

**ESSEX POLICE DEPARTMENT**  
Department Directive



Date Issued: August 16, 2004	Number: 1.2.1
<b>INTERNAL AFFAIRS</b>	<input checked="" type="checkbox"/> New  <input type="checkbox"/> Amends  <input type="checkbox"/> Rescinds
Authorized Signature: _____ Chief of Police	
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Date Implemented:	Review Date:

**1.0 PURPOSE**

- 1.1 The internal affairs function is established to maintain the integrity of the department through an internal system whereby objectivity, fairness and justice are ensured by an impartial investigation and review. The internal affairs function is intended to protect the public's right to efficient, fair and impartial law enforcement as well as to protect employees from false allegations of misconduct.
- 1.2 In order to achieve the stated purposes, the Essex Police Department internal affairs function will investigate promptly and thoroughly any and all allegations, from citizens or employees, of misconduct by department personnel.
- 1.3 All complaints will be investigated in accordance with the agreement between the Town of Essex and the Essex Police Employees Association. The procedures enumerated below apply to allegation of misconduct against employees of the department both on and off duty.

## 2.0 RESPONSIBILITIES

- 2.1 The responsibility for the overall supervision and control of the department's internal affairs function is with the Chief of Police.
- 2.2 The internal affairs function is responsible for:
  - (I) Recording, registering, and controlling the investigation of complaints against department employees, or the department itself;
  - (II) Supervising and controlling the investigation of alleged misconduct within the department;
  - (III) Maintaining the confidentiality of the internal affairs investigations and records; and
  - (IV) Ensuring that all allegations of misconduct are investigated and adjudicated promptly, fairly, impartially, and thoroughly.

## 3.0 COMPLAINT INITIATION

- 3.1 When a citizen indicates a desire to file a complaint alleging misconduct of a police officer or other member of the department, he/she shall immediately be referred to the Officer in Charge (OIC) or the shift supervisor on duty. This procedure shall also apply when anonymous complaints are received.
  - (I) The OIC or shift supervisor receiving the complaint shall have the complainant complete the **Citizen Complaint Form** indicating that any information provided is true and complete to the best of the complainant's belief. The shift supervisor shall advise the complainant that allegations made against the department, or an employee, that are false and made in bad faith may result in civil and/or criminal charges against the complainant.
  - (II) The OIC or shift supervisor shall make every effort to have a complainant execute an **Authorization For Release of Information Form** when an allegation indicates that the complainant may have sustained an injury, and has, or may require medical attention.
  - (III) The OIC or shift supervisor shall provide the complainant with a copy of the **Citizen Complaint Form** and advise the complainant that he/she will be contacted by an officer that will be assigned to investigate the complaint.
  - (IV) Upon completion of the above, the OIC or shift supervisor will notify the Chief of Police. The above documents will be placed in a sealed envelope and forwarded to the Chief prior to the end of the OIC's tour of duty.
- 3.2 Except in cases of anonymous complaints, the shift commander shall initially interview the complainant in a private area. It is recommended that the complainant be allowed to verbally relate his/her entire version of the incident without interruption after which the shift commander should ask questions for clarification and detail.

- 3.3 This policy does not apply to minor misunderstandings on the part of a complainant which can be quickly resolved with an explanation of State Law and/or Department policy. Such minor misunderstanding may be resolved by the Shift Commander and should be documented to the Chief of Police via the chain of command.

#### 4.0 TYPES OF INVESTIGATIONS

- 4.1. The Chief of Police shall make the determination as to whether the incident shall be classified as a Supervisory Review or an Internal Affairs Investigation.

#### 4.2 Supervisory Review

- (I) The investigation may be a Supervisory Review if the complaint or allegations is:
  - A. not of a serious nature;
  - B. not a serious violation of department rules, regulations, policies or procedures.

#### 4.3 Internal Affairs Investigation

- (I) A formal investigation is conducted on allegations of serious misconduct by an employee.
- (II) Allegations leading to a formal investigation may consist of, but not to be limited to, violations of the law, brutality, civil rights violations, bribery, theft, untruthfulness, insubordination, corruption, other conduct, or any case which may damage the credibility of the Essex Police Department or as assigned by the Chief of Police.

