

 <p style="text-align: center;">Guilford, Connecticut Police Department Duty Manual</p>	Number: 02.23	Page: 1 of 12
	Effective Date: 01/01/2014 02/01/2017	
	Review: Annually	
	Approving Authority: Chief	
	Chapter 2: Personnel	
Subject: Internal Investigations/Civilian Complaints		

02.23 Internal Investigations/Civilian Complaints

I. Policy

It is the policy of the Guilford Police Department to receive, record, and investigate all complaints of alleged misconduct or malfeasance against an employee(s) of the Guilford Police Department and fairly and impartially investigate all complaints or allegations of such conduct to determine their validity.

II. Definitions

- **Complaint:** is an allegation of circumstance(s) amounting to a specific act or omission which, if proven true, would amount to employee misconduct. A disagreement over the validity of a traffic infraction or criminal arrest is not a complaint. The complaining person should be advised to contact the proper court having jurisdiction in the matter.
- **Complainant:** Any person who files a complaint regarding misconduct or malfeasance on the part of an agency employee.
- **Discipline:** Adverse action taken by the agency against any employee as the result of a sustained internal affairs investigation including, but not limited to, an oral reprimand, a written reprimand, suspension, demotion or dismissal.
- **Employee:** Any person employed by the agency, whether sworn or non-sworn.
- **Internal Affairs Unit:** The designated unit or person with primary responsibility to conduct investigations of internally directed or civilian complaints of misconduct or malfeasance.
- **Internally Directed Complaint:** Any complaint filed by an employee of the Guilford Police Department.
- **Malfeasance:** Illegal or dishonest activity especially by a public official.
- **Misconduct:** is an act or omission by an employee, if proven true, would normally result in some form of discipline or corrective action. This would include:
 - Commission of an unlawful act
 - Neglect of duty
 - Violation of any department policy, procedure, rule regulation or training procedure: or

- Conduct which may reflect unfavorably upon the employee of the Guilford Police Department.
- Supervisor: Includes those holding the rank of Sergeant or higher.

III. Procedures

A. Responsibility

1. The Chief of Police, or his designee, will oversee internal affairs functions of the Guilford Police Department. Nothing contained herein shall be construed as preventing the Chief of Police from initiating an investigation without a complaint if, in his opinion, such action is necessary. The Chief of Police will ensure that complaints are assigned to the appropriate person for investigation.
2. The designated investigator shall be responsible for:
 - Conducting a thorough, fair and impartial investigation of every complaint received regardless of the method of receipt.
 - Investigating and determining the nature, facts, and circumstances of every complaint.
 - 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 the investigation.
 - 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.
 - Preparing suggested revisions of agency policies and procedures where existing deficiencies have been identified as a contributing factor to misconduct.
 - a. Whenever a supervisor receives a complaint concerning personnel under their command, they shall first determine the class of complaint, and follow those guide lines. (Class A or Class B). The supervisor shall make a preliminary report of the complaint and shall forward a written report on the case to the Chief of Police without undue delay. If the complaint is regarding the supervisor, they will then forward the complaint to the next highest ranking officer.

B. Acceptance and Intake of Complaints

1. All persons are encouraged to bring forward legitimate complaints regarding possible misconduct or malfeasance of employees of this agency. All sworn and civilian employees shall be required to accept a complaint alleging misconduct or malfeasance by agency personnel. Employees shall:
 - Courteously inform an individual of his or her right to make a complaint if the individual objects to an employee's conduct
 - Assist any person who wishes to file a complaint by documenting the information and allegations they provide.
 - Advise the individual how to proceed.
 - Promptly putting the complainant in contact with a supervisor who can assist them with filing their complaint.

2. No employee shall refuse to assist any person who wishes to file a civilian complaint or discourage, interfere with, hinder, delay, or obstruct a person from making a citizen complaint.
3. All complaints shall be accepted;
 - whether from a victim,
 - an eyewitness
 - or another concerned third person
4. Complaints shall be accepted when received by:
 - in person
 - by letter
 - by fax
 - by telephone (TDD)
 - by a third party
 - by email
 - anonymous
5. 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.
6. 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.

7. If a complainant fears 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 internal affairs investigator to be aware of these fears and develop reasonable strategies to assist the complainant in dispelling those fears.

