, who notifies Chief of Police of complaint.

- b. Operations Commander notifies Complainant and Officer that Internal Investigation has been instituted within 3 working days of instituting an Internal Investigation.
- c. Investigation is conducted and completed, generally within 60 days.
- d. Operations Commander receives and reviews completed report, unless he conducts the investigation.
 - 1) Returns to investigator if additional investigation to be done.
- e. Operations Commander forwards completed report to Chief of Police.
- f. Chief of Police reviews completed report, and he or his designate notifies officer and complainant of final action.
- g. All personnel will receive updates and/or changes to this policy.

J. Documentation

- 1. All complaints against employees are considered confidential and subject to disclosure as outlined in this directive. I.A. records shall be kept in a secure location under the direction of the Chief of Police.
- 2. Forms normally to be utilized during an Internal Investigation are attached. Other forms that may be utilized are department statement and supplement forms.
- 3. On an annual basis the Operations Commander will compile a statistical summary based upon records of IA investigations. This summary will be made available to the public and department employees.

AUTHORIZED BY:



Edward J. DeMarco, Jr.
Chief of Police

5/21/2014

Date