#### 5.0 PROCEDURES FOR SUPERVISORY REVIEWS

- 5.1 Should it be determined that the complaint must be investigated as Supervisory Review, the investigating officer shall:

- (I) Notify the employee under investigation as soon as practical;
- (II) Conduct necessary interviews;
- (III) The investigation shall be initiated without unreasonable delay and the completed Supervisory Review report shall be completed within 30 days.
- (IV) Upon completion of the investigation, the investigating officer shall prepare a written report which will be forwarded to the Chief of Police, along with a recommended action in the following format.
  - A. **Allegations** - State as concisely as possible the specific allegations and cite the specific section of the department's policies and procedures, or rules and regulations, that deals with the allegations. Enumerate the allegations where there are more than one.

- B. **Details of Complaint** - Show a chronological summary of the incident or event.
- C. **Summary of all Statements Obtained**
- D. **Finding of Fact** - Provide a summary of the facts as determined by the investigation.
- E. **Attachments** - Enumerate all attached forms, statements or other supporting documentation.

5.2 The investigating officer will also prepare a **Complaint Disposition Form**. On this form indicate the appropriate adjudication and disposition based upon the finding of facts. The adjudication shall be classified as one of the following:

- (I) **Unfounded** – The investigation indicated that the act or acts complained of did not occur or failed to involve police personnel.
- (II) **Exonerated** – The reported acts did occur, but were justified, lawful and proper.
- (III) **Non-sustained** – The investigation fails to discover sufficient evidence to prove clearly or disprove the allegations made in the complaint.
- (IV) **Non-involved** – The investigation established that the individual named in the complaint was not involved in the alleged incident.
- (V) **Sustained** – The investigation disclosed sufficient evidence to clearly prove the allegations made in the complaint.

5.3 The Chief shall then review the report package with all recommendations. If all is in order, the Chief shall:

- (I) notify the employee, and the appropriate division commander of the final adjudication and disposition.
- (II) reasonable efforts will be made to notify the complainant of the adjudication and disposition of the investigation in writing.

## 6.0 PROCEDURES FOR AN INTERNAL AFFAIRS INVESTIGATION

6.1 If the alleged conduct is of a criminal nature, or may become criminal in nature, the Chief of Police will consult with the State’s Attorney’s office to determine if he or she is requesting a criminal investigation. If a criminal investigation is to be conducted, it will be investigated by an outside agency independent and separate from the internal investigation.

6.2 The Chief of Police or a designee shall assign an officer to conduct the internal affairs investigation.

6.3 The employee under investigation shall be notified either in person or by telephone as soon as possible. If the employee is out of town, or otherwise unavailable, he or she will be notified as soon as possible upon his/her return. An exception may be

made by the Chief of Police, to withhold notification of the employee, if it is determined that notification could adversely affect the outcome of the investigation.

- 6.4 The Chief of Police has the discretion to place an employee that is under investigation on administrative leave as prescribed by the EPEA Contract. The employee will receive full pay and benefits while on administrative leave.
- 6.5 All interrogations shall be limited in scope to activities, circumstances, events, conduct or acts which pertain to the incident which is the subject of the investigation. An employee may be requested to participate in other investigative processes that are specifically directed and narrowly related to the internal investigation.
  - (I) When an employee is advised of his or her administrative rights, as contained in the **Notification and Administrative Rights of Employees Under Investigation Form**, the employee is required to answer all questions fully and truthfully, or disciplinary action, including dismissal, may be taken for a refusal to answer. When the employee is compelled to answer questions under threat of adverse administrative action, any admissions made by the employee cannot be used against him/her in any subsequent criminal proceeding.
    - A. The interrogation of any employee shall be at a reasonable hour, unless the exigencies of the investigation dictate otherwise.
    - B. The interrogation shall take place at a location designated by the investigating officer, usually at the Police Station.
    - C. The employee shall be informed of the name and rank of the officer in charge of the investigation, as well as the name and rank of the interrogating officer and the identity of all persons present during the interrogation.
    - D. The employee shall be informed of the nature of the investigation before any interrogation commences. Sufficient information to reasonably apprise the employee of the allegations shall be provided. If it is known that the employee being interrogated is a witness only, he/she shall be so informed.
    - E. The interrogation shall be completed with reasonable dispatch. Reasonable respites will be allowed. Time shall be provided also for personal necessities, meals, telephone calls, and rest periods as are reasonably necessary.
    - F. The employee shall not be subjected to any offensive language, nor shall the employee be threatened with transfer, dismissal, or other disciplinary punishment. No promise of reward shall be made as an inducement to answering questions. Nothing herein is to be construed as to prohibit the investigating officer from informing the employee that his/her conduct can become the subject of disciplinary action resulting in disciplinary punishment.

