

BETHEL POLICE DEPARTMENT

Sec 5

General Orders / POLICY & PROCEDURES

All Personnel - From: Chief Finch

CIVILIAN Complaints & Investigations

Chapter 3, Section 5, EFFECTIVE: May 19, 2010

Revised: October 19, 2016

PURPOSE:

The purpose of this directive is to establish basic procedural guidelines to receive, investigate, and resolve complaints that are made against employees of the Bethel Police Department, consistent with POST policy requirements.

POLICY:

It is the policy of the Bethel Police Department to accept and investigate all complaints, including anonymous complaints, concerning employee misconduct, made in person, by phone or mail, against or concerning any employee of the Police Department.

A person wishing to file a complaint may do so by various primary methods:

1. Go to the Police Department, and ask for a Supervisor, or
2. Go to the Police Department, ask for a complaint form, complete it and turn it in directly at the Police Department, or
3. Take the form home returning it later or mailing it to the Chief, or
4. Call the Police Department, ask for a supervisor and explain your complaint.
5. Do this in a timely manner, do not wait weeks.

Complaints shall be received in a timely, civil, and professional manner showing due respect to the person making such complaint. Complainant(s) will not be treated rudely or told to return at another time or day because no one is available to handle their complaint or because their complaint is not valid or acceptable.

Criminal Complaints: Complaints that allege or concern criminal behavior by any employee/member of the Department will be immediately reported directly in person or by phone (by the receiving and/or knowledgeable officer/employee) to the Chief and investigated according to criminal law standards.

OUTLINE OF DIRECTIVE:

- A. COMPLAINTS
- B. INITIAL PROCESS
- C. INVESTIGATION OF COMPLAINTS
- D. SUSTAINED CASES
- E. NOTICE TO COMPLAINANT
- F. SECURITY & CONFIDENTIALITY
- G. TRAINING
- H. CRIMINAL COMPLAINTS
- I. INTERNAL COMPLAINTS
- J. PUBLIC ACCESS

A. COMPLAINTS:

1. RECEIPT OF A CIVILIAN COMPLAINT:

Whenever a person, of any age, makes a complaint, to any employee or officer, in any form, whether at the PD, or elsewhere, or by phone or letter, concerning the conduct of any officer or employee, **regardless of how old the issue is, or whether they are under the influence or not, of liquor or drugs,** a sworn Division Commander (*Lieutenant or Captain*), if working, shall be notified and shall personally receive and or accept the complaint. If such Division Commander is not available, the complaint should be received by:

- A uniform Patrol Sergeant or, if not available, another Sergeant, such as the DB Sergeant if working.
- If there is no Division Commander or other Sergeant working or available, such as the DB Sergeant then the complaint should be received by the Corporal, or officer-in-charge in patrol.
- Corporals and Patrol OICs will **only receive a complaint when there is no** Sergeant or Division Cmnd available.
- Complaints received will be documented by completing a Civilian Complaint Form and

forwarding it to the Chief along with their report, on personal letterhead or plain paper.

- If the complaint justifies immediate action the OIC, should undertake such action and make notification consistent with Order 6/2 to the Chief, if he is not available then the Captain.
- The officer receiving the complaint cannot be the focus or party of the complaint.
- **Complaints received by mail will be forwarded to the Chief.**

Should a call-in or walk-in complainant insist or request to speak directly with the Captain or the Chief, they should be notified - if working. If neither the Captain nor the Chief is working or available, the complainant should be referred to the Chief or Captain during their normal work hours. Complete a Civilian Complaint Form and document the request and/or complaint and forward to the Chief. If the incident calls for their immediate attention, the Chief should be called at home or in his absence, the Captain or the Field Operations Commander.

If the complainant expresses fear of retaliation, their basis for that fear should be explained, **noted and taken** seriously.

B. INITIAL PROCESS:

1. CIVILIAN COMPLAINT FORM:

The Civilian Complaint Form should be filled out anytime a person wishes to file or document a complaint. ALL complaints upon documentation MUST be sent directly to the Chief. Complaints that are verbal only also need to be documented by the receiving officer and, resolved or not, SENT to the Chief.

- Documentation: Use the Civilian complaint form whenever possible.
- Do not draw a new incident case number for the complaint. Number documentation is provided by the Chief.
- Any additional reports from the receiving officer use personal letterhead or plain paper.
- **The withdrawal of such complaint, once filed, does not** relieve the employee or officer from the reporting process outlined in this General Order.

