

UNIT NUMBER
40

EFFECTIVE DATE
FEBRUARY 1, 2005

RESCINDS: GENERAL ORDER
APRIL 2, 2001

TOPIC:

Citizen and Employee Complaints of Police Misconduct.

PURPOSE:

- I. It is the policy of the City of Canton and the Police Department that all complaints received from citizens or initiated by employees will be promptly and thoroughly investigated. Legitimate grievances regarding inadequate police service or misconduct by members of the Department will be received courteously and resolved in a fair and impartial manner.
- II. The objective of this policy is to provide citizens with an effective avenue of redress and protect officers from false charges of misconduct or wrongdoing. In so doing the Department shall not hesitate to impose disciplinary action against unfit officers and dismiss unjustified allegations against innocent officers.
- III. The Department will strive to remain informed about the needs and problems of the community. A policy of community outreach shall be instituted to keep open channels of communication between the Department and the members of the community to hear the concerns of citizens and to identify potential problem areas.

COMPLAINTS TO BE HANDLED BY INTERNAL AFFAIRS:

- I. Serious misconduct. (Severe nature or pattern of procedural violations, lack of service, etc.)
- II. Criminal conduct. (Violations of statutes, ordinances, departmental rules and regulations by sworn members).
- III. Sexual misconduct.
- IV. Excessive use of force.
- V. Any other complaint assigned by the Chief of Police.

PROCEDURE:

- I. Initiation of complaints by citizens against police personnel.

- A. **ALL CITIZENS will be afforded the opportunity to file a personnel complaint seven (7) days a week, twenty-four (24) hours a day.**
- B. Personnel complaints can be filed in person Monday through Friday, from 7:30 a.m. to 4:00 p.m. on the sixth (6th) floor of City Hall, which is the designated office of Internal Affairs.
- C. Outside of the listed days and times stated in letter 'B', the personnel complaints will be made at the **Report Desk** of the Patrol Division, and the **following procedure will be followed.**
- D. When the Report Desk Officer is notified by a citizen that he/she wants to make a complaint against any Canton Officer of any Bureau or Division, the officer shall not further question the citizen, but shall immediately summons a Patrol Shift Supervisor to speak with the person.
- E. The Patrol Shift Supervisor will immediately respond and make contact with this citizen and will do the following:
1. Interview the citizen in regards to the nature and details of they complaint.
 2. Have the citizen fill out completely, the Personnel Complaint Form, listing address(es) and/or phone number(s) for all the witnesses.
 3. Have the **citizen sign** this Complaint Form at the bottom.
 4. The interviewing Shift Supervisor shall sign the Personnel Complaint Form at the bottom center where it states, **INTERVIEWER.**
 5. The Shift Supervisor shall then obtain a **COMPLAINT NUMBER** and affix this number to the Personnel Complaint Form at the upper right corner of this complaint. The complainant shall be given his/her copy, which is the triplicate or the pink copy.
 6. The Shift Supervisor shall make a **SUPPLEMENT** under the complaint number as to what he/she discovered through the interview of this citizen, directing this supplement to the office of the Chief.
 7. The Shift Supervisor will then direct this completed Personnel Complaint Form personally to the office of the Chief of Police before the end of his tour of duty for that working day.
 - a. On afternoon and midnight shifts, the Interviewing

Shift Supervisor shall be responsible for passing this Complaint Form onto the Day Shift Supervisor who will deliver this Personnel Complaint Form to the office of the Chief.

- b. On weekends and holidays, when the Chief may be off, it is the responsibility of the interviewing Shift Supervisor to see to it that the completed Personnel Complaint is delivered to the office of the Chief on the next working day for the Chief.
- c. **The Chief will assign the complaint for complete investigation to the office of Internal Affairs.** Complaints of a less serious nature or those deemed by the Chief as appropriate may be assigned to shift/bureau supervision for investigation. Upon completion of the investigative process the shift/bureau commander shall forward through the proper chain of command, a complete summary of the investigation along with recommendations for course of action to the Chief of Police. A copy of all investigative paperwork will be forwarded to Internal Affairs office to be processed in accordance with established departmental IA procedures.

8. The Shift Supervisor shall not discourage any citizen from filing a complaint.
9. If the complaining citizen indicates that he/she does not want to be interviewed by the Shift Supervisor, the person shall be referred to the Major or the Chief of Police.

F. **EXCEPTIONS** to the above-mentioned procedure shall be instituted if the complaining citizen requests not to be interviewed at this time and further requests a Personnel Complaint Form to take home, fill out and return at a later time.

1. It is then the responsibility of the Shift Supervisor to instruct the citizen that when he/she brings the completed form back to headquarters, the citizen is not to just drop it off, but go to the report desk and then the Report Desk Officer will summons a Shift Supervisor.
2. This Shift Supervisor shall then proceed with Section C, steps 1-7 with this citizen. It will be done this way since the initial complaint started at the Patrol Shift, so then the complaint will be completed at the Patrol Shift and then taken to the Chief.

G. A time period of **ninety (90) days** is the period from the time the complaint is assigned to Internal Affairs, up to and including the review of the investigation by the Chief and his staff, including the in-house legal advisor.

1. If for investigative reasons(s) the investigation takes longer than the established ninety (90) days to complete this process, then the complainant will be notified.

