

	<b>YALE UNIVERSITY POLICE DEPARTMENT</b> <b>GENERAL ORDERS</b> <i>Serving with Integrity, Trust,                  Commitment and Courage                  Since 1894</i>	ORDER TYPE: NEED TO REFER <b>207 CIVILIAN COMPLAINTS, INTERNAL INVESTIGATIONS AND DISCIPLINE</b>	
		EFFECTIVE DATE: 05 MAR 2019	REVIEW DATE: ANNUAL

**PURPOSE**

The purpose of this policy is to ensure that all allegations of officer misconduct or malfeasance are received and fully and fairly investigated; that all investigative findings are supported by a preponderance of the evidence and documented in writing; and that all officers who commit misconduct or malfeasance are held accountable pursuant to a disciplinary system that is fair and consistent.

**DUTIES OF EMPLOYEES**

All employees have an obligation to report any misconduct or malfeasance that comes to their attention to a supervisor or directly to the Office of Professional Standards for investigation. When apparent misconduct or malfeasance is reported to a supervisor, the supervisor shall immediately document and report this information to the Office of Professional Standards. Failure to report or document apparent misconduct, malfeasance or criminal behavior by an officer will constitute grounds for discipline.

All sworn and civilian employees shall be required to accept a complaint alleging misconduct or malfeasance by department 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 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. Supervisors will document the information and allegations they provide.

All employees shall cooperate fully in Department investigations.

Supervisors shall include in their daily observations, all areas of police action and Department operations under their command to discover and correct violations of General Orders or policies and procedures at the earliest stage.

Employees who refuse to assist any person who wishes to file a citizen complaint or engage in any form of retaliation, whether subtle or direct, including discouragement, intimidation, coercion or adverse action against any person, civilian or sworn, who reports misconduct or malfeasance, makes a misconduct or malfeasance complaint or cooperates with an investigation of misconduct or malfeasance will be subject to disciplinary action.

**POLICY**

The University Police Department will:

- accept and thoroughly investigate all first party complaints against department members, **CTLEA 1.2.34a**
- accept and investigate complaints made by parents on behalf of minor dependent children,
- accept and investigate misconduct or malfeasance allegations by third parties,
- accept and investigate anonymous complaints, to the extent possible,
- thoroughly investigate all allegations of misconduct or malfeasance against Department members,
- determine whether the allegations are valid or invalid and
- take fair, prompt and appropriate action.

The refusal to accept a misconduct or malfeasance complaint, discouraging the filing of a misconduct or malfeasance complaint, failure to cooperate, withholding information or providing false or misleading information about filing a misconduct or malfeasance complaint, shall constitute grounds for discipline.

Employees will assist those who express a desire to lodge complaints against any member of the department, to include:

- calling a supervisor to the scene to conduct a preliminary inquiry and document the complaint.
- 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.

In determining whether a complaint is valid, supervisors will consider whether the act(s) described, if true, could constitute a policy or law violation. Supervisors will accept complaints or allegations of misconduct or malfeasance for further investigation when a violation of Department policy or law may have occurred if the complaint were true.

**DEFINITIONS**

<b>Complaint</b>	Any allegation by an individual regarding Yale Police Department services, policies, practices or procedures, claims for damages which allege officer misconduct or malfeasance, or officer misconduct or malfeasance; and any allegation of possible misconduct or malfeasance made by a Yale police officer.
<b>Complainant</b>	Any person who files a complaint regarding the conduct of any Department employee, or the Department’s policies, procedures, or action.
<b>Complaint Control Number</b>	A sequential number used to identify and track citizen complaint investigations.
<b>Class 1 Complaints</b>	Serious allegations, including alleged criminal conduct, which have the potential to damage the reputation of the Department or its personnel. (See Section “Complaint Categories” below for specific examples of conduct that constitutes a Class 1 allegation.)
<b>Class 2 Complaints</b>	Less serious allegations that warrant an investigation, but do not rise to the level of a more serious complaint. (See Section “Complaint Categories” below for specific examples of conduct that constitutes as Class 2 allegation.)
<b>Class 3 Complaints</b>	Minor complaints by a citizen or Department member desiring to make an informal complaint against an employee, generally involving an employee’s conduct and/or behavior. (See Section “Complaint Categories” below for specific examples of conduct that constitutes as Class 3 allegation.)
<b>Class 4 Complaints</b>	Minor Service complaints by a citizen or Department member who contacts the Department questioning, or informally complaining, about a policy, procedure, or tactic used by the Department or an employee. (See Section “Complaint Categories” below for specific examples of conduct that constitutes as Class 4 allegation.)
<b>Critical Firearm Discharge</b>	A discharge of a firearm by a Yale Police Officer, but does not include range and training discharges or discharges at animals.
<b>Counseling</b>	A one-on-one discussion between a ranking officer and employee meant to correct a weakness, misunderstanding, misinterpretation, or non-compliance with a rule, regulation, general order, or common practice, and offers the employee the opportunity to improve performance. The intention of counseling is to allow supervisors to document the error but prevent corrective action from becoming the first step of discipline under

