

## AVON POLICE DEPARTMENT

Classified

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TYPE OF ORDER: General	
ORDER NUMBER: 3.15	SUBJECT: Civilian/Internal Bias-Based
SERIES: 3	Investigations/Procedures
DISTRIBUTION: All Personnel	SERIES GROUP: Personnel Structure
EFFECTIVE DATE: 08/28/81	DATE ISSUED: 08/28/81
AMENDED: 01/03/08; 01/29/15; 07/01/15	EFFECTIVE UNTIL: Rescinded
CALEA: 1.2.9a, 1.2.9d, Chapter 52 Inclusive	RESCINDS: General Order 6-4, 3-18

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### 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.

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

There shall be no retaliation in any form by any member of this Department directed at an individual who makes a complaint.

During the complaint intake process, no questions shall be asked of a complainant regarding their immigration status.

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.

### 3.15.3 DEFINITIONS:

#### Complaint

An allegation of employee misconduct or malfeasance.

Complainant

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

Level I Complaints

Any complaint which might result in criminal charges, dismissal, or long-term suspension. Investigations of Level I complaints will be conducted by a person/employee assigned by, and who reports directly to, the Chief of Police.

Level I complaints include, but are not limited to, complaints of violations of laws, allegations of corruption, brutality or misuse of force, a biased-based complaint and major/repeated violations of rules and regulations.

Level II Complaints

Any complaint which would result in discipline of a lesser degree than Level I. Investigations of Level II complaints may be conducted by Line Supervisors and reviewed by the Division Commander.

Level II complaints include, but are not limited to, insubordination, perceived rudeness, improper police procedures and minor violations of rules and regulations.

Complaint Control Number

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

Uniform Civilian Complaint Report

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

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.

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.

Malffeasance

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.

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.

3.15.4 PROCEDURES:

a. Internal Affairs Responsibility

The Office of the Chief of Police has primary oversight and authority over investigation of complaints made against employees. Upon receipt of a complaint, the Chief of Police will assure that the complaint is assigned to the appropriate Division Commander or Supervisor for investigation. Level I complaints shall be reported to the Chief of Police immediately.

The Division Commander or Supervisor 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, the results of the investigation, any recommendations and the resolution of that 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 Department General Orders where existing deficiencies have been a contributing factor to misconduct.

b. Acceptance, Filing and Intake of Complaints:

General

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 or her right to make a complaint if the individual objects to an employee's conduct. Employees have a duty to assist any person who wishes to file a citizen's complaint by documenting the information and allegations they provide, advising the individual how to proceed, and by promptly putting the complainant in contact with a Supervisor who can assist them with filing their complaint. No employee shall refuse to assist any person who wishes to file a citizen complaint or discourage, interfere with, hinder, delay, or obstruct a person from making a citizen complaint.

Acceptance of Complaint

Form ADM #079 shall only be used to record complaints.

Whenever a complainant 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.

Each complaint will be assigned a Complaint Control Number on form ADM #161 by the Patrol Supervisor. Whenever a new complaint is received, the Patrol Supervisor will notify the Chief of Police by e-mail immediately that a Complaint Control Number is assigned. Form ADM #161 will be kept in the Sergeants' Office.

Complaints may be accepted in writing, verbally, in person, by mail, telephone (TDD), facsimile, and electronically, or by any other means. Anonymous and third party complaints will be accepted.

All employees will assist those who express a desire to lodge complaints against any member of the agency. This includes:

Calling a Supervisor to the scene to conduct a preliminary inquiry and document the complaint;

Explaining the Department's complaint procedures;

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.

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.

All personnel who are approached by a person seeking to make a complaint will, when possible, call a Supervisor, obtain a brief description of the allegation, record contact information from the complainant if provided and obtain a Complaint Control Number from the Supervisor which should be provided to the complainant.

If a Supervisor is not readily available, the Officer will inform the complainant that they will be contacted by a Supervisor to gather information concerning their complaint, by the next business day.

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.

If complaints are received by mail, all correspondence received containing allegations shall be forwarded to the Chief of Police where they will be officially received. These complaints shall be assigned a Complaint Control Number. A letter of acknowledgment must be prepared advising the complainant that the matter is being investigated and that they will be contacted by the investigator assigned.

Walk-in complaints shall be referred to a Supervisor, who shall take the complaint, complete ADM #161 form and then forward it 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 it read to them the warning for perjury or false statement. If the complainant refuses to sign the complaint

or acknowledge the oath, the complaint will still be accepted and investigated, however the refusal to sign or acknowledge shall be noted. In any event, the complaint will be assigned a Complaint Control Number and forwarded as above.

