

BRISTOL CT POLICE DEPARTMENT

TYPE OF DIRECTIVE: General Order	SUBJECT: Internal Investigations (Complaints that Allege Misconduct by Bristol Police Personnel)	EFFECTIVE DATE: July 1, 2015
ISSUING AUTHORITY: Chief Brian Gould <i>Brian Gould</i>	POLICY NUMBER: 10.25	RESCINDS: N.A.
DISTRIBUTION: All Sworn Personnel	REISSUE DATE: July 9, 2020	# OF PAGES: 11
POSTC ACCREDITATION STANDARD: 1.5.9, 2.8.3		

PURPOSE: The purpose of this policy is to comply with Public Act 14-166 and to provide a uniform policy to accept, process, investigate, take appropriate action upon and resolve complaints from a member of the public relating to alleged misconduct or malfeasance committed by Bristol Police personnel. Complaints may allege abuse of authority, corruption, criminality, poor or slow service, or other misconduct or malfeasance on the part of agency personnel.

POLICY: The Bristol Police Department shall respond to allegations of misconduct or malfeasance against its employees consistent with this policy and fairly and impartially investigate all complaints or allegations of such conduct to determine their validity. The Department shall impose any disciplinary or non-disciplinary corrective actions that may be warranted in a timely manner. The Department shall accept and document all complaints against any employee regardless of whether the filed complaint is in writing, verbal, in person, by mail, by telephone (or TDD), by facsimile, electronic, or anonymous.

1. The Chief of Police has primary oversight and authority over the investigation of complaints made against BPD personnel.
2. There shall be no retaliation in any form directed at an individual who makes a complaint.
3. No questions shall be asked of a complainant regarding their immigration status.
4. 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.

DEFINITIONS:

Complaint: An allegation of employee misconduct or malfeasance.

Complainant: Any person who files a complaint regarding misconduct or malfeasance on the part of an employee.

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

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 agency, whether sworn or non-sworn.

Internal Affairs Investigation: An administrative (non-criminal) investigation of Bristol Police Department Employee's misconduct or malfeasance for possible violations of the Code of Conduct.

Internal Affairs Division or Unit: The designated division, unit or person with primary responsibility to conduct investigations of administrative or Citizen Complaints of misconduct or malfeasance.

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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 those holding the rank of Sergeant or higher.

PROCEDURES:

Responsibility:

Upon receipt of a complaint the Chief of Police, or designee, will assure that the complaint is assigned to the appropriate division, unit, person, or supervisor for investigation through the appropriate chain of command.

An Internal Investigator is defined as any supervisor directed by the Chief of Police¹ to investigate complaints of alleged misconduct by Bristol Police Department personnel. The investigator generally is at least one rank above the subject of the investigation. Each investigator will maintain the highest standard of confidentiality. It is the responsibility of the investigator to pursue every legitimate course of action to determine the facts related to each complaint, remain objective at all times, and present a complete factual report to the Chief of Police.

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 BPD policies and procedures where existing deficiencies have been identified as a contributing factor to the misconduct.

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Acceptance, Filing and Intake of Complaints:

All persons are encouraged to bring forward legitimate complaints regarding possible misconduct or malfeasance of employees of the BPD. Dissatisfaction with an arrest or ticket is not considered a complaint of misconduct or malfeasance and the complainant will be referred to the court with the appropriate jurisdiction.

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.

Complaints against BPD personnel may be made by either external sources (e.g. citizens) or internal sources (other BPD personnel).

Frequently, citizens contact the BPD with questions regarding a policy, procedure, or tactic used personnel. When a citizen questions the actions of an employee, the matter shall be referred to a supervisor who will determine if the matter is merely an inquiry that may be addressed by providing information or if the incident would require further action consistent with this policy. A mere inquiry about a BPD interaction does not necessarily rise to the level of an internal investigation.

Reconciliation details in the Disposition section of this policy provides details and examples of qualifying incidents.

Acceptance of Complaint:

- A. The Bristol Police Department has adopted a complaint form based on the POSTC model. Complainants should be encouraged to complete the form, but are not required to do so. 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.
- B. Complaints may be accepted in writing, verbally, in person, by mail, telephone (TDD), facsimile, and electronically, or by any other means. Anonymous and third party complaints will be accepted.
- C. Personnel will assist those who express a desire to file a complaint against an employee of the BPD.