	The Code of Conduct. Counseling is not disciplinary by itself, but may progressively lead to discipline.
<b>Discipline</b>	A written reprimand, suspension, demotion, or dismissal. Disciplinary procedures follow University procedures and the guidelines of the Collective Bargaining Agreement.
<b>Employee</b>	Any person employed by the Yale Police Department, whether sworn or non-sworn, part-time or full-time.
<b>External Complaint</b>	A complaint that originates from outside the Department.
<b>Internal Complaint</b>	A complaint that originates from within the Department. Such complaints may be initiated by other Yale Police Department employees or from supervisors who observed, or were informed by other employees, of possible policy violations.
<b>Internal Affairs</b>	The designated unit with primary responsibility for conducting investigations of Administrative or Citizen Complaints of Misconduct or malfeasance.
<b>Malfeasance</b>	Illegal or dishonest activity, especially by a public official.
<b>Misconduct</b>	An act or omission by a Yale Police Department employee that violates Department policy or the law.
<b>Officers</b>	Any law enforcement officer employed by the Yale Police Department, whether on or off duty, including supervisors.
<b>Preponderance of the Evidence Standard</b>	The quantum of evidence that constitutes a preponderance cannot be reduced to a simple formula. A preponderance of evidence has been described as just enough evidence, no matter how slight, to make it more likely than not that the allegation sought to be proved is true or false.
<b>Professional Standards Officer</b>	The Professional Standards Officer (PSO) coordinates investigations of allegations of misconduct or malfeasance and maintains related records. The Chief of Police appoints the Professional Standards Officer and assigns matters for investigation consistent with this Order. The Professional Standards Officer reports directly to the Chief on Professional Standards matters.
<b>Serious Misconduct or malfeasance</b>	Suspected criminal misconduct or malfeasance and the specific forms of misconduct or malfeasance identified below. Such conduct shall be investigated by the Internal Affairs Unit and the Criminal Investigation Division of the State's Attorney's Office.
<b>Serious Use of Force</b>	Any action by an officer that involves: 1) the use of deadly force, including all critical firearm discharges; 2) a use of force in which the person suffers serious bodily injury, or requires hospital admission; 3) a canine bite; and 4) the use of chemical spray or electronic control weapon against a restrained person.
<b>Summary Action</b>	Disciplinary action (oral reprimand or counseling documented in writing) taken by an officer's supervisor or commander for minor violations of Department rules, policies, or procedures as defined by this Department. Summary actions are the lowest level of disciplinary action generally handled by first line supervisors.
<b>Supervisor</b>	Includes those holding the rank of, Sergeant, Lieutenant, Assistant Chief, and Chief, or anyone acting in those capacities, any other sworn or non-sworn manager or any other individual authorized by the Chief.
<b>Training</b>	Steps taken by the Department to improve or clarify the Department's policy, procedures, Connecticut Statutes, legal interpretations and expectations of the Department. Training can be developed by the supervisor or be referred to the Training Unit. Training is not discipline by itself, but may progressively lead to discipline.

<p><b>Use of Force incidents indicating Potential Criminal Liability</b></p>	<p>Includes, but is not limited to, all strikes, blow, kicks, or other similar uses of force against a handcuffed subject, and all accusations or complaints of excessive force.</p>
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**PROCEDURES**

**Complaint Intake Procedures:**

Complaints may be made in writing or verbally, in person, by telephone, fax, e-mail, Internet, or mail. Any limited English proficient (LEP) person who wishes to file a complaint about a Department employee or officer shall be provided a complaint form in Spanish, or for less common languages, the Department will arrange for the LEP person to make a complaint.

