

<b>CROMWELL POLICE DEPARTMENT STANDARD OPERATING PROCEDURES</b>		<b>NUMBER</b>	
		<b>S.O.P. 94-06</b>	
<b>SUBJECT</b>	<b>CIVILIAN COMPLAINT PROCEDURE</b>	<b>DATE OF ISSUE</b>	<b>EFFECTIVE DATE</b>
		<b>DISTRIBUTION</b>	<b>May 30, 1994</b> Revised: Dec. 6, 2012 Nov. 9, 2015

### **Purpose**

To establish the administrative procedures for receiving, documenting and investigating complaints and compliments concerning the employees of the Cromwell Police Department.

### **Policy**

The character and reputation of any police department rests on an adequate program of fair and impartial investigations. Therefore, it is the policy of the Cromwell Police Department to accept, record, and investigate all complaints made regarding the conduct and integrity of its employees to equitably determine whether the allegations are valid or invalid and to take the appropriate action.

### **Definitions**

**Complaint:** A complaint shall be defined as an act of expressed dissatisfaction relative to the conduct and/or performance of Cromwell Police Department employees. A complaint may be anonymous and/or made by one person on behalf of another. The absence of a signed complaint or statement does not mitigate a complaint.

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

**Citizen inquiries:** When a citizen contacts the agency with questions regarding a policy, procedure, or tactic used by the department including issues relative to probable cause regarding traffic violations.

**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 civilian.

**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.

**Preponderance of the Evidence:** The greater weight of evidence or evidence that is more credible and convincing to the mind. It rests with that evidence which, when fairly considered, produces the stronger impression, and has the greater weight, and is more convincing as to the truth when weighed against the evidence opposed to it.

## **Procedure**

### **General**

The Chief of Police, by the authority granted by the Town Charter, has the ultimate authority to determine the disposition of all internal investigations and to dispense discipline based on the facts of the case. If warranted an internal affairs investigator, generally a department supervisor will be appointed at the discretion of the Chief or their designee. The appointed internal affairs investigator shall be acting for and under the direct authority of the Chief of Police when conducting investigations. Officers with special investigative knowledge or experience may be called upon to assist during the investigation. Officers assisting in an Internal Affairs investigation shall report all of their investigative findings directly to the assigned lead investigator.

The Chief of Police can order any employee of the Cromwell Police Department to submit to legally acceptable technique to secure non-testimonial evidence, when such actions are specifically and narrowly related to an internal administrative investigation, including, but not limited to, ballistics, photographs, financial disclosure statements, and lineups.

### **Receiving Complaints**

The Cromwell Police Department will accept complaints made by any person, by any means of communication, at any time. An employee receiving a complaint or allegation will be courteous, responsive and helpful, and shall adhere strictly to the following established procedure. All sworn and civilian employees shall be required to accept a complaint alleging misconduct or malfeasance of agency personnel. The Citizen Complaint form shall be used. There shall be no retaliation in any form by any member of this agency directed at an individual who initiates a complaint, nor during the complaint process shall questions relative to the immigration status of the complainant be asked. 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. No employee shall refuse to assist any person who wishes to file an internal affairs complaint or discourage, interfere with, hinder, delay, or obstruct a person from making a complaint. If a complainant expresses fears of retaliation they should be asked to provide the basis for their concerns, if possible, and the information provided should be noted in the complaint.

When questions arise concerning the actions of a member of the agency, the matter shall be referred to an on-duty supervisor who will determine if the matter is merely a citizen inquiry that may be handled by providing routine information or if it is a complaint that may require an investigation pursuant to this policy.

Upon the receipt of a complaint the on-duty supervisor shall:

- obtain enough initial information from the complainant to establish the identity of the employee(s) against whom the complaint is made,
- identify the alleged action or in-action of the employee(s),
- obtain the identity of the complainant and the identity of any witness,
- assist the complainant in filling out the Citizen Complaint Form,
- give the complainant a copy of the Citizen Complaint Form,
- forward the original Citizen Complaint form to the Chief of Police.
- If appropriate, forward a copy of the Citizen Complaint Form to employee's immediate Supervisor.

Anonymous and third party complaints will be accepted. In these circumstances the supervisor shall fill out the Cromwell Police Department Citizen Complaint Form in as much detail as possible and shall advise the complainant of the inherent limitation involved with investigating anonymous complaints.

All personnel who are approached by a person seeking to make a complaint will, when possible, notify a supervisor, obtain a brief description of the allegation, and record contact information from the complainant if provided.

If a supervisor is not readily available, the officer will inform the complainant that they will be contacted by a supervisor prior to the end of their shift.

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 to include the date, time, location, and nature of the complaint, complainant's information (name, address, date of birth, telephone number, or other contact information, if provided, date and time the complaint was received, and the name, rank and/or title of the person receiving the complaint.

If complaints are received by mail, all correspondence received containing allegations shall be forwarded to the Chief of Police or the Chief's designee where they will be officially received. These complaints shall be assigned an Internal Affairs Investigation number and assigned to an investigator. A letter of acknowledgment will be prepared advising the complainant that the matter is being investigated and that they will be contacted by the investigator assigned.

Walk-in complaints shall be referred to a Supervisor. 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. The supervisor shall then forward the complaint to the office of the Chief of Police.

Telephone complaints shall be referred to the on-duty supervisor. The supervisor who receives the complaint shall obtain the details of the and respond to the complainant's location if practicable.

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 the supervisor where available. 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 headquarters to make his/her complaint.