Telephone complaints shall be referred to a Supervisor. The party who receives the complaint shall obtain the details of the complaint as soon as practicable, dispatch a Supervisor to the complainant's location, and proceed as described in the foregoing paragraph.

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. If a Supervisor is unavailable, or the complainant is unable to await the arrival of a Supervisor, the complainant should be informed that he/she may respond to the agency headquarters to make his/her complaint.

#### Validity and Timeliness of Complaints

##### Complaints by Persons under the Influence of Alcohol or Drugs

When a person who is noticeably intoxicated or impaired wishes to make a complaint, he 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 (Level I complaints) may be made past the expiration of the applicable statute of limitations and criminal prosecution may no longer be possible, a criminal violator may still be held accountable administratively.

### Complainant Who Fears Retaliation Associated With Filing A Complaint

If a complainant expresses fears of retaliation as a result of filing a complaint, they must be assured that those fears will be taken seriously. Complainants should be asked to provide the basis for their concerns, if possible, and the information provided should be noted in the complaint. This will allow the Division Commander to be aware of these fears and develop reasonable strategies to assist the complainant in dispelling those fears.

### Biased Policing Complaints

#### Field Officer Responsibilities

- a. 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.
- b. 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 regulations.
- c. 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 should be reported using the appropriate CAD call types, rather than a moving violation.
- d. 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.
- e. 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)

- a. Supervisors shall ensure that Officers follow the policies and procedures outlined in this General Order. Training will be conducted and will include the legal aspects of bias-based profiling practices during each Officer's recertification period as required by P.O.S.T.

- b. 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)

- a. 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.
- b. The Operations Lieutenant shall provide the Chief of Police with an annual report outlining the data sent to the Chief State's Attorney's Office and any complaints related to prohibited profiling.
- c. The Operations Lieutenant will take immediate, documented corrective measures if bias-based profiling occurs.

Officer Reporting Responsibilities (Biased Policing Complaints)

- a. 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 Officer will not inquire about a person's race or ethnic origins.

In addition, Officers shall document whenever there is a search of the vehicle or occupants, a person is handcuffed, or taken into custody.

In accordance with State law, Officers will provide the person with Racial Profiling form ADM #131.

Summary (Biased Policing Complaints)

- a. 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.*

b. Investigation of Complaints: (Civilian and Biased Policing)

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 45 days from receipt. Extensions may be granted by the Chief of Police for good cause. If an investigation continues longer than 45 days, the Chief of Police shall send notice, in writing, advising the complainant of the status of the case. This notification shall be repeated at each 45-day interval, if applicable.

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

Their complaint has been received by the Department and is currently pending;

They will be informed in writing of the outcome of the complaint promptly following conclusion of the investigation; and,

They may contact the designated investigator (identify by name, telephone and/or email) at any time for further information while the investigation is pending.

The subject of the investigation 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:

The fact that a complaint has been made;

The identity of the complainant, if known;

A copy of the complaint;

The law or policy that is alleged to have been violated; and,

The date upon which the investigation is expected to be completed.

Where prior notification of the subject of a complaint is reasonably likely to impede the

progress of an investigation, result in the loss or destruction of evidence, or jeopardize the safety of any individual, the Chief of Police may direct in writing that such notification be delayed, stating the reasons therefore and the anticipated extent of the delay.

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.

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

- Medical laboratory examinations;
- Photographing;
- Line up;
- Submission of financial disclosure statements, providing the need for such is consistent to the scope and purpose of the investigation;
- Polygraph examination.

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.

When allegations concern conduct while off official duty, the employee shall be afforded the rights under law.

At no time shall investigations violate contractual provisions, personnel rules, and state and federal laws.

Information is provided to the public on procedures for filing or registering a complaint against the Department or its employees through the Town website, at Town Hall or the Police Department.

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.

#### Review of the Investigation

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

investigation. Each investigative report shall include a “conclusion of fact”.

The completed report of investigation, disciplinary recommendation, if any, and the recommended disposition shall be reviewed by the Chief of Police.

The complainant shall be promptly notified in writing of the status and/or disposition of his/her complaint at the conclusion of the investigation by the Chief of Police.

Findings of completed investigations and disciplinary recommendations, if any, shall be promptly conveyed, in writing, to the employee by the Chief of Police.