All officers and employees who receive misconduct or malfeasance complaints against other department employees, shall immediately inform a supervisor of the misconduct or malfeasance complaint so that the supervisor ensures proper intake of the complaint.

If a supervisor is not readily available, the officer will inform the complainant that they will be contacted by a supervisor or the person or unit assigned to conduct internal affairs investigations 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.

All complaints shall be documented by the receiving supervisor and forwarded to the PSO on the Complaint Intake Form.

All misconduct or malfeasance complaints received outside of YPD headquarters shall immediately be reported to a supervisor. The complainant shall be requested to await the arrival of the supervisor. If a supervisor is unavailable, or the complainant is unable to await the arrival of a supervisor, the complainant should be informed that he/she may respond YPD headquarters to make his/her complaint. All such complaints shall forwarded to the PSO before the end of the shift in which it was received.

When a supervisor receives a misconduct or malfeasance complaint in the field alleging that misconduct or malfeasance has just occurred, the supervisor shall gather all relevant information and evidence and provide this information and evidence to the PSO. This information includes the names and contact information for all complainants and witnesses, the names of all YPD officers and employees on the scene at the time of the alleged misconduct or malfeasance, and any available physical evidence such as voluntarily provided video or audio recordings, or documentation of the existence of such recordings where the witness chooses not to provide the recording. The supervisor shall take photographs of apparent injuries or the absence thereof.

All allegations of officer misconduct or malfeasance (ie: false testimony, failure to respond to subpoenas, unprofessional demeanor, etc.) made during criminal or civil proceedings shall be identified and investigated as misconduct or malfeasance complaints.

**Citizen Complaints**

- All complaints against the department or its employees will be accepted, documented, logged and investigated.
- Investigations regarding an officer’s actions while on duty, all actions whether on or off duty, taken under color of law, or any off duty conduct raising a fitness for duty question will be investigated.
- Complaints may be given in person, over the telephone or in writing. Anonymous complaints, or complaints from citizens who wish their names to be held in confidence, will be accepted.
- Shift supervisors will ensure that complaint forms are always at their assigned command, conspicuously displayed and accessible to the public.
- The department shall ensure that complaint forms are made available to the public.

- Supervisors should attempt to resolve minor complaints through investigation and examination of department rules and procedures. Examples of minor complaints which may be resolved in this manner are:
  - o Differences of opinion between officers and citizens on enforcement issues.
  - o Allegations of discourtesy or minor misconduct or malfeasance.
  - o Cases referred by the PSO.
  - o Cases referred by the Assistant Chief of Police or Chief of Police.
- If the complaint is made in person, the receiving supervisor will give the complainant a complaint form.
- The supervisor taking the complaint will obtain a control number from the PSO.
- The supervisor taking the complaint will advise the complainant of the investigative process relative to his or her complaint and will issue the complainant a copy of the complaint form, prior to the complainant leaving the headquarters.
- Supervisors will take and document, in writing, all complaints of misconduct or malfeasance and promptly forward them to the Chief of Police.
- The Chief of Police or his designee will ensure that the letter of acknowledgement is sent to the complainant assuring the complainant that the complaint is under consideration.
- Attempts to resolve complaints will be noted in writing.
- Should a complaint involve a Sergeant then the complaint will be taken by a Lieutenant.
- Should the complaint involve a Lieutenant, the Professional Standards Officer will be notified and will respond as appropriate.
  - o Should the Professional Standards Officer be unavailable then the appropriate Captain or the Assistant Chief of Police will be notified, in that order.

#### **Complaints Received Through Alternative Methods**

It is the duty of any employee aware of misconduct or malfeasance on the part of another employee, to report the misconduct or malfeasance to his or her supervisor. Supervisors who become aware of misconduct or malfeasance on the part of a subordinate will utilize the procedures set forth in this policy. Employees who have complaints of other employees shall contact their own supervisor.

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

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 designee should re-interview the person after he or she has regained sobriety.

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.

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.