- G. In all cases where an employee is to be interrogated concerning an alleged violation of Police Department operations procedures or rules which, if proven, may result in his/her dismissal from the force or other infliction of disciplinary punishment more severe than an oral reprimand, he/she shall be afforded a reasonable opportunity to contact and consult privately with the Association President. The Association President may be present during the interrogation, but may not participate in the interrogation.
  - H. If an employee is under arrest or under investigation for a prosecutable violation of the State, Federal, or Local Law or Ordinance, he/she shall be given his/her rights under the Miranda Decision, and all other Constitutional guarantees normally due any criminal suspect.
  - I. The employee shall be given an exact copy of any written statement he/she may make or if the questioning is mechanically or stenographically recorded, the employee shall be given a copy of such recording or transcript if requested by him/her.
  - J. No employee shall be ordered to submit to a polygraph (lie detector) test for any reason. Such test may be given if requested by the employee.
  - K. The employee shall at all times be cognizant of the public responsibilities of the Police Department and provisions of the Department's Rules and Regulations and Operational Policies and Procedures.
- (II) When any investigation has been concluded, excluding those investigations which are superseded by either State or Federal laws/guidelines, the employee will be furnished, upon request, with a copy of all reports of the investigation, excluding the complainant's name, which will contain all known facts of the matter, to include transcripts of tape recordings, at no cost to the employee.
  - (III) The employee shall not become directly or indirectly involved in the investigation unless expressly requested to do so by the Chief of Police.

6.6 The investigating officer shall:

- (I) Review the **Citizen Complaint Form** to make sure that the form has been filled out properly and signed by the complainant.
- (II) Whenever possible obtain a detailed and comprehensive statement signed by the complainant.
- (III) Obtain statements from witnesses.
- (IV) Interview the employee after advising him or her of their administrative rights as contained in the **Notification and Administrative Rights of Employees Under Investigation Form**.

- (V) Conduct a thorough investigation and provide status reports to the Chief of Police or his/her designee regarding the status of the case.
- (VI) Bring the investigation to an expeditious conclusion. No investigation shall exceed 30 days, except in extenuating circumstances where the Chief has approved such an extension.
- (VII) Upon completion of the investigation, the investigating officer shall prepare a written report which will be forwarded to the Chief of Police, along with a recommended action in the following format:
  - A. **Allegations** - State as concisely as possible the specific allegations and cite the specific section of the department's policies and procedures, or rules and regulations, that deals with the allegations. Enumerate the allegations where there are more than one.
  - B. **Details of Complaint** - Show a chronological summary of the incident or event.
  - C. **Summary of all Statements Obtained**
  - D. **Finding of Fact** - Provide a summary of the facts as determined by the investigation.
  - E. **Attachments** - Enumerate all attached forms, statements or other supporting documentation.

6.7 The investigating officer will also prepare a **Complaint Disposition Form**. On this form indicate the appropriate adjudication and disposition based upon the finding of facts. The adjudication shall be classified as one of the following:

- (I) **Unfounded** – The investigation indicated that the act or acts complained of did not occur or failed to involve police personnel.
- (II) **Exonerated** – The reported acts did occur, but were justified, lawful and proper.
- (III) **Non-sustained** – The investigation fails to discover sufficient evidence to prove clearly or disprove the allegations made in the complaint.
- (IV) **Non-involved** – The investigation established that the individual named in the complaint was not involved in the alleged incident.
- (V) **Sustained** – The investigation disclosed sufficient evidence to clearly prove the allegations made in the complaint.

6.8 The Chief shall then review the report package with all recommendations. If all is in order, the Chief shall:

- (I) Notify the employee, and the appropriate division commander of the final adjudication and disposition. This notification shall be either through a department memorandum or by providing a copy of the **Complaint Disposition Form**.
- (II) Reasonable efforts will be made to notify the complainant of the adjudication and disposition of the investigation in writing.