C. Investigation of Complaints

1. Civilian Complaints

- a. Civilian complainants shall be provided Citizen Complaint form, GPD 13a, on which to lodge a complaint(s). The form and the policy are also available on the Guilford Police Department web site (guilfordpd.com), the shift supervisor's office, police department front interview room, the dispatch area, the Guilford Town Hall, the Guilford Library, and the Guilford Community Center.
 - b. There shall be no retaliation in any form by any member of this agency directed at an individual who makes a complaint.
 - c. During the complaint intake process, no questions shall be asked of a complainant regarding their immigration status.
 - d. Officers who withhold information, fail to cooperate with department investigations, or who fail to report alleged misconduct or malfeasance of employees to a supervisor shall be subject to disciplinary action.
2. All employees will assist those who express a desire to lodge a complaint against any member of the agency. Assistance includes:
- a. Calling a supervisor (when possible) to the scene to conduct a preliminary inquiry and document the complaint. If a supervisor is not available, the employee will inform the complainant that they will be contacted by a supervisor or internal affairs investigator as soon as possible, but no later than the following day.
 - b. Explaining the Department's complaint procedures.
 - c. Providing complaint form(s) and/or complaint filing information and/or giving instructions as to where the complaint forms 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.
3. The Chief of Police, his designee, or the investigating authority shall make sure that all complaints are processed and investigated appropriately. All investigations of complaints should be completed as soon as possible, generally within 30 days of the assignment. The Chief of Police may grant extensions when extenuating circumstances exist. Status reports will be forwarded to the Chief of Police at least every seven days. The status reports may be either written or oral, as specified by the Chief of Police. Any unique delay in the investigation shall be immediately brought to the attention of the Chief of Police or his designee by detailing the reason for the delay and the projected date of completion.
4. Employees who receive a complaint about their own conduct shall immediately refer the complaint to a supervisor.
5. Any such complaint of misconduct against the Chief of Police shall be referred to the Chairman of the Board of Police Commissioners.

6. All complaints shall be documented using Citizen Complaint Form, GPD 13a, which shall be completed as fully as possible with the information provided by the complainant.
7. Complaints received by mail shall be forwarded to the Chief of Police or his/her designee where they will be assigned an internal investigation number and assigned to an investigator.
8. Walk in or in person complaints shall be referred to a supervisor who shall then forward the complaint to the Chief of Police. 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 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. The complaint will be assigned an internal investigation number and assigned to an investigator.
9. Telephone complaints shall be referred to a supervisor. The supervisor shall obtain the details of the complaint as soon as possible, dispatch an investigator to the complainant's location (when practical), and proceed as described in the foregoing paragraph.
10. Complaints from the field in which any member of the agency 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 a supervisor. If a supervisor is unavailable, or the complainant is unable or unwilling to wait, the employee will gather contact information for the complainant and basic facts and circumstances regarding the complaint. The employee will then inform them that he/she may respond to the Guilford Police Department to make the complaint. The employee will also inform the complainant that they will be notifying a supervisor who will be in contact with them to follow up.
11. When an anonymous complaint is received concerning the misconduct of an employee, and sufficient information was not supplied by the caller on which to base an investigation that would tend to prove or disprove the allegation(s) made, the record of the complaint shall be retained for a period of thirty(30) days and then be destroyed.

The destruction of the anonymous complaint record is not to be interpreted as preventing the anonymous complainant from coming forth at a later date, identifying themselves, and lodging a new complaint based upon the same allegation(s).

12. Internally Directed Complaints will be documented on Form GPD 62, Report to the Chief Concerning Violations of Department Rule/Order. It is the obligation of all employees of the Guilford Police Department to report all violations of the rules and regulations of the department, violations of the law, use of excessive force, breach of

civil rights, brutality, abuse of authority, or other non-criminal misconduct. Failure to do so may be treated as neglect of duty.