### Notification

Immediate notification to the Chief of Police will be made of any allegation against department personnel involving:

- commission of any crime,
- intentional discharge of a firearm, except during training,
- accidental discharge of a firearm,
- any incident involving actions by a department member which result in death or serious physical injury to the member or another person,
- other incidents which could result in serious disciplinary action or which may result in embarrassment or serious concern to the department.

### Supervisor Responsibility

After receiving the complaint or allegation, supervisors will:

- identify the involved officer(s), witnesses and complainants,
- secure all relevant evidence,
- make appropriate notification(s),
- document the incident in writing and forward the report to the Chief of Police office.

### Classification of Investigations

After reviewing the allegation or complaint, the Chief will classify and assign the case for investigation. Classes of investigation are:

- **Administrative Inquiry (AI):** generated for a variety of reasons and generally are initiated within the Department. This type of investigation may result when there is an internal allegation related to misconduct or malfeasance or operational actions of employees on or off duty. Administrative Inquiries may be derived from a concluded criminal investigation or may be derived from some other source within the department. The majority of Administrative Inquiries are initiated within the employee's chain of command and related to operational actions conducted during the employee's performance of duties. Normally, unless serious or complex in nature, these operational concerns are investigated by the employee's Chain of Command and then forwarded to Professional Standards Officer for tracking and filing.
- **Internal Affairs Investigation (IA):** generated by an allegation of misconduct or malfeasance of a serious nature, or nonperformance of duty against a member of the Department. Examples of this type of investigation would include allegations such as criminal conduct, excessive force, illegal search and seizure, false arrest, civil rights violations, quality of service, professionalism, attitude, disparate treatment, or unresponsiveness to the community.

### Complaint Categories

The following chart depicts the types of complaints, which are defined by the seriousness of the allegation, along with whom the complaint is generally investigated and reviewed by:

TYPES	DESCRIPTION	EXAMPLES	GENERALLY HANDLED BY
<b>CLASS 1</b>	Allegations that have the potential to damage the reputation of the Department or its personnel, and generally include, but are not limited to, allegations of serious misconduct or malfeasance, serious violations of Standards of Conduct and other written directives, or criminal conduct.	<ul style="list-style-type: none"> <li>• Excessive and/or improper use of force</li> <li>• Brutality</li> <li>• False arrest</li> <li>• Unlawful search and/or seizure</li> <li>• Corruption</li> <li>• Dishonesty and untruthfulness</li> <li>• Gross Insubordination</li> <li>• Violation of civil rights</li> <li>• Bias-based profiling</li> <li>• Sexual harassment</li> <li>• Workplace violence</li> <li>• Violation of criminal statutes</li> </ul>	<b>Professional Standards Officer</b> Formal and Documented with Written Statements and Tape/Video Recorded Interviews May also be handled by: <b>Investigative Services Unit or Outside Department</b>
<b>CLASS 2</b>	Allegations that generally include, but are not limited to, allegations of a non-serious nature and violations of Standards of Conduct and other written directives of a non-serious nature.	<ul style="list-style-type: none"> <li>• Violation of policies, procedures or rules, other than those which constitute a Class I Allegation</li> <li>• Inappropriate conduct and/or behavior of a less-serious nature, such as rudeness, discourtesy, and offensive language</li> <li>• Violation of personnel rules</li> </ul>	<b>FIRST-LINE SUPERVISOR AND/OR Professional Standards Officer</b> Formal and Documented with Written Statements
<b>CLASS 3</b>	Minor complaints by a citizen or Department desiring to make an informal complaint against an employee, generally involving an employee's conduct and/or behavior.	When a citizen complains about the behavior of an employee, such as rudeness or demeanor, but does not wish to file an official formal complaint.	<b>FIRST-LINE SUPERVISOR</b> Informal and Documented as Informational Purposes Only
<b>CLASS 4</b>	Minor complaints by a citizen or Department who contacts the Department questioning or informally complaining about a policy, procedure, or tactic used by the Department or an employee.	When a citizen questions or complains about the <i>procedures or tactics</i> used by the Department or employee, such as on-scene command presence, or why handcuffs were used when detaining a subject, but does not wish to file an official formal complaint.	<b>FIRST-LINE SUPERVISOR</b> Informal and Documented as Informational Purposes Only

