



MIDDLETOWN POLICE DEPARTMENT

SECTION 401

DISCIPLINARY PROCEDURES

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| SUBJECT: CITIZEN COMPLAINT PROCESS | | |
| Issue Date: | Effective Date: 10/1/15 | Distribution: All Personnel |
| Amends/Rescinds: | | Review Date: |
| Per Order of Chief of Police: William McKenna | | POSTC State Accreditation: 1.2.34; 2.2.23; 3.2.64 |
| <i>This Policy is for departmental use only and does not apply in any criminal or civil proceeding. This Policy should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this Policy will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting</i> | | |

I. PURPOSE:

The purpose of this policy is to provide all Middletown Police Department (“MPD” or “Department”) employees, and the public, the procedures for accepting, processing, and investigating allegations of officer misconduct or citizen complaints. This policy defines provisions applicable only to the receipt and processing of complaints.

II. POLICY:

The Middletown Police Department’s public image is determined by a professional response to allegations of misconduct against its employees. The establishment of procedures for the acceptance of complaints is crucial to demonstrate and protect MPD’s integrity. This Department shall accept, and fairly and impartially investigate, all complaints or allegations of misconduct to determine their validity. The Department shall timely impose any disciplinary or non-disciplinary corrective actions that may be warranted. All complaints against the MPD and/or employee conduct shall be accepted and documented regardless of whether the filed complaint is in writing, verbally in person, by mail, by telephone (or TDD), by facsimile or electronically, or anonymously.

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. Employees 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.

III. DEFINITIONS:

Complaint: An allegation of employee misconduct.

Complainant: Any person who files a complaint regarding the conduct of any Department employee.

Counseling: A one on one discussion with an employee meant to correct substandard performance, misunderstanding, misinterpretation, or noncompliance with a rule, regulation, statute, general order, or common practice. Counseling can be documented by supervisors without being considered discipline.

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.

Employee: Any person employed by the Middletown Police Department, whether sworn or non-sworn.

Misconduct: Any conduct by an MPD employee that violates MPD policy or the law, which if sustained could result in consultation, training, and/or discipline. This includes, but is not limited to: (1) commission of a criminal act; (2) neglect of duty; (3) violation of MPD policy, procedure, rule or regulation, or training standard; and/or (4) conduct which may tend to reflect unfavorably upon the employee and/or Middletown Police Department.

Professional Standards Division (PSD): The designated Division with primary responsibility for conducting investigations of administrative or citizen complaints of misconduct.

Professional Standards Number (PS#): A unique numerical or alphanumeric code used to identify and track citizen complaint investigations.

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

IV. PROCEDURES:

A. Professional Standards

The Office of the Chief has primary oversight and authority over investigations of allegations of misconduct made against employees. Upon receipt of a complaint, The Professional Standards Commander will assign the appropriate IA investigator to investigate the complaint, or refer it to the appropriate unit or designated Supervisor for investigation through the appropriate chain of command.

The designated 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.
6. Recommending prosecution of those who falsely report that a MPD member has committed a crime.

B. Public Information and Access

1. The MPD Chief of Police will:
 - 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 designated public facilities.
 - b. Ensure that copies of this policy and complaint forms are available at Middletown City Hall-Office of the Mayor in both English and Spanish.
 - c. Ensure the complaint policy and forms are made available online on both the City of Middletown and Department Internet website.

C. Acceptance/ Filing of Complaints

1. General

- a. The MPD encourages citizens to bring forward legitimate complaints regarding possible misconduct by employees. MPD employees will not discourage any person from making a complaint.
- b. 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.
- c. 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.
- d. 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.
- e. The [Civilian Complaint Report Form](#) (Police Officer Standards and Training Council standards compliant) shall be utilized for all complaints. Each complaint shall be assigned a Professional Standards Number (PS#) to track complaints and a copy of this form shall be filed in a separate Complaint File in the PSD.

D. Complaint Intake Procedure

1. Employees will assist those who express the desire to lodge complaints against any Employee. This includes, but is not limited to:
 - a. calling a Supervisor to the scene to conduct a preliminary inquiry and document the complaint (for example, summoning the supervisor of the officer against whom the complaint is made), if available;
 - b. explaining the Department's complaint procedures;
 - c. providing complaint form(s) or give instructions as to where form(s) may be obtained.