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This includes:

1. Calling a supervisor to the scene to conduct a preliminary inquiry and document the complaint.
 2. Explaining the Department's complaint procedures.
 3. Providing complaint form(s) and/or complaint filing information and/or giving instructions as to where the complaint forms may be obtained.
 4. 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.
- D. All personnel who are approached by a person seeking to make a complaint will, when possible, call a supervisor, obtain a brief description of the allegation, and record complainant contact information if provided.
- E. If a supervisor is not readily available,
- a. Before the end of their tour of duty, the employee will provide a memo to their supervisor with all known information regarding the complaint.
 - b. The supervisor will ensure that the complainant will be contacted as soon as possible, but no later than the next business day.
- F. Personnel who receive a complaint about their own conduct shall immediately refer the complaint to a supervisor.
- G. All complaints shall be documented to include the date, time, location, and nature of the complaint, complainant's information (name, address, DOB, 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)

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

- I. If complaints are received by mail, all correspondence received containing allegations shall be forwarded to the Chief of Police or the Chiefs designee where they will be officially received. These complaints shall be assigned a Complaint Control 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.

- J. 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. In any event, the complaint will be assigned a Complaint Control Number and forwarded as above.

- K. Telephone complaints: The employee who receives the complaint shall obtain the details of the complaint, including the complainant's location, and will notify a supervisor of the complaint. The supervisor will, when practicable, respond to the complainant's location to interview the complainant. The supervisor will document the complaint as outlined in this policy and forward it to the Office of the Chief of Police.

- L. Situations where a BPD employee is approached by a complainant expressing allegations of misconduct or malfeasance 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 to the BPD headquarters to make their complaint.

- M. Complainants alleging excessive use of force may be requested to provide written release of all pertinent medical records relating to the complaint.

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 / she shall be encouraged to wait until the earliest opportunity after he / 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/she has regained sobriety.

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Delayed or Untimely Complaints:

Complaints of misconduct or malfeasance shall be accepted regardless of when the alleged misconduct or malfeasance is alleged to have occurred. However, the timing of a complaint is one of the circumstances that the agency may consider in determining whether misconduct or malfeasance can be reliably substantiated and, if so, the nature and extent of discipline to be imposed. Where a delay in reporting alleged misconduct may call into question the veracity of the complainant, or has resulted in the loss or destruction of evidence or the inability to locate witnesses due to the passage of time, the facts and circumstances should be detailed in the report.

Although allegations of criminal behavior may be made past the expiration of the applicable statute of limitations and criminal prosecution may no longer be possible, a criminal violator may still be held accountable administratively.

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 to be aware of these fears and develop reasonable strategies to assist the complainant in dispelling those fears.

Employee Rights & Responsibilities:

Employees interviewed with respect to an Internal Investigation shall:

1. Be entitled to know the specific incident which is being investigated, and if particular allegations have been made, the nature of the allegations.
2. Be advised of their "GARRITY RIGHTS."
3. Have the right to exercise his/her "Weingarten" right to representation and request that the representation be provided by a Union Attorney. The Police Department shall delay questioning the employee for no more than three (3) hours to await the arrival of such Attorney unless mutually agreed by the Chief or designee to extend the arrival time. The City shall not be precluded from exercising its right to sequester the employee until the Attorney arrives. There will be no delay of pre-scheduled investigations for the purpose of securing a Union Attorney where the employee has had at least twenty four hours prior notice of the interview. Except as specified herein, the interview will not be unreasonably delayed by the unavailability of a particular Union representative.

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4. Have the right to a reasonable delay (a maximum of five business days) of the interview for the purpose of obtaining and reviewing their prior reports, if any, concerning the incident.
5. Be required to answer all reasonable questions and/or complete written reports concerning the performance of their duty and/or activities reasonably considered to affect their ability to carry out their duties and responsibilities.
6. Not be required to submit to a polygraph examination.
7. Be afforded all rights and protections provided within the Bristol Police Department Code of Conduct and the Employee Rights form.

Investigation of Complaints:

- A. The Chief of Police, or designee, shall assure that all complaints received are processed and investigated appropriately as set forth in this policy.
- B. The Chief of Police, or designee, has the authority to review all complaints in a fact finding manner to determine if there is sufficient cause to assign the complaint for investigation. It is understood that not all complaints received in this process are of a type that are suited for the internal investigation process.
- C. The Chief or designee will notify complainants in writing within five (5) business days of receipt 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.
- D. The Chief or designee will notify in writing an employee who is the subject of a complaint 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, and (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.

