

AVON POLICE DEPARTMENT

Classified

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| TYPE OF ORDER: General | SUBJECT: Civilian/Internal Investigations and |
| ORDER NUMBER: 3.15 | Bias-Based Complaints |
| SERIES: 3 | SERIES GROUP: Personnel Structure |
| DISTRIBUTION: All Personnel | DATE ISSUED: 08/28/81 |
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| CALEA: 1.2.9, 26.2.1, 26.2.2, 26.2.3, 26.2.4, 26.3.1, 26.3.2, 26.3.3, 26.3.4, 26.3.5, 26.3.6, 26.3.7, 26.3.8 | |

3.15.1 PURPOSE:

The purpose of this policy is to comply with Connecticut General Statutes 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 law enforcement agency personnel of the Avon Police Department, including bias-based complaints. An additional purpose of this policy is to address internal complaints against employees.

3.15.2 POLICY:

It is the policy of the Avon Police Department to respond to allegations of misconduct or malfeasance against its employees consistent with this General Order and to 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.

3.15.3 DEFINITIONS:

Biased Policing

The selection of an individual(s) for enforcement action based in whole or in part on a trait common to a group, without actionable intelligence to support conditions of that trait. This includes, but is not limited to, race, ethnic background, national origin, gender, sexual orientation/identity, religion, economic status, age, cultural group or any other identifiable characteristics.

Complaint

An allegation of employee misconduct or malfeasance.

Complainant

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

Complaint Control Number

A unique numerical or alphanumerical code used to identify and track citizen complaint investigations. (ADM #161).

Discipline

Adverse action taken by the Department 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 Avon Police Department, whether sworn or non-sworn.

External Complaint

Complaint by a non-employee of the Department versus an employee of the Department.

Internal Affairs Division, Unit or Function

The designated division, unit or person with primary responsibility to conduct investigations of administrative or citizen complaints of misconduct or malfeasance. The Avon Police Department does not have an Internal Affairs Division or Unit. The Internal Affairs function is assigned to individuals by the Chief of Police on an as-needed basis. Generally, investigations are conducted by Supervisors, however, the Chief of Police may assign investigations to personnel of his choosing, or refer to outside investigators.

Internal Complaint

Complaint by an employee of the Department against another employee of the Department.

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.

Uniform Civilian Complaint Report

The form used to record complaints from a complainant. (ADM #079).

3.15.4 PROCEDURES:

a. General (External Complaints)

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. All employees must courteously inform an individual of his/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.

b. Assistance to Complainant (External)

All employees shall assist those who express a desire to lodge complaints against any member of the agency. 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. Complainant forms may also be obtained in the lobby of the Police Department, Town Hall, or on the Police Department website;
- (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;
- (5) Obtain a brief description of the allegation;
- (6) Record contact information from the complainant, if provided;
- (7) Obtain a Complaint Control Number from the Supervisor, which will be provided to

the complainant;

- (8) If a Supervisor is not readily available, the Officer shall inform the complainant that they may await the arrival of a Supervisor. If the complainant is unable to await the arrival of a Supervisor, the complainant will be informed that he/she may respond to the Police Department or that a Lieutenant will contact them by the next business day;
- (9) Sworn and civilian employees who receive a complaint about their own conduct shall immediately refer the complaint to a Supervisor. No member or employee shall investigate any complaint that directly concerns him/her.

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

c. Prohibitions

- (1) There shall be no retaliation in any form by any member of this Department directed at an individual who makes an internal or external complaint against an employee of the Department.
- (2) During the complaint intake process (external complaint), no questions shall be asked of a complainant regarding their immigration status.
- (3) Officers will not withhold, 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.

d. Assigned Investigator Responsibilities

The Division Lieutenant, Supervisor or assigned investigator conducting the investigation 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, 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 Department General Orders where existing deficiencies have been a contributing factor to misconduct.

e. Biased Policing Complaints

Statement Prohibiting

It is prohibited for Officers to engage in bias-based policing as a sole consideration for stopping a person, or vehicle, or in asset seizure and forfeiture efforts. (CALEA 1.2.9a)