- d. 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
2. Employees who are approached by a person seeking to make a complaint will, when possible, call for a supervisor and obtain a brief description of the allegation, record contact information (name, address, phone number) from the complainant.
 3. If a supervisor is not readily available, the employee will inform the complainant and advise them that they will be contacted by a supervisor by the next business day. The employee shall notify a Supervisor of the complaint prior to the end of their workday. The Supervisor shall contact the complainant prior to the end of their workday. If the complainant is unable to await the arrival of a supervisor, the complainant should be informed that he/she may respond to the agency headquarters to make his/her complaint.
 4. Employees who receive a complaint about their own conduct shall immediately refer their complaint to a Supervisor.
 5. 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.
 6. The withdrawal of a complaint does not prohibit the agency from completing an investigation.
 7. Headquarters Requirements:
 - a. Walk-in complaints, shall be referred to a Supervisor who shall then forward the complaint to the Professional Standards Division. 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.
 - b. The person taking the complaint will advise the complainant of the investigative process relative to their complaint, prior to the complainant leaving the station.

E. Complaints Through Alternative Methods

1. Telephone complaints shall be referred to a Supervisor. The party who receives the complaint shall obtain the details of the complaint as soon as practicable, dispatch a supervisor to the complainant's location, and proceed as described in Section D-7.
2. If complaints are received by mail, all correspondence received containing allegations shall be forwarded to the Professional Standards Commander, where they will be officially received. These complaints shall be assigned a Professional Standards Number. A letter of acknowledgment must be prepared advising the complainant that the matter is being investigated and that they will be contacted by the investigator assigned.

F. Validity and Timeliness of Complaints:

1. 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 professional standards designee should re-interview the person after he or she has regained sobriety.
2. Delayed or Untimely Complaints: Complaints of misconduct shall be accepted regardless of when the alleged misconduct is alleged to have occurred. However, the timing of a complaint is one of the circumstances that our agency may consider in determining whether misconduct 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.

G. Complainant Who Fears Retaliation Associated With Filing A Complaint:

1. 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 Professional Standards Division Commander to be aware of these fears and develop reasonable strategies to assist the complainant in dispelling those fears.

V. INVESTIGATIONS OF COMPLAINTS:

- A. The Professional Standards Division Commander 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.
- B. Complainants shall be notified in writing within five (5) business days of receipt by the PSD that; (1) their complaint has been received 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, and (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.
- C. The subject of the investigation, and his/her Union President shall be promptly notified in writing of the complaint in accordance with the provisions of the applicable labor agreement. Written notification shall include; (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, and (5) the date upon which the investigation is expected to be completed.
 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. 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.

VI. REVIEW OF THE INVESTIGATION:

- A. The Professional Standards Division Commander shall review the investigation to determine the thoroughness, completeness, accuracy and objectivity of the investigation.
- B. 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.
- 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 by the Professional Standards Division Commander.
- D. Findings of completed investigations and disciplinary recommendations, if any, shall be promptly conveyed, in writing, to the union and the employee through his or her chain of command.

VII. CASE DISPOSITIONS-STANDARDS:

For each charge or allegation of misconduct 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:

- A. **Exonerated:** The investigation determined by a preponderance of the evidence that misconduct was committed, but not by the subject of the investigation.
- B. **Unfounded:** The investigation determined by a preponderance of the evidence that the misconduct complained of did not occur.
- C. **Not Sustained:** The investigation was unable to determine by a preponderance of the evidence whether or not the misconduct complained of occurred, or whether or not it was committed by the subject of the investigation.
- D. **Sustained:** The investigation determined by a preponderance of the evidence that the misconduct complained of occurred and that it was committed by the subject of the investigation.
- E. **Misconduct Not Based on Original Complaint:** The investigation determined by a preponderance of the evidence that other misconduct 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.
- F. **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.

G. 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.

H. Training: Guidance or instruction given to prevent a violation, error, or omission from occurring again. Training can be developed and provided by a supervisor or can be supplied by the Training Unit or an outside entity.

I. 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.

VIII. 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 investigations.



 Chief William McKenna

9/13/16

 Date