**Serious Misconduct or Malfeasance**

Serious misconduct or malfeasance is understood by the Department to mean suspected criminal misconduct or malfeasance and the following misconduct or malfeasance:

- All civil suits alleging any misconduct or malfeasance by an officer while acting in an official capacity;
- All civil suits against an officer for off-duty conduct (while not acting in an official capacity) alleging physical violence, threats of physical violence, racial bias, dishonesty, or fraud;
- All criminal arrests or filing of criminal charges against an Officer;
- All allegations of unlawful discrimination (e.g., on the basis of race, ethnicity, gender, religion, national origin, sexual orientation, or disability), including improper ethnic remarks and gender bias, but excluding employment discrimination;
- All allegations of an unlawful search and seizure;
- All allegations of false arrests or filing of false charges;

- Any act of retaliation or retribution against an Officer or person;
- Any act of retaliation or retribution against a person for filing a complaint against a member;
- All allegations of excessive use of force or improper threat of force (including strikes, blows, kicks, or other similar uses of force against a compliant subject or administered with a punitive purpose);
- Any failure to complete use of force reports required by Department policies and procedures;
- The providing of false or incomplete information during the course of a Department investigation, or in any report, log, or similar document;
- All incidents in which:
  - o a person is charged by an Officer with assault on a police Officer or resisting arrest or disorderly conduct, and
  - o the States Attorney's Office notifies the department that it is dismissing the charge based upon false statements made by the Officer, or a judge dismissed the charge based upon false statements made by the Officer; or
- All incidents in which the department has received written notification from the State's Attorney in a criminal case that there has been:
  - o an order suppressing evidence because of any intentional constitutional violation involving potential misconduct or malfeasance by a department officer, or
  - o any other judicial finding of officer misconduct or malfeasance made in the course of a judicial proceeding, or any request by a federal judge, local judge, or magistrate that a misconduct or malfeasance investigation be initiated pursuant to some information developed during a judicial proceeding before a judge or magistrate.
  - o The department shall request that all such entities provide them with written notification and a statement detailing the misconduct or malfeasance whenever it has been determined that any of the above has occurred.

**Responsibility of the Office of Professional Standards:**

The Professional Standards Officer will have primary responsibility for the investigation of these types of allegations of police misconduct or malfeasance:

- Commission of a crime;
- Use of illegal drugs;
- Dishonesty
- Intoxication;
- Acceptance of bribe or gratuity;
- Excessive use of force;
- Firearms discharges by employees;
- Other acts of a serious nature and,
- Cases assigned by the Chief of Police or his designee.

The Office of Professional Standards, or the Chief of Police, may assign cases to supervisors trained in professional standards investigations.

Minor complaints may be referred to Patrol Supervisors or the Investigative Services OIC, as appropriate, for assignment.

The Office of Professional Standards has the following responsibilities:

- Maintenance of a complaint log,
- Administrative supervision of investigations assigned to supervisors through the chain of command,
- Maintenance of a central file for complaints in a secure area, **CTLEA 2.2.17**
- Conducting a regular audit of complaints to ascertain the need for changes in training or policy,

- Preparation of an annual report to the Chief of Police. The report will include all complaints received and their ultimate disposition. This report will categorize complaints by, at a minimum: Criminal; Excessive Force; Civil Rights; Rules and Regulations; Police Performance.
- Insuring that complaint procedures and complaint forms are understood and accessible.

All investigations prepared by Professional Standards will be factual and will not include opinions or conclusions except factual conclusions or opinions rendered by person(s) with particular expertise or specialized training. Illustrative but not exclusive are: Doctors; Forensic experts; Law Enforcement or other personnel with certification or specialized training in certain subject areas.

#### **INVESTIGATION OF COMPLAINTS**

The Chief of Police shall not be authorized to personally conduct an investigation of officer misconduct or malfeasance or violation of policy, nor prevent the conduct of such an investigation. A misconduct or malfeasance complaint investigation may not be conducted by any officer who used force or was involved in, witnessed, directed or supervised the incident leading to the allegation of misconduct or malfeasance. A supervisor of at least one rank higher than the employee under investigation shall conduct the investigation. Nothing contained in these procedures preclude the Chief of Police or Assistant Chief of Police from initiating a proactive investigation without complaint if such action is warranted.

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 department and of justice.