Field Officer Responsibilities

- (1) An Officer may stop a motor vehicle upon reasonable belief that the person committed a motor vehicle violation or other criminal act. An Officer may conduct a '*Terry stop*' of an individual when the Officer has reasonable suspicion that a crime is in progress, has been committed, or is about to be committed. Such stops shall conform to Avon Police Department policies and procedures, as well as procedures published in the Connecticut Law Enforcement Field Officer's Manual, and the State of Connecticut racial profiling statutes.
- (2) Officers must complete a Connecticut Traffic Stop Statistics form or cause the electronic sending of the information for each motor vehicle stop, in accordance with State law. The information needed to complete this form will be obtained through the Officer's observations and driver's license information, and Officers will not inquire about a person's race or ethnic origins.
- (3) In addition, Officers shall document whenever there is a search of the vehicle or occupants, a person is handcuffed, or taken into custody.
- (4) In accordance with State law, Officers will provide the person with Racial Profiling form ADM #131.
 - A. This General Order does not preclude an Officer from stopping a vehicle to offer assistance, e.g., a substance leaking from the car. Such actions shall be reported using the appropriate CAD call types, rather than a moving violation.
 - B. Officers shall treat all individuals with courtesy and respect. An Officer shall provide his/her name, employee number and reason for the stop whenever the individual requests such information, once Officer safety has been established.
 - C. Whenever an individual alleges that an Officer has engaged in practices prohibited by this policy, the Officer will immediately notify the shift Supervisor who shall respond.

Supervisor Responsibilities (Biased Policing Complaints)

- (1) Supervisors shall ensure that Officers follow the policies and procedures outlined in this General Order.
- (2) The on-duty patrol Supervisor shall immediately respond to an incident when advised that an individual is making a complaint alleging prohibited profiling.

Management Responsibilities (Biased Policing Complaints)

- (1) The Operations Lieutenant shall prepare reports to the Chief of Police who will forward same to the Office of the Chief State's Attorney in the manner prescribed by said office.
- (2) The Command staff will take immediate, documented corrective measures if bias-based profiling occurs.

f. Training (Initial/Annual)

Initial and annual training will be conducted in bias-based issues, including legal aspects. (CALEA 1.2.9b)

g. Annual Review of Practices/Citizen Concerns and/or Complaints

The Chief of Police shall assign a documented annual report to be completed regarding the review of the Department's practices and citizen concerns regarding bias-based profiling and any corrective measures taken. (CALEA 1.2.9c)

h. Summary (Biased Policing Complaints)

The above section of this General Order is meant to provide guidelines to Avon Police Department personnel with regard to prohibited profiling practices and the requirements of *Connecticut General Statutes Section 54-11 and 54-1m, as well as 53a-181j (Intimidation Based on Bigotry or Bias)*.

REFERENCE:

Terry v. Ohio, 392 U.S. 1, 29-30 (1968).

Connecticut General Statutes §54-11, 54-1m and 53a-181j – Intimidation Based on Bigotry or Bias.

i. Acceptance/Investigation (External Complaints)

The Department shall accept, document and investigate all complaints against any employee by a non-employee regarding allegations of misconduct, regardless of whether the filed complaint is in writing, verbal, in person, by mail, by telephone (or TDD), by facsimile,

electronically, or anonymously. Telephone complaints shall be referred to a Supervisor. (CALEA 26.2.1)

j. Internal Complaints

Not all internal complaints against employees of the Department will require the assignment of an internal investigation control number. The type and degree of investigation in internal complaints will be based on the allegations, Connecticut statutory requirements (if applicable), at the discretion of the Chief of Police, or a combination thereof.

k. Records, Maintenance and Security

(1) Form ADM #161 will be used to assign a Complaint Control number in all complaints in which an internal investigation is ordered, both external and internal. This log form will be kept in the Sergeants' Office and updated as a complaint is filed. (CALEA 26.2.2)

(2) Whenever a non-employee files a complaint regarding misconduct or malfeasance on the part of a Department employee, the Uniform Civilian Complaint Report (ADM #079) will be completed by the employee or Supervisor receiving the complaint. This form will be the only form used to record non-employee complaints. (CALEA 26.2.2)

(3) 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. (CALEA 26.2.2)