## 7.0 POLICY FAILURE

- 7.1 When adjudicating a complaint, it may be found that a citizen has a valid and justifiable grievance, but that the particular employee involved acted properly within the prescribed policy. In such cases, the investigating officer shall recommend the appropriate adjudication as it relates to the employee and prepare an additional section to the narrative report entitled "Policy Failure".
- 7.2 The investigator's report shall specify:
- (I) the specific policy involved;
  - (II) the harm done to the complainant or the problem that it caused;
  - (III) any recommended changes to the existing policy to prevent future problems of the same nature.

## 8.0 RECORDS AND REPORTING

- 8.1 No record of a citizen complaint or other internal investigation shall be maintained in central records. All records pertaining to citizen complaints and internal investigations shall be maintained by the Chief of Police, or a designee, in a secure file.
- 8.2 All such records shall be maintained for seven (7) years, after which they will be destroyed.

# **RELATED FORMS FOLLOW**

**ESSEX POLICE DEPARTMENT  
CITIZEN COMPLAINT FACE SHEET**

**FOR POLICE DEPARTMENT USE ONLY:** To be completed by the police officer receiving the citizen complaint.

Incident Number \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

Complainant's Name \_\_\_\_\_ Home Phone \_\_\_\_\_

Address \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Date of Birth \_\_\_\_\_ Occupation \_\_\_\_\_

Place of Employment \_\_\_\_\_ Phone \_\_\_\_\_

Receiving Officer's Observation of Complainant:

Sobriety: Sober \_\_\_\_\_ HBD \_\_\_\_\_ Intoxicated \_\_\_\_\_ Breath Odor \_\_\_\_\_

Clothing: Describe type and condition (orderly, soiled, torn etc.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attitude: Excited \_\_\_\_\_ Combative \_\_\_\_\_ Insulting \_\_\_\_\_ Profane \_\_\_\_\_

Cooperative \_\_\_\_\_ Argumentative \_\_\_\_\_

Physical Condition: Describe bruises, cuts, swelling etc.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name of Officer Receiving Complaint \_\_\_\_\_

Nature of Allegation \_\_\_\_\_

Date and Time of Alleged Incident \_\_\_\_\_

Name of Officer Under Investigation \_\_\_\_\_

Date and Time Officer Under Investigation Notified \_\_\_\_\_

Officer Under Investigation Notified by Whom \_\_\_\_\_

**ESSEX POLICE DEPARTMENT  
AUTHORIZATION FOR RELEASE OF INFORMATION**

Patient/Victim \_\_\_\_\_  
Last Name First Middle

Address \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Date of Birth \_\_\_\_\_ Home Phone \_\_\_\_\_ Work Phone \_\_\_\_\_

I hereby authorize \_\_\_\_\_  
to release to the Essex Police Department all records of medical treatment pertaining to  
injury(ies) sustained on \_\_\_\_\_

The foregoing is subject to such limitations as indicated below: (Please initial appropriate line)

- \_\_\_\_\_ 1. Confined to records regarding treatment or admissions on the following date or dates \_\_\_\_\_
- \_\_\_\_\_ 2. No limitations placed on dates, history or illness, or diagnostic and therapeutic information, including any treatment for psychiatric care or drug/alcohol abuse.
- \_\_\_\_\_ 3. Other \_\_\_\_\_

Name of person authorizing release \_\_\_\_\_

Relationship to patient/victim: Self \_\_\_\_\_ Parent \_\_\_\_\_ Guardian \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Address \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Name of Witness \_\_\_\_\_ Date \_\_\_\_\_

Address \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Signature of Witness \_\_\_\_\_

Name of Medical Facility \_\_\_\_\_

Name of Person Releasing Information \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

**ESSEX POLICE DEPARTMENT  
COMPLAINT RECEPTION RECEIPT**

The Essex Police Department hereby acknowledges receipt of a complaint filed against one of its employees by:

Name \_\_\_\_\_

Address \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Your complaint will be brought to the attention of the chief of Police and he will assign an investigator to gather all of the facts. The assigned investigator will contact you at least every ten days to apprise you of the status of the investigation. Once the investigator has completed the final report on the incident it will be reviewed by the Chief of Police and a final disposition will be made. A representative of the Essex Police Department will notify you as to the final disposition of your complaint.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Receiving Officer