Nothing in this order shall be construed to limit or deny access to Union representation or to the protections and procedures afforded by the current labor agreement.

Investigation of misconduct or malfeasance complaints shall be as thorough as necessary to reach reliable and complete findings. The misconduct or malfeasance investigator shall interview each complainant in person, absent exceptional circumstances, and this interview shall be recorded in its entirety, absent specific, documented objection by the complainant. All officers in a position to hear or see an incident, or any significant event before or after an incident, shall be interviewed regarding their observations, even to state that they did not see or hear anything.

Where the alleged misconduct or malfeasance is particularly serious or information from an officer or other witness may be necessary to resolve an allegation, the investigator shall conduct an in-person interview of the officer or other witness. Each officer, witness, and complainant shall be interviewed separately. An investigator not involved in the underlying complaint will be present when taking statements or conducting interviews of any limited English proficiency complainant or witness.

All officer and civilian witness statements shall be documented in their entirety, including any statement that the witness saw or heard nothing. All interviews shall be recorded. All recordings shall be stored and maintained in a secure location within Office of Professional Standards.

Officers are required to cooperate with administrative investigations, including appearing for an interview when requested by an investigator and providing all requested documents and evidence.

The subject officer shall not be compelled to provide a statement to administrative investigators where there is a potential criminal investigation or prosecution of the officer, until consultation with the criminal investigative department (e.g. State's Attorney's Office) and approval by the Chief of Police. YPD and the State's Attorney's Office shall develop and implement protocols to ensure that the criminal and administrative investigations are kept appropriately separate after a subject officer has provided a compelled statement.

Nothing in this policy shall hamper an officer's obligation to provide a public safety statement regarding a work related incident or activity. All officer statements in incident reports, arrest reports, use of force reports and similar

documents, and statements made in interviews such as those conducted in conjunction with the routine use of force review and investigation process, are part of each officer's routine professional duties and are not compelled statements. Where an officer believes that providing a verbal or written statement will be self-incriminating the officer shall affirmatively state this and shall not be compelled to provide a statement without prior consultation with the criminal investigative department (e.g. State's Attorney's Office), and approval by the Chief of Police.

If at any time during complaint intake or investigation the investigator determines that there may have been criminal conduct on the part of any officer or employee, the investigator shall immediately notify the Chief of Police and shall consult with the State's Attorney's Office regarding the initiation of a criminal investigation, as appropriate. Where an allegation is investigated criminally, the Office of Professional Standards shall continue with the administrative investigation of the allegation, except that it may delay or decline to conduct an interview of the subject officer(s) or other witnesses until completion of the criminal investigation unless, after consultation with the investigating department and the Chief of Police, such interviews are deemed appropriate.

In each investigation, the investigator shall consider all relevant evidence including circumstantial, direct and physical evidence, and make credibility determinations based upon that evidence. Every complaint shall be investigated and evaluated based on the Preponderance of Evidence standard. There will be no automatic preference for an officer's statement over a non-officer's statement, nor will the investigator disregard a witness' statement merely because the witness has some connection to the complainant or because of any criminal history. The investigator may take into account the criminal history of a complainant that involves a crime of dishonesty and may also take into account the record of any involved officers who have been determined to have been deceptive or untruthful in any legal proceeding, Internal Affairs investigation, or other investigation. The investigator shall make efforts to resolve material inconsistencies between witness statements.

#### **Investigative Personnel**

Within three business days of the receipt of a misconduct or malfeasance complaint, the PSO shall determine whether the complaint will be assigned to the subject officer(s)' supervisor(s) or retained by the PSO for an administrative investigation according to the complaint category matrix. In consultation with the Chief of Police, the PSO shall also determine whether the misconduct or malfeasance complaint warrants a referral to the State's Attorney's Office for a criminal investigation.

#### **Employee Notification**

- The Office of Professional Standards will notify employees when they are subjects of an investigation at the outset of the investigation or at least twenty four (24) hours prior to an investigative interview.
- The employee will be issued a written statement of the allegations and the employee's rights and responsibilities relative to the investigation. **CTLEA 2.2.35**
- The Chief of Police may authorize the suspension of the notification requirement, in writing, when notification would jeopardize an investigation into criminal or ongoing misconduct or malfeasance.