2. DIVISION COMMANDERS:

ONLY Division Commanders, or in their absence, a Sergeant, receiving a complaint, as outlined in Sec A, from a civilian is authorized to resolve the complaint at their level if:

- It is agreeable with the complainant and concerns a subordinate under their control, and it is minor in nature consistent with section 9.e. The Sergeant, Lieutenant, or Captain will document the complaint and what the reconciliation was and forward such documentation to the Chief.
- **A Reconciliation recommendation is not** final and does not preclude the Chief from taking further corrective disciplinary action.

3. COMPLAINTS AGAINST A SUPERVISOR:

Complaints made against a supervisor must be referred to the Chief, they are not to be resolved by a Division Cmnd. Complete a Civilian Complaint Form, personal letterhead, or plain paper and forward directly to the Chief.

C. INVESTIGATION OF COMPLAINTS:

The Chief, in response to a civilian complaint, or internal complaint, or at any time may direct an investigation to determine whether any Department policy, order, directive, rule, or regulation has been violated. Normally, a Division Commander, Captain or Lieutenant will be assigned by the Chief to the investigation and may command such assistance as necessary in accordance with direction from the Chief.

The Chief will normally notify the employee of the complaint which will include a copy of such complaint, if one exists in writing, except, when doing so may compromise the investigation.

The Chief will notify the complainant (thru his designee) that he is in receipt of their complaint, that he has assigned it to a ranking officer for investigation and they will be notified of such findings when such investigation is complete.

Once assigned, the investigation shall be initiated and the findings reported to the Chief, in draft form within 60 days. When there is reason, such investigation may be extended for the period of time as necessary. If criminal charges are also pending or before the court, the

internal investigation may go forward or be delayed at the direction of the Chief.

Investigative Procedure:

When Complaints are assigned for investigation, the investigating officer shall:

1. **Personally** contact the complainant by phone or in person. If you do not already have a written complaint, ask them to complete one. Follow up with a formal interview, at the PD whenever possible.
2. **Review** the complaint as written/reported. Ensure you understand all details of the complaint clarifying issues or questions during the PD interview.
3. **While not required practice, complainants** may be asked to give a detailed written statement under oath concerning their complaint. If such complainant refuses it shall be documented, why, how, and the investigation will continue.
4. Upon receipt of additional complainant information the accused employee shall be also afforded such knowledge/copy, as soon as reasonable. (*except in criminal cases*).
5. Upon your intent to question the employee give written or verbal notice with at least 24 hrs notice, which may be waived by the employee. An employee may also submit his own written statement but that generally will not displace or replace the formal interview.
6. The withdrawal of a complaint by the complainant will not stop the investigation unless so directed by the Chief.
7. **Interviewing the employee:**
 - a) Ensure the employee who is the subject of the complaint is afforded the right to union representation of his choice, when requested, during all investigative questioning. If the employee does not request representation and/or declines representation, ensure that such decision is documented.
 - b) Such representation will be limited to a single representative from the Union, or Union Lawyer.
 - c) Questioning should not be unreasonably delayed by such employee's request or choice of representation but should not proceed without representation unless necessary. When necessary, an available union representative or union member

may be directed to sit in. Such representative shall not be a party to the

complaint or in conflict with the complainant.

- d) Questioning should be private and normally limited to the investigating officer. When there is cause or need, a second officer may assist the investigating officer.
 - e) Employees should be provided reasonable breaks in questioning as necessary.
 - f) Employees are required to answer all questions related to the incident as relevant to their capacity and performance as an employee.
 - g) Officers who wish to claim the right of self-incrimination, and refuse to answer questions, raises the issue of criminal conduct and will be cause to notify the Chief and re-evaluate how the investigation should proceed.
8. **Other Issues:**
- a) **Recordings:** The investigating officer may inquire if the officer or the representative is privately /secretly recording the interview and may require the recorder to be displayed and or turned off. Recording by the employee may be permissible when there is agreement and those persons being recorded are knowledgeable. The investigator may record as long as all are knowledgeable.
 - b) **Identification:** Whenever identification of an employee who is the subject of a complaint is in doubt, a one-on-one identification or other means likely to produce a reliable identification should be performed as soon as possible (*except in criminal cases which will be according to criminal law procedure*).
 - c) **Financial statements.** Employees may be (*by direction of the Chief*) required to disclose personal financial statements when specifically material and related to an allegation.
 - d) **Polygraphs** will not be used except by direction of the Chief in accordance with the law.
 - e) Questioning may include physical fitness questions when relevant.

- f) Alcohol/Drug Tests. Employees may be required by their supervisors to submit to immediate examination on the

Department's alcohol analysis instrument when reasonable cause exists to suspect an employee may be under the influence of alcohol. If drug use/misuse is suspected, the employee may be directed to submit to a urine or blood test or such other test as directed by a doctor pursuant to the applicable contractual and Town Substance Abuse Policy. *See Contract*

- g) Personal: Employees shall not be required to disclose personal conversations or personal information, empty pockets, or discuss family matters unless material and relevant to the complaint or investigation.
- h) All department property, when relevant, may be taken and examined. There are no privacy rights, given or implied, for department equipment, vehicles, desks, lockers, phones, phone mail, e-mail, computers or tablets.