(4) All investigative complaint material made pursuant to this General Order shall be maintained in a confidential file in the office of the Secretary to the Chief of Police. All records of internal affairs investigations shall be maintained in the office of the Chief of Police. (CALEA 26.2.2)

l. CEO Direct Accessibility

The Chief of Police has primary oversight and authority over investigations of citizen (external) complaints made against employees. Upon receipt of a complaint, the Chief of Police will assure that the complaint is assigned to the appropriate Division Lieutenant, Supervisor or assigned investigator for investigation. Individuals assigned to an internal affairs investigation (whether external or internal) will have the authority to report directly to the Chief of Police. (CALEA 26.2.3)

- m. Complaint/Commendation Registering Procedures
Information is provided to the public on procedures for filing or registering a complaint against, or commendation of, the Department or its employees through the Town website, at Town Hall or the Police Department. (CALEA 26.2.4)
- n. Annual Statistical Summary/Public Availability
The Chief of Police or his/her designee shall prepare annually statistical summaries of complaints and internal affairs investigations for public dissemination on the Police Department website and for Department employees. The summary shall include:
 - (1) Number of complaints exonerated;
 - (2) Number of complaints sustained and not sustained;
 - (3) Number of complaints unfounded;
 - (4) Number of complaints of misconduct not based on original complaint;
 - (5) Number and types of complaints received. (CALEA 26.2.5)
- o. Complaint Types
 - (1) By Line Supervisors
Generally, complaints may be investigated by Sergeants or any investigator assigned by the Chief of Police that include, but are not limited to, perceived rudeness, improper procedures and minor violations of rules and regulations. (CALEA 26.3.1a)
 - (2) By Internal Affairs Function
More serious complaints will be conducted by a person/employee assigned by, and who reports directly to, the Chief of Police. Those include, but are not limited to, violations of law, allegations of corruption, brutality, misuse of force, a bias-based complaint and major/repeated violations of rules and regulations. (CALEA 26.3.1b)
- p. CEO Notification (External Complaint)
Whenever a new complaint is received (external), the supervisor receiving the complaint shall immediately notify the Chief of Police (by e-mail) that a Complaint Control Number is assigned and forward the original complaint, and control log, to the Chief of Police. (CALEA 26.3.2)
- q. Investigation of Complaints (Time Limits/Extensions)
 - (1) The Chief of Police shall ensure that all complaints received are processed and

investigated appropriately as set forth in this General Order. Internal affairs investigations shall be completed whenever reasonably possible within forty-five days from receipt. Extensions may be granted by the Chief of Police for good cause. (CALEA 26.3.3)

- (2) If an investigation continues longer than forty-five days, the Chief of Police shall send notice, in writing, advising the complainant and subject of the complaint of the status of the case. This notification shall be repeated at each forty-five day interval, if applicable. (CALEA 26.3.3)

r. Informing the Complainant (IA Investigations)

The Chief of Police or his/her designee shall notify complainant, in writing, within five (5) business days of receipt:

- (1) That their complaint has been received by the Department and is currently pending; (CALEA 26.3.4a)
- (2) That they may contact the designated investigator (identify by name, telephone and/or email) at any time for further information or status while the investigation is pending; and, (CALEA 26.3.4b)
- (3) That they will be informed in writing of the outcome of the complaint promptly following conclusion of the investigation. (CALEA 26.3.4c)

s. Statement of Allegations/Rights

- (1) The subject of an assigned internal investigation (i.e., IA number assigned) shall be promptly notified of the complaint in accordance with the provisions of applicable labor agreements. In the absence of an applicable labor agreement, an employee who is the subject of a complaint shall be notified in writing within five (5) business days of the receipt of such complaint of:
 - A. The fact that a complaint has been made; (CALEA 26.3.5)
 - B. The identity of the complainant, if known; (CALEA 26.3.5)
 - C. A copy of the complaint; (CALEA 26.3.5)
 - D. The law or policy that is alleged to have been violated; and, (CALEA 26.3.5)
 - E. The date upon which the investigation is expected to be completed. (CALEA 26.3.5)

