



# *Windsor Police Department General Order*

<b>Internal Investigations/Citizen Complaints</b>	<b>G.O. 11.01</b>
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## **Policy**

It is the policy of the Windsor Police Department to comply with Public Act No. 14-166 and to provide a procedure that will accept, process, investigate, take appropriate action upon and resolve complaints from a member of the public alleging abuse of authority, corruption, criminality, poor or slow service, or other misconduct or malfeasance on the part of agency personnel.

## **Definitions**

Complaint: An allegation of employee misconduct or malfeasance.

Complaint Control Number: A unique numerical or alphanumeric code used to identify and track citizen complaint investigations.

Discipline: Adverse action taken by the agency against any employee as the result of an internal affairs investigation including, but not limited to, a written reprimand, suspension, demotion or dismissal.

Employee: Any person employed by the agency, whether sworn or non-sworn.

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 any person holding the rank of Sergeant or higher, or for Dispatchers or Records personnel, the Records & Communications Manager.

## **General**

This department will receive, investigate and take appropriate action as outlined in this procedure on complaints made in writing, by mail, telephone (or TDD), by facsimile, electronic mail, or in person any time of the day or night to any member of this department. This procedure will include the receipt and investigation of anonymous and third party complaints. All police personnel receiving complaints will be courteous, responsive and helpful while adhering to established procedures.

There shall be no retaliation in any form by any member of this agency directed at an individual who makes a complaint.

During the complaint intake process, no questions shall be asked of a complainant regarding their immigration status.

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.

Complainants will be provided complaint forms on which to lodge their complaints. Each complaint shall be assigned a Complaint Control Number (CCN) to track complaints and a copy of this form shall be filed in a separate Complaint File. Interpreters may, as required, be utilized. Nothing contained in these procedures will preclude the Chief of Police from enacting a proactive internal investigation without a complaint if, in his or her opinion, such action is necessary.

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), the date and time the complaint was received, and the name, rank and/or title of the person receiving the complaint.

## **Procedures**

### **Internal Affairs Responsibility**

The Office of the Chief of Police has primary oversight and authority over 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.

The designated division, unit, person or supervisor shall be responsible for:

1. Conducting a thorough, fair and impartial investigation of every complaint received regardless of the method of 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 criminal misconduct discovered on the part of any individual during the course of an internal affairs investigation.
5. Preparing suggested revisions of Agency Policies and Procedures where existing deficiencies have been a contributing factor to misconduct.

### **Acceptance, Filing and Intake of Complaints:**

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.

Employees will explain the Department's complaint procedures and provide complaint form(s) and/or complaint filing information and/or give instructions as to where the complaint forms may be obtained.

By Mail: All correspondence received containing complaints will be forwarded to the Chief of Police or his or her designee where they will be officially received. The Chief of Police or his or her designee will:

1. Assure that the complaint is officially logged and assigned a Complaint Control Number (CNN).
2. Prepare a letter of acknowledgment assuring the complainant the case is being investigated and that an investigator will contact them.
3. Arrange for a written, sworn statement, to be taken from the complainant.

Walk-in Complaints: All walk-in complaints will be referred first to the highest-ranking supervisor available who supervises the officer in question. If that supervisor is not available, the complaint will be referred to the highest-ranking Patrol Supervisor who is available. Under no circumstances will a complainant be told to come back to make a complaint. The following procedure will be followed:

1. After the complaint is received and properly documented, the complainant will be placed under oath and requested to sign the complaint after reading (or having been read) the warning for perjury or false statements. Such warning will appear on the complaint form. If the complainant refuses to sign the complaint, the complaint will still be received and the refusal to sign will be noted. Every effort must be made to have the complainant sign the complaint.
2. The complaint investigation procedure will be explained to the complainant and he or she will be given a copy of the complaint as a receipt.
3. The complaint will then be officially logged, assigned a Citizen Complaint Number, and referred for investigation.

By Telephone: Complaints received by telephone will be forwarded to the highest-ranking supervisor available who supervises the officer in question. If that supervisor is not available, the telephone call will be forwarded to the highest-ranking Patrol Supervisor who is available. Under no circumstances will a complainant be told to call back to make a complaint. The party responsible for receiving the complaint will urge the complainant to come to Police Headquarters so that a signed, sworn statement may be obtained. The following procedure will also be followed:

1. A supervisor may be sent to the complainant's location to receive the complaint unless the complainant declines such a visit or circumstances exist which make it unfeasible

for a supervisor to make such a visit (e.g. a major incident is underway which requires immediate attention by all supervisory personnel).