13. Complainants shall be notified in writing within five (5) business days of receipt of their complaint that: their complaint has been received by the agency and is currently pending; that an internal investigation number has been assigned (providing the number); that they will be informed in writing of the outcome of the complaint following conclusion of the investigation, and that they may contact the designated investigator at any time for further information while the investigation is pending. (Provide the investigator's name, telephone number, and email). The complainant may periodically be updated on the status of the complaint. Any updates to the complainant will be noted by the investigator in the report. If the complainant fails to respond to the investigator(s) requests for information or they fail to cooperate, a follow up letter will be sent to the complainant informing them that the investigation may be closed if the complainant fails to cooperate. Attempts to contact the complainant will be recorded by the investigator in the final report. Failure by the complainant to respond or cooperate will not necessarily require the immediate closing of a complaint, unless there exists no other source(s) of information which would aid in the investigation.
14. The subject of the investigation/complaint shall be promptly notified of the complaint unless such notification would adversely hinder the investigation of the alleged incident. When employees are notified that they are subject of an internal affairs investigation, the allegations will be indicated in writing and the employee will be notified of their rights and responsibilities. The decision not to notify the employee will be limited to the discretion of the Chief of Police, and will be used only when such incident requires special investigation techniques, which, if the employee knew, would adversely affect the investigation itself or the notification may result in the loss or destruction of evidence or jeopardize the safety of any individual.
15. Nothing in these procedures precludes the Chief of Police from calling in an outside agency such as the State Police, the State's Attorney, Federal Bureau of Investigation or other Federal or State agency to conduct an independent investigation if such action would be justified under the circumstances.

D. Complaint Classification

1. Class A Complaints:

Complaints alleging abuse of authority including excessive use of force; willful and malicious illegal arrest; unreasonable deprivation of individual rights; language, conduct or behavior that degrades a person's race, religion, sexual orientation, creed or national origin; corruption; criminal activity; verbal abuse; and serious violations of the rules or procedures of the Guilford Police Department shall be classified as Class A complaints. When the complaint is a Class A complaint the Chief of Police or his designee shall be notified immediately.

2. Class B Complaints:

Complaints of a less serious nature, such as poor service, etc., are Class B complaints and will be referred to the involved employee's supervisor. In all cases the complainant will be notified of the outcome. The supervisor conducting the investigation shall be responsible for reporting their findings to the Chief of Police or his designee for review.

3. Criminal Investigations:

In criminal matters, a separate investigator(s) will be assigned to the criminal investigation, and a separate investigator(s) will be assigned to the internal investigation. The criminal investigator may issue Miranda warnings to the employee(s) under a criminal investigation. The employee(s) shall have the right to have counsel or union representation present.

E. Report Numbering

Upon determining that a civilian or internally directed complaint should result in an internal investigation, a number shall be issued for record keeping purposes. The numbering system shall run consecutive for each calendar year. For example: I.A. 11-01 denotes an internal or civilian complaint showing the first investigation for calendar year 2011. The next successive investigation would have the number 11-02 and so on. When more than one employee is being investigated for the same incident, that investigation will be numbered as described, with alpha designations added for each employee being investigated. For example: 11-01A and 11-01B indicating two employees for the same incident.

F. Employee rights and responsibilities

1. Any employee who is the subject of an internal investigation and/or criminal investigation shall be afforded their rights and protection by law and by departmental policies, and rules and regulations.
2. Once notified that an internal investigation has commenced, employees being interviewed/interrogated relative to such investigation(s) shall cooperate as completely as possible. Prior to being interviewed/interrogated, the employee shall be given their Garrity warning by the investigator (GPD 29). The employee shall have the right to have Union representation present. The employee, when asked, will supply the investigator with all requested reports which specifically relate to their official duties, making sure that all questions relevant to the performance of their duties are answered.
3. In addition, employees who are the subject of an internal investigation may be requested to participate in other certain investigative procedures including but not limited to:
 - Interrogation/Interview
 - Medical Examination
 - Photographing
 - Line up
 - Submission of financial disclosure statements providing the need for such is consistent to the scope and purpose of the investigation.

4. The interview/interrogation will be conducted at a reasonable time, taking into consideration the working hours of the members and the legitimate interests of the Department. The Department shall make good faith efforts to thoroughly investigate the matter as expeditiously as possible.

5. Prior to the employee being interview/interrogated they shall be read the “Garrity Warnings”, which shall be as follows:

Officer _____, you are being questioned as part of an official investigation of the _____ . You will be asked a questions that are specifically, directly and narrowly related to the performance of your official duties, or fitness for office. You are entitled to all the rights and privileges guaranteed by the laws and the Constitution of this State, and the Constitution of the United States, including the right not to be compelled to incriminate yourself.

You are also advised if you refuse to testify or to answer questions relating to the performance of your official duties or fitness for duty, you will be subject to departmental charges, which could result in your dismissal from the Guilford Police Department. If you do answer, neither your statements nor any information or evidence which is obtained from these statements can be used against you in any subsequent criminal proceedings. However, these statements may be used against you in relation to departmental charges.