- (2) 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. (CALEA 26.3.5)
- (3) When allegations concern conduct while on official duty, the employee shall give an accounting of their actions while on duty as directed by a Supervisor. Failure to provide an accounting as requested shall be considered a violation of a direct order and subject such person to the appropriate disciplinary action. (CALEA 26.3.5)
- (4) When allegations concern conduct while off official duty, the employee shall be afforded the rights under law. (CALEA 26.3.5)
- (5) At no time shall investigations violate contractual provisions, personnel rules, and state and federal laws. (CALEA 26.3.5)

t. Submission to Tests, Procedures

An employee who is the subject of an internal investigation may be requested to submit to any of the following:

- (1) Medical laboratory examinations; (CALEA 26.3.6a)
- (2) Photographing; (CALEA 26.3.6b)
- (3) Audio or video recordings; (CALEA 26.3.6c)
- (4) Line up; (CALEA 26.3.6d)
- (5) Submission of financial disclosure statements, providing the need for such is consistent to the scope and purpose of the investigation; (CALEA 26.3.6e)
- (6) Instruments for the detection of deception. (CALEA 26.3.6f)

u. Relieved from Duty

Employees may be relieved from duty as a result of an investigation into wrongdoing by the employee, an administrative action pertaining to the employee's physical/psychological fitness or ability in proficiency to complete the duties assigned to him/her (i.e., firearms qualification). The authority to temporarily relieve an employee from duty will extend to shift supervisors in the event that he/she has to take immediate action for the safety of the public

and/or other employees. The supervisor will immediately inform his/her supervisor that they have taken such action. (CALEA 26.3.7)

v. Conclusion of Fact

Each investigative report shall include a "conclusion of fact" to include:

- (1) Exonerated
The investigation determined by a preponderance of the evidence that misconduct or malfeasance was committed, but not by the subject of the investigation. (CALEA 26.3.8)
- (2) Unfounded
The investigation determined by a preponderance of the evidence that the misconduct or malfeasance complained of did not occur. (CALEA 26.3.8)
- (3) 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. (CALEA 26.3.8)
- (4) 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. (CALEA 26.3.8)
- (5) 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. (CALEA 26.3.8)
- (6) 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. (CALEA 26.3.8)
- (7) 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 Department. Summary actions are the lowest level of disciplinary action or remediation. (CALEA 26.3.8)

(8) 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; (CALEA 26.3.8)
- B. Discredit upon the involved employee; (CALEA 26.3.8)
- C. Commission of a criminal offense; or, (CALEA 26.3.8)
- D. Allegations of racism, bigotry or prejudice against any race, religion, creed, national origin, sexual orientation, or circumstances beyond the individual's control. (CALEA 26.3.8)

(9) Closed Other

When a case is closed which does not meet criteria above (e.g., employee resigns, separation agreement, or medically necessary). (CALEA 26.3.8)

w. Validity and Timeliness of Complaints

(1) 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 shall be taken by a Supervisor, when available, regardless of the person's sobriety. In that event, the assigned investigator shall re-interview the person after he/she has regained sobriety.

(2) 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 assigned investigator 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 shall be detailed in the report.

- A. 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.
- x. Complainant Who Fears Retaliation Associated With Filing A Complaint
If a complainant expresses fears of retaliation as a result of filing a complaint, they shall be assured that those fears will be taken seriously. Complainants shall be asked to provide the basis for their concerns, if possible, and the information provided shall be noted in the complaint. This will allow Command staff to be aware of these fears and develop reasonable strategies to assist the complainant in dispelling those fears.
- y. Dissatisfaction by the Complainant
In the event that the complainant is dissatisfied with the report, findings or resolutions of the complaint, he/she shall be advised of the other agencies that may be of assistance to him/her, as follows:
- (1) The Prosecutor's office;
 - (2) The Federal Bureau of Investigation;
 - (3) The State's Attorney General;
 - (4) The U.S. Attorney's office;
 - (5) The State's Attorney's office;
 - (6) The Connecticut Commission on Human Rights and Opportunities.
- z. Referral (Outside Agency)
Nothing in this General Order 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.
- aa. Deviation from Policy
Complaints shall be handled in accordance with this General Order, unless circumstances dictate a deviation is in the best interest of the Department or the town, as authorized by the Chief of Police.

BY ORDER OF:



Paul J. Melanson
Chief of Police

PJM:cmz