2. If the complainant refuses to come to Headquarters and a supervisor is not sent to the complainant's location, a memo must be generated by the supervisor taking the phone call containing as much information as possible. This memo must be forwarded to the Chief's Office and will be used to initiate the investigation process. As a last resort, a complaint form may be sent to the complainant. However the supervisor must still complete a memo with all available information and forward it to the Chief's Office.

In the field: Any police department member approached in the field by a complainant expressing allegations of police misconduct, will immediately notify a field supervisor and request that the complainant await the supervisor's arrival.

1. The field supervisor will make every effort to have the complainant go to Police Headquarters to make his or her complaint in written form that can be notarized. If the individual refuses to come to Headquarters to make a complaint, the supervisor will attempt to take a statement from the individual in the field. If that is impossible then a memo will be generated and forwarded to the Chief's Office.
2. 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.

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

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

In all instances, employees will 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, will 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.

#### 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 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 investigator(s) of the complaint should re-interview the person after he or she has 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 may be considered 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.

#### 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 investigator(s) of the complaint to be aware of these fears and develop reasonable strategies to assist the complainant in dispelling those fears.

#### Investigations of Complaints:

The Chief of Police or his designee will assure 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 by the Chief of Police or designee for good cause. Unsigned complaints must be concluded within thirty (30) days of the filing of the complaint. The thirty (30) day time period may be extended for unusual circumstances (ie; witness unavailable, incapacitated, etc.)

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

The subject of the investigation shall be promptly notified of the complaint in writing within five (5) business days of the receipt of such complaint of;

1. The fact that a complaint has been made
2. The identity of the complainant, if known
3. The substance of the complaint
4. The law or policy that is alleged to have been violated
5. The date upon which the investigation is expected to be completed.

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.

Whenever a Police Officer is under investigation for any reason which may lead to disciplinary and/or criminal charges, such investigation shall be conducted in the following manner:

- Any questioning of the Police Officer shall be conducted at a reasonable hour, normally when the Police Officer is on duty, unless the seriousness of the investigation warrants an immediate investigation as determined by the Chief of Police.
- If the Police Officer under questioning is under arrest or is likely to be placed under arrest, he or she shall be informed of all his or her rights prior to the beginning of questioning.
- If the employee so desires, a local Union Representative may be present during any questioning which may lead to suspension, involuntary demotion, dismissal, or arrest.

### **Review of the Investigation**

This department will provide an Internal Review Process separate and apart from the investigator to determine the thoroughness, completeness, accuracy and objectivity of the investigation. The Chief of Police may require those involved in this review process to make findings and recommendations to the Chief of Police. The Chief of Police shall, however, review each investigation for thoroughness, completeness, accuracy and objectivity and shall have final authority relative to determining the proper disposition of the case. Upon determination of the disposition of the investigation, a letter shall be forwarded to the complainant, the involved officer(s) and the Division Supervisor detailing the outcome of the investigation.

Nothing in this procedure will preclude the Chief of Police from calling in an outside investigative agency such as the State Police, Federal Bureau of Investigation or other federal or state agency if such action would be in the best interest of the jurisdiction and of justice.

### **Complaint Dispositions**

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:

**Exonerated:** The investigation determined by a preponderance of evidence that the actions of the officer(s) were justified, lawful and proper or that any misconduct or malfeasance which occurred did not involve the officer(s) who are the subject of the complaint.

**Unfounded:** The investigation determined by a preponderance of evidence that the act or acts complained did not occur or did not involve police personnel.

**Not Sustained:** The investigation was unable to determine by a preponderance of evidence whether or not the acts complained of occurred, or whether or not it was committed by the subject of the investigation.

**Sustained:** The investigation determined by a preponderance of evidence that the misconduct or malfeasance alleged in the complaint did occur and that the officer(s) identified in the complaint committed that misconduct or malfeasance.

**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(s) of the investigation.

Withdrawn: At some point prior to the completion of the investigation, the complainant notifies the department that he/she wishes the investigation discontinued and concurrence for this action is 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 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:

1. Discredit upon the agency.
2. Discredit upon the involved employee.
3. Commission of a criminal offense; or
4. 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.

### **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.

### **Public Information and Access:**

The Chief of Police will:

Ensure informational materials 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.

Ensure that copies of this policy and complaint forms are available at the town hall or another 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 complaint policy and forms should be made available online where the agency, or the municipality served by the law enforcement agency, has an Internet website.

**Allegations of Biased Based Policing: Compliance with General Statutes §54-1m**

When a complaint alleges that a person has been subjected to a motor vehicle stop by a police officer solely on the basis of race, color, ethnicity, age, gender, sexual orientation or religion, a copy of each such complaint and a written notification of the review and disposition of such complaint shall be provided to the Chief State's Attorney and the Office of Policy and Management Criminal Justice Division. 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.