6. The interview/ interrogation may be video and/or audio recorded. All recordings shall be preserved by the investigating officer until the investigation is completed and all charges are dropped or processed to conclusion. At their request, the member or his attorney may listen to, transcribe or copy all or any portion of any recordings the tape/dvd.

7. The interview/interrogation shall be conducted with as much confidentiality as possible. The interview/interrogation of the employee suspected of violating Department rules and regulations shall be limited to questions which are directly, narrowly, and specifically related to the member’s performance as it relates to the alleged violation.

8. If the employee is under arrest or is likely to be, that is, if he is a suspect or the target of a criminal investigation, he shall be afforded his rights granted under such circumstances to other persons. Prior to any in custody interrogation, the employee will be read the Miranda Warning, and shall sign that the warning is understood.

9. In cases where the employee is the subject of both an administrative internal investigation and a criminal investigation, the investigations shall be conducted by separate investigators. The officer conducting the administrative internal investigation and the officer conducting the criminal investigation shall not have contact concerning either investigation until the conclusion of the investigation.

10. In all cases in which a member is interviewed/interrogated concerning a serious violation of Department rules and regulations which, if proven, would be likely to result in his removal from the Department, they shall be afforded a reasonable opportunity and facilities to contact and consult privately with an attorney of their choosing and a

representative of the Bargaining Unit before being interviewed/interrogated, and their attorney, and/or a representative of the Bargaining Unit may be present during the interview/interrogation.

11. Employees who are issued oral reprimands shall have the right, after six months from the date of issuance of the reprimand, to petition the Chief of Police in writing to have any written record thereof removed in accordance with State Law, so long as they do not commit a similar offense during the time for retention. Upon receipt of the approval of the State Public Records Administrator, such records will be removed. After the time for retention has expired, the prior incident shall not be considered for any purpose, provided they have not committed a similar offense during that period.
12. Employees who are issued written reprimands shall have the right, one year from the date of the written reprimand, to petition the Chief of Police in writing, to have any written record removed in accordance with State Law, so long as they do not commit a similar offense during the time for retention. Upon receipt of the approval of the State Records Administrator, such records will be removed.
13. Employees who are disciplined in any formal manner, up to but not including demotion or dismissal, shall have the right to petition the Chief of Police, in writing, one year after the judgement has been rendered, to request a complete pardon for the offense and the removal of any written records thereof, provided they have received no disciplinary action during that period. Upon receipt of the approval of the State Public Records Administrator, such records will be removed.
14. At any time during the course of the investigation, the subject employee may elect to submit acknowledgment of culpability or affirmative plea to the charges. Such acknowledgment must be in writing, directed to the Chief of Police.

G. Report of Investigation

At the conclusion of any investigation a full written report will be prepared by the employee(s) assigned to such investigation, and will include, but not be limited to, the following:

- The original civilian complaint form(GPD 13a)
- Any sworn statements or statements from the complainant or witness
- Any sworn statements submitted by the employee(s) under investigation
- Any sworn statement submitted by witness employee(s)
- Original recordings of any interviews conducted IE: video, audio, etc.
- A summary of all evidence
- Mitigating circumstances
- Any other evidence that may have been collected

H. Review of the Investigation

1. The designated internal affairs investigator's supervisor shall review the investigation to determine the thoroughness, completeness, accuracy and objectivity of the investigation.

2. The completed report of investigation, disciplinary recommendation, if any, and the recommended disposition shall be reviewed by the Chief of Police.
3. 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.
4. Findings of completed investigations and disciplinary recommendations, if any, shall be promptly conveyed, in writing, to the employee.

I. Information Provided Upon Dismissal

When disciplinary process results in the employee's dismissal, the following information shall be provided to the employee:

- A statement citing the reason for dismissal
- The effective date of the dismissal
- A statement regarding the status of fringe benefits and retirement benefits after dismissal.

J. Record Keeping

1. Civilian complaints and internally directed investigations will be maintained consistent with State Law and the Collective Bargaining Agreement then in full force and effect.
2. At the conclusion of a civilian complaint or internally directed investigation in which no personnel action is taken, the affected employee(s) will receive a personnel memorandum to that effect. A copy of that memorandum will also be placed in the investigation folder and filed numerically.
3. At the conclusion of a civilian complaint or internally directed investigation in which personnel action is taken, the affected employee(s) will receive a personnel memorandum outlining the rule(s) violation and the personnel action taken. A copy of the memorandum will also be placed in the employee(s) personnel file and the investigation file.
4. Personnel may request removal of personnel action from their personnel file as outlined in accordance with State Law.