#### **Complainant Notification**

Each misconduct or malfeasance complainant will be notified in writing within five (5) business days of receipt of their complaint that the complaint was received and is currently pending; a complaint number has been assigned (and the number); that they will be informed in writing of the outcome of the complaint following the conclusion of the investigation and that they may contact the assigned investigator at any time for further information. Complainants will also be kept informed periodically regarding the status of the investigation.

#### **Officer's Duties and Rights During Investigation**

- Employees will receive written notification of the complaint made, specifics of the allegation and employee rights and responsibilities before an interview is conducted.
- Employees are required to answer in a responsive manner all questions asked of them concerning actions which stem from their performance while on duty, all actions taken under color of law, or any off duty conduct which raises a fitness for duty question and are expected to be completely truthful.

- Refusal to respond to questioning or failure to cooperate fully in the investigation is an act of insubordination and will result in disciplinary action.
- Officers are entitled to the protections granted under law <sup>1</sup> and the Labor Agreement during the course of the investigation, interviewing and statement taking.
- Officers may, prior to or during an interview, review any reports or statements the officer may have made regarding the subject of the interview. Officers are also entitled to review any civilian complaints made against them.
- Upon request of the officer a labor representative may be present during the interview/statement process.( The labor representative is strictly an observer.)
- During the course of an interview/statement either the officer or labor representative may request a recess and be allowed to speak in private.
- The officer and Union representative will be informed of the complaint no later than at the outset of the investigation to include the complaint form or supervisory report itself.
- The Officer's access to statements and investigative reports will be limited to the officer's personal statement, reports authored by them, or the officer's body worn camera recordings or recordings from other body cameras capturing the subject officer's image or voice during the incident, while the investigation is proceeding.
- If charged administratively, the subject officer and/or his Union representative shall be entitled to full discovery.

### **Relief from Duty**

In investigations involving allegations of serious or criminal misconduct or malfeasance, the Chief of Police may relieve an employee of duty if, in his opinion, that action is in the best interest of the department. Relief from duty may involve transfer or placement on leave.

### **Investigative Activities CTLEA 2.2.36**

As part of an investigation, employees may be requested to participate in various activities or examinations, including:

- Medical or laboratory examinations (ie: blood, urine, DNA, etc.) narrowly related to the investigation
- File photographs of employees may be used.
- Employees may be required to submit to a current photograph.
- Financial disclosure statements.
- Line ups.
- Polygraph examinations.
- Interviews/Statements:
  - o All interviews with complainants and witnesses will be recorded.
  - o A complete record (written, taped or transcribed) will be kept.
  - o Requests by complainants, witnesses or employees to speak off the record during an interview or statement will be denied.

### **Timeliness of Investigations CTLEA 3.2.64a**

- Complaints investigated by the Office of Professional Standards will be completed in 30 calendar days from the date the complaint was accepted.
- Minor complaints investigated by supervisors will be completed within 15 calendar days from the date the complaint was accepted.
- The Chief of Police may extend this time period in his discretion on the written request of the investigating supervisor due to extenuating circumstances.

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<sup>1</sup> Garrity v. New Jersey, 385 U.S. 493 (1967), National Labor Relations Board v. J. Weingarten 420 US 251 (1975)

### Case Disposition

The investigator shall explicitly identify and recommend one of the following dispositions for each allegation of misconduct or malfeasance in an administrative investigation:

- "Unfounded," where the investigation determines, by a preponderance of the evidence, that the alleged misconduct or malfeasance did not occur or did not involve the subject officer;
- "Sustained," where the investigation determines, by a preponderance of the evidence, that the alleged misconduct or malfeasance did occur;
- "Not Sustained," where the investigation is unable to determine, by a preponderance of the evidence, whether the alleged misconduct or malfeasance occurred;
- "Exonerated," where the investigation determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate Department policies, procedures or training.
- "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 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 discredit upon the agency or the involved employee; commission of a criminal offense; or 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.

In addition to determining whether the officer committed the alleged misconduct or malfeasance, administrative investigations shall assess and document whether:

- The police action was in compliance with training and legal standards;
- The use of different tactics should or could have been employed to achieve a potentially better outcome;
- The incident indicates a need for additional training, counseling or other non-disciplinary corrective measures; and
- The incident suggests that Department should revise its policies, strategies, tactics, or training.