- E. Nothing in this policy precludes the Chief of Police from referring an internal affairs investigation to an outside agency, such as the Chief State's Attorney's Office, if such action would be in the best interest of the municipality and of justice.

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- F. Internal affairs investigators may require written reports from the subject(s) of an investigation. When such reports are ordered from the employee, he/she will submit the report on the BPD Internal Investigation Statement form. The statement form may be notarized by the Internal Affairs investigator or other BPD supervisor.
- G. Assigned investigators will complete Bristol Police Department forms titled Employee Rights and Garrity at the onset of each interview.
- H. All interviews of BPD personnel will be audio recorded. Employees that are the subject of the investigation may obtain a copy of this audio recording via a written request to the Chief of Police.
- I. Once an investigation has been opened, it shall be completed regardless of retirements, resignations or other changes in the status of the affected employee(s).
- J. Files pertaining to internal investigations will be considered confidential and not left where unauthorized contact may be made. Files will be stored in a locked cabinet in the administrative office area. Keys for the cabinets will be accessible only to those authorized by the Chief of Police.
- K. In the interest of both the complainant and the employee involved, all internal investigations will be completed within 45 days of assignment to the investigator. If, due the nature of the investigation, the investigator requires additional time, he/she must submit a request to the Chief of Police for an extension. Such request must include the reason for the requested extension and an estimate of the time needed to complete the investigation.

Criminal Aspect

Some internal affairs investigations may have a criminal component. The Chief of Police will be immediately notified of criminal allegations against Bristol Police Department employees. The Chief of Police will ensure that all criminal investigations are conducted by an investigator who is not associated with the internal affairs investigation. Often such criminal investigations are assigned to a CID supervisor, but they may also be assigned to another BPD supervisor or other outside agency as determined by the Chief of Police. Investigators will ensure that information gathered during an administrative internal affairs investigation is not inappropriately shared with or used in the criminal investigation.

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Review of the Investigation:

- A. The designated internal affairs investigator’s supervisor shall review the investigation to determine the thoroughness, completeness, accuracy and objectivity of the investigation.
- B. The completed report of investigation shall be reviewed by the Chief of Police who shall have final authority relative to determining the proper disposition.
- 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 Chief of Police or his designee.
- D. Findings of completed investigations and disciplinary recommendations if any, shall be promptly conveyed, in writing, to the employee through his or her chain of command.

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.

Case Dispositions — Standards:

For each charge or allegation of misconduct or malfeasance which forms the basis for an internal affairs investigation, such charge or allegation shall be classified upon closing of the investigation in one of the following manners:

Exonerated: The investigation determined by a preponderance of the evidence that misconduct or malfeasance was committed, but not by the subject of the investigation.

Unfounded: The investigation determined by a preponderance of the evidence that the misconduct or malfeasance complained of did not occur.

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

Sustained: The investigation determined by a preponderance of the evidence that the misconduct or malfeasance complained of occurred and that it was committed by the subject of the investigation.

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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 employee involved in minor violations and attempt reconciliation. This may be used where the complaint originates from a misunderstanding on the part of the affected employee or the complainant. Reconciliation may be employed for complaints of a minor nature that do not reflect:

- a. Discredit upon the agency.
- b. Discredit upon the involved employee.
- c. Commission of a criminal offense; or
- d. Allegations of racism, bigotry or prejudice against any race, religion, creed, national origin, sexual orientation, or circumstances beyond the individual's control.

Reconciliation must be documented through the chain of command to the Chief of Police or designee. Reconciliation does not preclude further corrective action on the part of the agency.

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Public Information and Access: The Chief of Police will:

- A. 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.
- B. 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. (As of July 2017 copies are accessible at the Bristol Public Library reference department on High Street and the City of Bristol Personnel Department at 111 North Main Street 2nd fl.)
- C. The complaint policy and forms are available on-line at the City of Bristol Police Department home page. (<http://www.ci.bristol.ct.us/index.aspx?nid=200>)

Division/Shift Commanders shall ensure that all members of their command are thoroughly familiar with, and understand the contents of this order.

¹ References to the Chief of Police herein include his/her designee

Revised 1/30/2017 – Chief Gould signature

Revised 7/31/2017 – Added Library, Personnel & website info to Public Info & Access section

Revised 2/19/2019 – Added provision for secure storage.