In those circumstances where the complainant is 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 complaint, adequate language assistance to permit them to file their complaint must be provided. The name and identifying information of any person providing such assistance shall be recorded on the complaint form or in the body of the investigatory report.

### **Complaint Investigation**

The investigating supervisor shall contact the complainant and attempt to resolve the complaint in a timely fashion. If the allegations are minor in nature and the supervisor resolves the matter, the Citizen Complaint Form along with a report explaining the resolution will be forwarded to the Chief of Police for review and retention.

If the supervisor cannot resolve the matter or the allegations are complicated requiring additional investigation, the supervisor will inform the complainant that the matter will be forwarded to the office of the Chief of Police. The supervisor will promptly gather all reports, records and documents relating to the complaint or allegation, and obtain a statement or detailed report from the subject officer, if appropriate. (In certain circumstances it may be in the best interest of the investigation to delay obtaining the subject employee report or statement.) The subject employee's report shall contain the following information:

- All pertinent information pertaining to the allegations;
- A list of all officers and witnesses known; and
- Any other information that would be of assistance in the investigation.

The matter will then be forwarded to the Chief of Police for review. After reviewing the complaint, the Chief of Police may re-assign the investigation or have the employee's immediate supervisor continue with the investigation. The investigating supervisor will be delegated all the authority necessary to accomplish a fair and impartial investigation. The assigned supervisor will conduct a thorough and comprehensive investigation of the each allegation inclusive of any performance related issues revealed as a result of the investigation.

If the allegations are made known to the Police Department during a time when the Chief of Police is not on-duty and involve an excessive use of force, criminal behavior or serious ethics violations, the Chief of Police shall be immediately notified. In circumstances where the allegations are criminal in nature, the Chief of Police may assign a second supervisor to conduct a criminal investigation.

In addition to this complaint procedure supervisors have the responsibility to investigate administrative violations including, but not limited to, sick leave abuse, tardiness, pursuit policy violation and the quality control of reports. Any formal documentation of these administrative violations shall be forwarded through the chain of command to the Chief of Police. Cromwell Police Department employees, after being notified of a complaint against them, shall not knowingly have contact with the complainant or witnesses from outside the department except in exigent circumstances within the scope of his/her duties or until the case is concluded. If contact is made he/she shall immediately notify his commanding officer.

#### Complaints by persons Under the Influence of Alcohol or Drugs

When a person who is noticeably intoxicated or impaired wishes to make a complaint, he or she shall be encouraged to wait until the earliest opportunity after he or she has regained sobriety to do so. When the Supervisor determines the circumstances require immediate action, preliminary details of a complaint should be taken by a Supervisor, when available, regardless of the person's sobriety. In that event, the internal affairs designee should re-interview the person after he or she has regained sobriety.

#### 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.

## **Notifications**

Complainants shall be notified in writing within five (5) business days of receipt that; (1) their complaint has been received by the agency 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 at any time for further information while the investigation is pending.

An employee who is the subject of a complaint shall be notified per the collective bargaining agreement. The employee's supervisor will also be notified. Upon completion of the investigation the Chief of Police shall notify both the employee and the employee's supervisor regarding the outcome.

Nothing in this policy precludes the Chief of Police from referring an internal affairs investigation to an outside agency if such action would be in the best interest of the municipality and of justice.

## **Withdrawal of Complaints**

A complaint may be withdrawn at any time; however such a withdrawal will not preclude the continuation of an investigation nor prevent the imposition of disciplinary sanctions in the event violations of department policy and procedure are substantiated.

## **Complaint Status**

The supervisory officer assigned to complete an Internal Affairs (I.A.) investigation will complete a thorough investigation under the assigned I.A. number which shall include but not limited to:

- ensure that a Citizen Compliment/Complaint Form is completed
- Interviewing and obtaining signed sworn statements, as necessary
- Gathering and preserving physical evidence
- Conduct on-scene inspections, including officer involved shooting incidents
- Provide assistance to and close coordination with Town Attorneys regarding claims against the Town and/or department

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:

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

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

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

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

e. Misconduct Not Based on Original Complaint: The investigation determined by a preponderance of the evidence that other misconduct 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.

f. Withdrawn: At some point prior to the completion of the investigation, the complainant notified the agency that he/she wished the investigation to be discontinued and concurrence for this action was obtained from the Chief of Police.

g. Summary Action: Disciplinary action in the form of an oral reprimand, or counseling documented in writing, was taken by an employee's supervisor or commander for minor violations of department rules, policies or procedures as defined by this agency. Summary actions are the lowest level of disciplinary action or remediation.

h. 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:

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 his or her designee. Reconciliation does not preclude further corrective action on the part of the agency. The matter will then be turned over to the Chief of Police for final disposition.

The Chief of Police shall approve each investigation and at his discretion may make a new and separate finding. Any investigation disapproved by the Chief of Police shall be returned to the Internal Affairs investigator for any remaining action necessary for approval.

The Chief of Police shall be responsible for maintaining a secure file on all Internal Investigations and Citizen Complaint Forms completed by this agency.

### **Training**

All supervisory personnel will be required to attend training on the department's Complaint Policy and the responsibilities of supervisors conducting internal investigations upon the implementation of this policy. All supervisory personnel will be required to attend periodic refresher training, as determined by the department, regarding the policies and procedures contained herein and professionally accepted practices related to conducting internal investigations.

### **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 agency web site, the general government web site of the agency, the internet, libraries, community groups, community centers and at other designated public facilities.

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.

The complaint policy and forms should be made available online where the agency, or the municipality served by the law enforcement agency, has an Internet website.