This information shall be shared with the relevant commander(s) who shall document the commander's disagreement or agreement with these findings; refer any recommendations to the appropriate individual to implement the recommended change; document the implementation of these recommendations; and return the documentation to the PSO.

A misconduct or malfeasance investigation may be closed when the complaint is withdrawn or the alleged victim is unwilling or unable to provide additional information beyond the initial complaint, but may not be closed simply because the complainant pled guilty or was found guilty of an offense.

Final disciplinary authority is vested with the Chief of Police. In all cases the Chief of Police will promptly notify the principals (complainants and officers) of his decision in writing. **CTLEA 1.2.34c**

### **Chief's Action**

The Chief of Police will review reports from the Office of Professional Standards and may return reports for further investigation. CTLEA 1.2.34b

The Chief of Police has forty-five (45) working days from the date the complaint became known to the department, to discipline the officer(s) or otherwise dispose of the complaint.

### **Department Charges and Hearings**

All charges will be in writing and will cite the rule or regulation alleged to have been violated along with a brief description of the action specific to the rule or procedure violated.

The Chief of Police will conduct a hearing in his office during which the Officer(s) shall have a right to representation and an opportunity to be heard.<sup>2</sup> The protections afforded the employee under the Collective Bargaining agreement apply at all times. Any employee who receives a disposition of "sustained" and is disciplined or discharged, shall have the right as provided in the Collective Bargaining agreement to appeal such a decision through the grievance procedure, including arbitration.

### **Disciplinary Action**

Discipline for sustained allegations of misconduct or malfeasance is based on the nature of the allegation and defined, consistent, mitigating and aggravating factors, rather than the identity of the officer or his or her status within Department or the broader community. The Department shall develop and implement procedures to ensure that discipline is fair and consistent.

### **Professional Standards Office Administration**

The PSO is responsible to train all officers and supervisors to ensure that all officers properly handle complaint intake, including how to properly provide complaint materials and information; and the consequences for failing to take complaints; and strategies for turning complaints into positive police-civilian interactions.

The PSO is responsible to maintain a centralized numbering and tracking system for all misconduct or malfeasance complaints. Upon the receipt of a complaint, the PSO shall promptly assign a unique numerical identifier to the complaint, which shall be provided to the complainant.

The centralized numbering and tracking system shall maintain accurate and reliable data regarding the number, nature, and status of all misconduct or malfeasance complaints, from initial intake to final disposition, including investigation timeliness and notification to the complainant of the interim status and final disposition of the investigation. This system shall be used to determine the status of complaints and to confirm that a complaint was received, as well as for periodic assessment of compliance with Department policies and procedures, including requirements on the timeliness of administrative investigations.

### **Confidentiality of Records**

The Office of Professional Standards shall be informed of all final disciplinary decisions and shall forward a copy of the disciplinary decisions to the Department's personnel authority. Internal affairs case files and information shall be maintained separately from personnel records. Internal affairs information is considered confidential and shall be retained under secured conditions within the Office of the Chief and may not be released to any source without prior approval of the Chief of Police, unless otherwise provided by law or subject to disclosure under FOI. Case investigation files shall be retained for a period of time as defined by law.

### **Training**

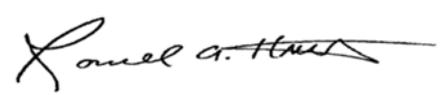
All supervisory personnel will be required to attend training on the department's Complaint Policy and the responsibilities of supervisors conducting internal investigations.

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.

**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 department web site, libraries, community groups, community centers and at other designated public facilities and will ensure that copies of this policy and complaint forms are available at the University President's Office. 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.

PER ORDER OF

A handwritten signature in black ink, appearing to read "Ronnell A. Higgins", is enclosed in a thin black rectangular border.

RONNELL A. HIGGINS  
DIRECTOR OF PUBLIC SAFETY AND CHIEF OF POLICE

<sup>2</sup>Cleveland Board of Education v. Lauderhill, 470 US 532 (1985)

**THIS GENERAL ORDER SUPERSEDES ORDER 207 CIVILIAN COMPLAINTS, INTERNAL INVESTIGATIONS AND DISCIPLINE, ISSUED ON 2/1/2016.**