9. Completion of the Investigation.

The investigating officer upon completion of the investigation shall report in writing his findings to the Chief in **draft form** for review and concurrence.

Upon acceptance and approval of the report, by the Chief, the entire investigative file shall be forwarded to the Chief.

When the investigators report is complete and approved it shall also include a cover letter in the form of a one-page brief with each allegation stated and the findings explained, in brief, with a classification as listed below:

- a. Exonerated – was able to conclude from the preponderance of evidence that the misconduct may have been committed but not by the office accused.
- b. Unfounded – was determined by the preponderance of the evidence that alleged misconduct did not occur.
- c. Not sustained – inconclusive, unable to determine, insufficient evidence to conclude the misconduct took place and or by who.

- d. Sustained - or sustained in part, that the misconduct occurred and:

- What policy, directive, order, rule or regulation was violated
- How they were violated, and
- Relevant mitigating circumstances or issues that should be included.

e. Other

- Withdrawn by complainant.
- Reconciled may be applied when the complaint is minor & does not reflect
 1. Discredit upon the agency
 2. Discredit upon the involved employee
 3. A criminal offence
 4. Allegations of racism, bias of race, religion, national origin, or sexual orientation.

Reconciliation must be documented and forwarded to the Chief of Police and it does not preclude further corrective action by the Chief.

10. Rebuttals.

Employees under investigation wishing to file their own reports/statements rebutting any information, allegation, or points of the investigation may do so at any time.

D. SUSTAINED CASES :

Cases sustained by the Chief may result in discipline consistent with Department policy or such case may be referred to the Board of Police Commissioners.

In cases where the Chief is likely to issue discipline, he will hold a pre-disciplinary meeting in order to review the case and to hear any mitigating circumstances that the employee may wish to offer. The purpose of the meeting is not to retry or reinvestigate the complaint, but rather to give the employee another opportunity to personally add his own direct input or relate mitigating circumstances. A pre-disciplinary meeting is only required when the discipline is likely to cause a loss of pay or benefit.

In sustained cases, any discipline issued together with The Chiefs report and/or summary brief report of the investigation will be filed in the employee's personnel file.

E. NOTICE TO COMPLAINANT :

Upon completion of the investigation, the Chief will notify the complainant of the investigative findings and what action has been taken.

J. PUBLIC ACCESS :

Copies of the policy will be available at:

F. SECURITY & CONFIDENTIALITY :

All investigative files, reports, pictures, etc., shall be kept secure. Details of investigations shall not be released or discussed with any member of the Department or the public while still under investigation pending final determination, except as necessary to further the investigation.

G. TRAINING :

Supervisory personnel will be required to attend training relative to this policy as required by the Chief.

H. CRIMINAL COMPLAINTS :

Alleged criminal conduct by any officer or employee of the Bethel Police Department shall be kept confidential and **immediately and directly** reported in person or by phone to the Chief. (*ONLY In the absence of the Chief, then to the Captain or a Lieutenant*).

Failure on the part of any employee to report knowledge of criminal conduct or alleged criminal conduct shall be considered dereliction of duty and willful insubordination as well as a violation of this directive and will subject the employee to disciplinary action

Nothing in this directive is binding on criminal investigations or meant to indicate how criminal investigations will be conducted. Alleged criminal behavior will be investigated according to criminal law standards, which are not outlined in this directive.

I. INTERNAL COMPLAINTS :

Internal Complaints by employee's or supervisors is covered in the Disciplinary Policy Chp 3/7

1. Police Department - Front Desk Lobby
2. First Selectman's Office – Town Hall
3. Police Department web site

Signature: _____ Date: _____

*Signature

Please answer the below Questions:	Yes	No	Unsure
1 To your knowledge, was all or any part of the incident complained of, video or audio recorded 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"/>

I have read, or had read to me, the above and or attached complaint and statement consisting of ____ pages. The statement I have made and answers given are true and accurate to the best of my knowledge. I understand that making a false statement intended to mislead a law enforcement officer in his official function is a crime in violation of Connecticut General Statute 53a-157b and could result in my arrest.

Complainant Signature	Date and Time
On this date - _____, before me, the undersigned Officer appeared with the complainant whose name is subscribed above and acknowledged that he/she truthfully executed this instrument for the purpose herein stated.	Notary
	Print Rank/Name/ID

Officer Receiving the Complaint:

Printed – Rank & Name	Date:	Time:
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Signature: _____