Case Dispositions – Standards

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

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

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

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

Misconduct Not Based on Original Complaint - The investigation determined by a preponderance of the evidence that other misconduct or malfeasance which was not the basis for the original investigation occurred, was discovered during the course of the original investigation, and was committed by the subject of the investigation.

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

Summary Action - Disciplinary action in the form of an oral reprimand, or counseling documented in writing, was taken by an employee’s Supervisor or Commander for minor violations of Department rules, policies or procedures as defined by this Department. Summary actions are the lowest level of disciplinary action or remediation.

Reconciled - At the discretion of the Chief of Police, the process of reconciliation may be encouraged in lieu of any of the above dispositions. When authorized by the Chief of Police, Supervisors receiving complaints shall to the extent possible, bring together the complainant and the 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:

Discredit upon the agency;

Discredit upon the involved employee;

Commission of a criminal offense; or,

Allegations of racism, bigotry or prejudice against any race, religion, creed, national origin, sexual orientation, or circumstances beyond the individual's control.

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

#### Training

All Supervisory personnel will be trained on the Department's complaint policy and the responsibilities of Supervisors conducting internal investigations upon the implementation of this General Order.

#### 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 Town of Avon (Police Department) website, and Town Hall.

Ensure that copies of this General Order and complaint forms are available at the Town Manager's Office. 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 are available online where the Department, or the municipality served by the Police Department, has an Internet website.

Annual Summary

The Operations Lieutenant shall conduct an annual review of agency practices including citizen complaints.

The Operations Lieutenant shall prepare annually statistical summaries for public dissemination on the Police Department website and for Department employees. The summary shall include:

- Number of complaints exonerated;
- Number of complaints sustained and not sustained;
- Number of complaints unfounded;
- Number of complaints of misconduct not based on original complaint;
- Number and types of complaints received.

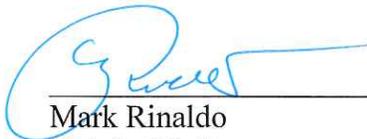
All complaints made pursuant to this General Order shall be maintained in a confidential file in the office of the Secretary to the Chief of Police. All records of Internal Affairs investigations shall be maintained in the office of the Chief of Police.

Dissatisfaction by the Complainant

In the event that the complainant shall be 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:

- The Prosecutor's office;
- The Federal Bureau of Investigation;
- The State's Attorney General;
- The U.S. Attorney's office;
- The State's Attorney's office;
- The Connecticut Commission on Human Rights and Opportunities.

BY ORDER OF:



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Mark Rinaldo  
Chief of Police

MR:cmz

**AVON POLICE DEPARTMENT**

**UNIFORM CIVILIAN COMPLAINT REPORT**

Please give this completed document to a Police Supervisor or send it to the Avon Police Department Chief of Police at the following address: Mark Rinaldo, Chief of Police, Avon Police Department, 60 West Main Street, Avon, Connecticut 06001. You may also e-mail this form the Chief of Police at: [mrinaldo@avonct.gov](mailto:mrinaldo@avonct.gov)

**TYPE OF COMPLAINT:** Misconduct \_\_\_\_\_ Malfeasance \_\_\_\_\_ Biased Policing/Stop \_\_\_\_\_

Date of Incident	Time of Incident	Date Reported	Time Reported
Location of Incident			
Complainant's Name		Complainant's Address (Street, City, State, ZIP)	
Complainant's DOB	Complainant's Home Phone#	Complainant's Work Phone#	
Complainant's Cell Phone#		Complainant's E-mail	
Employer		Occupation	
Employer's Address			Employer's Telephone
Name of Person Assisting Complainant	Address		Telephone
Employee Complained about (if known): (Name or physical description, Badge #, Car #, etc.)			
Witness Information (Name, D.O.B., Address, Telephone #, etc.)			
Please provide answers to the following questions:			YES      NO      UNSURE
1. To your knowledge, was all or any part of the incident complained of videotaped or audiotaped by anyone?			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
2. Are you afraid for your safety, or that of any other person, for any reason, as a result of making this complaint?			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
3. Has anyone threatened you or otherwise tried to intimidate you in an effort to prevent you from making this complaint?			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
4. Are you able to read, write and speak the English Language?			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
5. If your answer to Question #4 is "No" or "Unsure", have you been provided with adequate language assistance to help you understand and fill out this form?			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>



**Person Receiving the Complaint**

Rank/Name/ ID Number	Date Received	Time Received
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**Method of Contact (Check):**    Telephone    In-Person    Mail    E-Mail    Other

Signature of person receiving complaint	Complaint Control Number
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