Processing:

Original to Complainant

Copy for File

**ESSEX POLICE DEPARTMENT  
CITIZEN COMPLAINT/INTERNAL INVESTIGATION  
COMPLAINT DISPOSITION FORM**

Name of Employee \_\_\_\_\_ Incident # \_\_\_\_\_

Approved Adjudication:

- Sustained - The allegation is substantiated.
- Unfounded - The allegation is false or not factual.
- Exonerated - The incident occurred, but the officer or employee acted lawfully and properly.
- Not Sustained - The allegation is not substantiated. There is not sufficient evidence to prove or disprove the allegation.
- Misconduct-Not Based Upon the Complaint-Substantiated. Substantiated misconduct not alleged in the complaint.

Disposition:

- Formal     Informal

Action Taken/Recommended:

\_\_\_\_\_  
Signature of Investigating Officer

\_\_\_\_\_  
Date

Administration:

- Notification of Complainant      Date \_\_\_\_\_
- Employee Notification              Date \_\_\_\_\_
- Notification to Employee Supervisor      Date \_\_\_\_\_
- Entry in Employee Personnel File      Date \_\_\_\_\_

\_\_\_\_\_  
Signature of Chief of Police

\_\_\_\_\_  
Date

**ESSEX POLICE DEPARTMENT  
CITIZEN COMPLAINT AFFIRMATION**

I, \_\_\_\_\_ do hereby affirm that the foregoing information by me is true and complete to the best of my knowledge and belief. I understand that any false, misleading or untrue statements, accusations or allegations, herein made by me, either orally or in writing, to any person(s) investigating this complaint may subject me to civil and/or criminal prosecution.

I realize that it may become necessary, during the investigation of this complaint, to meet with members of the Essex Police Department to discuss the complaint, either in the presence or absence of the accused department employee at the discretion of the police department.

I hereby accept the premise that if any action is initiated through a court or administrative hearing as a result of my complaint, my testimony before these hearings may be requested.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

Incident # \_\_\_\_\_

**ESSEX POLICE DEPARTMENT  
NOTIFICATION AND ADMINISTRATIVE RIGHTS OF EMPLOYEE  
UNDER INVESTIGATION**

Employee Name \_\_\_\_\_ Incident # \_\_\_\_\_

**NOTIFICATION:**

The Essex Police Department is conducting an investigation to determine the validity of the following allegation(s) made against you:

These allegations are based upon:

Citizen Complaint       Active Internal Investigation

As a result of this allegation department policy requires that you must be advised of your **Administrative Rights**.

1. The purpose of this investigation is to solicit responses that will assist in determining the validity of allegations of misconduct which may result in administrative action, including dismissal.
2. You are required to answer all questions which are specifically directed and narrowly related to the performance of your official duties or fitness for office, fully and truthfully. If you refuse to answer any and all such questions disciplinary action, to include dismissal, may be taken against you.
3. You are further advised that, by law, any admissions made by you cannot be used against you in any subsequent criminal proceedings.

The undersigned employee hereby acknowledges that he/she was notified of the allegation(s) and informed of the above administrative rights.

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

Processing:

Original to Case File  
Copy to Employee



**FORMAT FOR COMPLAINANT NOTIFICATION OF COMPLAINT  
DISPOSITION**

*(TYPED ON DEPARTMENT LETTERHEAD)*

DATE

NAME & ADDRESS

Dear \_\_\_\_\_

The Essex Police Department has completed a comprehensive investigation into the actions/alleged misconduct on the part of one of our employees, pursuant to a complaint filed by you on DATE.

As a result of this investigation, the department has determined that (findings of fact, adjudication and disposition of case).

The Essex Police Department is committed to making every effort to ensure that its employees are fully competent and prepared to provide quality professional law enforcement service to the community. An integral part of that effort is the thorough, fair and expeditious resolution of complaints received from the public combined with corrective action when that need has been identified.

I trust that this issue has been resolved to your satisfaction. If you have any questions or additional concerns relating to the investigation, or the conclusion and actions that resulted, please feel free to contact me at any time.

Sincerely,

Chief of Police