H. When a case is given to Internal Affairs, the investigators shall investigate each complaint completely.

1. The investigator shall receive taped statement(s) and/or written statement(s) from the officer(s) who the complaint is against.

2. The investigator shall receive taped statement(s) and/or written statement(s) from all witness(es) listed on the Personnel Complaint Form.

3. The investigator shall receive all other paperwork that is pertinent to the complaint, e.g., and not limited to:

a. Cad printout of the call where this pertains;

b. Arrest record(s) where this pertains;

c. Arrest form (Form 8) where this pertains;

d. Medical release from where this pertains;

e. Picture(s) taken of the complainant where this pertains;

f. All other paperwork that is pertinent to the investigation.

g. Cruiser audio/video tapes pertinent to the investigation.

4. The investigator, as a part of the completion of the complaint, will make a recommendation as found in Section II, subsection B, numbers 1 through 4.

II. Notification of a citizen complaint completion

A. The citizen complainant shall be notified by the Chief of Police in writing of the outcome of the completed INTERNAL AFFAIRS investigation.

B. The Chief of Police may review the investigation and recommendation of the investigator with the Law Department.

C. A complaint may be concluded in one of the following ways:

1. **SUSTAINED:** The allegation is supported.

2. NOT SUSTAINED: Insufficient evidence to either prove or disprove the allegation.
 3. EXONERATED: The alleged act occurred but was justified, legal and proper under the circumstances.
 4. UNFOUNDED: The allegation was false or did not occur.
- D. At the end of each month the Internal Affairs Commander shall make a copy of the Master Log and present it to the Chief of Police and the Director of Public Safety.
 - E. An annual report shall be prepared by the Internal Affairs Commander listing all the complaints in that current year and present it to the Chief of Police for the annual report for the Canton Police Department.
- III. Initiation of a complaint by an employee against an employee.
- A. Serious allegations of Police Misconduct, as classified in the Rules of Conduct.
 - B. Minor infractions of Police Procedures as classified in the Rules of Conduct.
 - C. Any employee who has knowledge of a violation of a Rule of Conduct shall notify the Department in writing. The employee shall utilize the standard complaint form.
 - D. The complaint shall be forwarded through the proper chain of command until it reaches the appropriate investigation level. Any superior officer in the chain of command having knowledge of the facts shall record such information in writing to be attached to the employee complaint.
 - E. Serious police misconduct offenses shall be forwarded through the chain of command to the Chief. The Chief shall designate the proper unit to investigate the complaint.
 - F. Minor infractions shall be investigated by the superior officer who shall have the authority to summarily reprimand an officer.
 - G. Employee initiated complaints shall be recorded and logged in the Internal Affairs Unit.
 - H. The investigating officer and any investigator thereafter shall have forty-five (45) days to complete an investigation.
 - I. The complaining employee shall be informed in writing of the results of the investigation by either the Internal Affairs Unit or the superior officer investigating the complaint.

J. Any employee making false, or unsubstantiated accusations injurious to the reputation or morale of any other employee of the Department shall be subject to appropriate disciplinary action.

K. Chain of Command:

1. Safety Director
2. Chief
3. Major
4. Captain
5. Lieutenant
6. Sergeant
7. Patrolman

IV. Criminal Investigation

A. If the filing of criminal charges is contemplated or if the officer becomes a suspect of a criminal act during the interview, the investigating officer shall advise:

1. The nature of the charges.
2. That the Chief of Police may suspend him from duty pending a hearing.
3. His right to remain silent and that anything he may say can, and will, be used in court.
4. Allow the accused time to obtain counsel to be present during the interview.
5. His right to cease answering questions and invoke his Constitutional Rights at any time.

B. Any criminal investigation of an accused officer shall conform to established Constitutional principles.

C. Internal Disciplinary Investigations: In cases where the interview is conducted only for internal disciplinary purposes, the following procedures will apply:

1. The accused officer shall be advised of the nature of the investigation prior to any questioning.

2. The accused officer shall be advised that all questions are to be answered fully and truthfully.
3. The accused officer shall be advised that failure to cooperate fully can be the basis of a separate disciplinary action.
4. Use of Polygraph:
 - a. Only an Internal Affairs investigator, with permission of the Chief, may request an officer to take a Polygraph examination.
 - b. The officer will not be requested to submit to a Polygraph examination unless the complainant takes one first.
5. Another technique used would be the requirement of an employee to submit to a test for drug or narcotic usage. The superior will order a drug test when there is documentation or reliable information received of a probable cause nature, under the conditions outlined below, which would indicate:
 - a. An employee is impaired or incapable of performing his/her assigned duties.
 - b. Reduced productivity.
 - c. Excessive vehicle accidents.
 - d. High absenteeism.
 - e. Or other behavioral or character changes inconsistent with previous personality patterns for that employee.
 - f. Information received from an outside source causing supervision to suspect drug usage on the part of the employee.
6. Any employee who would not submit to the drug test is subject to disciplinary action to and including termination from employment.
7. Obligations of Investigating Officer:
 - a. The questions asked of the accused officer shall relate directly and narrowly to the specific complaint under investigation.

- b. The accused officer shall not be required to waive immunity from prosecution.
- c. The investigating officer may also employ the following techniques to acquire evidence.
 - (1) Physical characteristic test.
 - (2) Search of the officer's locker or desk.
- d. The accused officer shall be advised that evidence obtained in this manner will not be used against him in any criminal prosecution, which may arise from the incident.