When such records are authorized for removal, the personnel memorandum outlined above will be removed and placed in the investigative folder. A notation will be made in the personnel file to denote such removal. The investigative folder will be noted to denote such removal from the personnel file and will also contain the "Request for Removal of Public Records Personnel Data" form rev 1/93 from the State Records Administrator.

5. Files pertaining to civilian and/or internally directed complaints are located in the administrative offices. Access to these locked files is limited to the Chief of Police, Deputy Chief of Police, and the Administrative Assistant to the Chief.

K. Complaint Disposition/Resolution

When the Chief of Police concludes, based on the results of the internal investigation or other independent evidence that an employee(s) has/have violated a policy, a rule or regulation of the Department, or the civil rights of an individual, the Chief of Police shall take action against the employee. Such actions shall be taken in accordance with the authority of the Chief of Police; or the authority granted to the Board of Police Commissioners by law; and the provisions of the labor agreement between the Town of Guilford and the AFSCME Council 4 Local 356, or National Association Government Employees, or the Guilford Employees Association, if applicable.

Nothing in this order is to be construed as preventing the Board of Police Commissioners from acting independently of, or in conjunction with, the Chief of Police in pursuing the investigation and disposition of a civilian complaint/internal investigation.

1. Case Dispositions of Complaints

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 the investigation in one of the following manners:

- Unfounded - The investigation indicates the act or acts complained of did not occur or failed to involve police personnel.
- Exonerated - The acts which occurred were justified, lawful and proper
- Not Sustained - The investigation fails to clearly prove or disprove the allegations
- Partially Sustained - The investigation disclosed sufficient evidence to prove clearly that at least one of the allegations made is not sustained. However, other allegations are sustained and/or employee(s) actions are found to be in violation of Department rules, regulations and general orders.
- Sustained - The investigation disclosed sufficient evidence to prove clearly the allegation(s) made in the complaint.
- Withdrawn - At some point prior to the completion of the investigation the complainant notifies the Department that he/she wishes the investigation discontinued and concurrence for this action is obtained by the reviewers (GPD 13d). Failure by the complainant to respond to the investigator(s) requests for information or failure to fully cooperate with the investigation may be grounds, in the discretion of the Chief of Police, for a constructive withdrawal of the complaint.
- Reconciled-The supervisors are encouraged, where appropriate, to attempt reconciliation with the complainant regarding Class B complaints in lieu of filing a formal complaint. The supervisor(s) receiving the complaint may, to the extent possible, meet with the complainant and attempt reconciliation.

Reconciliation may be used in situations where the complaint is a result of a misunderstanding on the part of the affected employee or the complainant, and:

- Does not reflect discredit upon the Department
- Does not reflect discredit upon the officer
- Is not a criminal offense
- Is not racism, bigotry or prejudice against any race, religion, sexual orientation, creed, or national origin or circumstances beyond an individual's control
- Does not preclude further corrective action on the part of the Department

When a complainant agrees that the matter can be reconciled without a formal investigation, the supervisor handling the investigation will notify the Chief of Police of the outcome in writing. The Chief or his designee will send a letter to the complainant informing them of the receipt of the supervisor's memo and to ensure that the complainant is satisfied with the outcome of the investigation. The decision to close the complaint without a formal investigation is limited to the discretion of the Chief of Police. Nothing in these procedures precludes the Chief of Police from proceeding with a formal investigation if he believes one is necessary.

2. After review of the investigation by the Chief of Police the matter shall be referred to the Board of Police Commissioners, consistent with the regulations established in this manual.

L. Annual Report

The Chief or his designee will prepare a summary report of the internal investigations that were conducted for the calendar year. The summary shall include:

- Number of complaints received
- Number of complaints sustained
- Number of complaints unfounded
- Types of complaints received
- Type of action taken on sustained complaints

M. Training

All personnel will be required to complete initial and annual training on the Department's civilian complaint policies and procedures.

N. 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, Guilford Police Department website, the internet, the Guilford Library, community groups, and the Guilford Community Center.
- b. Ensure that copies of this policy and complaint forms (in English and Spanish) are also available at the Guilford Town Hall.
- c. Ensure that copies of this policy, complaint forms, and the annual report are made available on the Guilford Police Department website (guilfordpd.com).