

TOWN OF AUBURN NEW HAMPSHIRE
POLICE DEPARTMENT
GENERAL ORDER - PERSONNEL

SUBJECT: GENERAL ORDER # 209 – COMPLAINTS AGAINST POLICE PERSONNEL

ISSUING AUTHORITY: CHIEF EDWARD PICARD

DATE OF ISSUE: FEBRUARY 1, 2015 **MODIFIED DATE:** AUGUST 1, 2017

EFFECTIVE DATE: FEBRUARY 1, 2015

NOTE: This written directive is for the internal governance of the Auburn Police Department, and as provided by RSA 516:36, is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action than would otherwise be applicable under existing law.

I. PURPOSE

To describe procedures for making complaints against department personnel, for investigating complaints, and to list and define the disposition of complaints.

II. POLICY

It shall be the policy of the Auburn Police Department to welcome constructive criticism and complaints from the public against the members of the Department or its procedures. The image of the department depends on the personal integrity and discipline of all departmental employees. To a large degree, the public image of this department is determined by the professional response of the department to allegations of misconduct against it or its employees. The department must competently and professionally investigate all allegations of misfeasance, malfeasance, non-feasance by employees and complaints bearing on the department's response to community needs.

The Department will investigate all complaints of alleged officer misconduct, to equitably determine whether the allegations are valid or invalid and to take appropriate action.

The Department will keep complainants informed of the progress of the investigation so as to insure public confidence in its efforts to “police its own”.

III. **PROCEDURES**

- A. The department encourages citizens to bring forward legitimate grievances regarding misconduct by employees. Department members shall receive complaints courteously and shall handle them efficiently. All officers are obligated to explain to inquiring citizens the complaint procedures.
- B. The department recognizes that its personnel are often subject to intense pressures in the discharge of their duties. The employee must remain neutral under circumstances that are likely to generate tension, excitement, and emotion. In such situations, work, actions and events frequently result in misunderstanding and confusion. It is to the advantage to all employees to have a procedure for the investigation of the more serious allegations and underlying circumstances so that complaints can be resolved in the light of the complicated pressures of police work.
- C. A copy of “How to Make a Complaint” will be posted in the public areas of the police department, provided to a media representative, and may be given to any citizen requesting information on how to make a complaint against the department or any employee of the department. A copy of “How to Make a Complaint” is found in the appendix of this order.
- D. Responsibility for Handling Complaints:
 - 1. As a rule, complaints regarding law enforcement operations will be handled through the chain of command. Complaints involving how police service is provided or a failure to provide service or improper attitude or behavior will normally be investigated and handled by the investigator or the Chief of Police. The Chief of Police may ask an investigator from another agency or the Department of State Police to undertake the investigation.
 - a) A supervisor will make an attempt to resolve the complaint immediately during the receiving stage. Oftentimes a courteous explanation by a police representative will resolve the complaint to the satisfaction of the citizen. If able to do so, the supervisor will file a report, which indicates the corrective action taken to resolve the issue.
 - 2. Complaints alleging improper police conduct, brutality, or misconduct

involving several personnel or supervisory personnel will be handled as an internal affairs matter, and shall be investigated by an outside agency upon the request of the Chief of Police.

E. Receipt of Complaints:

1. a. Complaints, regardless of nature must be lodged in writing. As part of the follow-up investigative activity, persons making complaints verbally will be interviewed and a signed statement prepared. A copy of the complaint form is found in the appendix of this order. Anonymous complaints will be followed up to the extent possible.
b. The complainant will be given a copy of their written complaint.
2. Every effort shall be made to facilitate the convenient, courteous and prompt receipt and processing of citizen complaints. An employee of the department, who interferes with, discourages or delays the making of such complaints shall be subject to disciplinary action.
3. Normally, a citizen with a complaint will be referred to the Lieutenant who will assist the citizen in recording pertinent information. The Lieutenant will, if appropriate, conduct a preliminary investigation.
4. If a Supervisor or investigator determines that the complainant is apparently under the influence of an intoxicant or drug, or is apparently suffering from a mental disorder, or displays any other trait or condition bearing on his credibility, he shall note such conditions on the reverse side of the complaint form. Any visible marks or injuries relative to the allegation shall be noted and photographed.
5. A prisoner or arrestee may also make complaints, although circumstances may require a department representative to meet the complainant at a jail or prison for an interview. If appropriate, the police representative will have photographs taken of prisoner's injuries.
6. A department member receiving a citizen complaint through the US mail shall place the correspondence and envelope in a sealed envelope and forward to the Chief of Police, who will determine investigative responsibilities.
7. Complaints received by telephone will be promptly and courteously referred to the Supervisor. The employee receiving the complaint shall record the name and telephone number of the complainant, and state that a supervisor, shall call back as soon as practicable.

8. Complaints will not normally be accepted more than thirty (30) days after the alleged incident, with the following exceptions:
 - a) When the act complained of is a criminal violation in which case the criminal statute of limitations will prevail.
 - b) When the complaining person can show good cause for not making the complaint earlier.
 - c) The above procedure may also be used when department employees desire to enter a complaint against any other employee governed by this order.

F. Disposition of Complaints:

1. Notify the complainant in writing as soon as practicable, that the department acknowledges receipt of the complaint, that the complaint is under investigation, that the investigation will be completed within thirty days, and that the complainant will be advised of the outcome. If the investigation exceeds thirty days, the Chief of Police shall write the complainant a letter explaining the circumstances of the delay.
2. Take appropriate disciplinary action following the investigation.

G. Disposition of Serious Complaints:

1. Serious complaints allege violations of the law or gross negligence in violating or failure to enforce civil rights of citizens. The "serious complaint" in this manual is synonymous with "internal investigation". Internal investigations examine alleged brutality, gross excess of legal authority, or allegations, involving supervisory personnel or multiple police personnel.
2. In such cases, the Chief of Police shall:
 - a) Record, register, control or cause to be recorded, registered or controlled, the investigation of employees.
 - b) Maintain confidential records of same.
 - c) Ensure that the investigation is conducted according to New Hampshire law.
 - d) The Chief of Police will maintain close liaison with the County Attorney in the investigation of alleged criminal conduct. Where liability may be an issue, the Chief of Police shall similarly maintain contact with the Town Attorney.

H. Adjudication of Complaints:

1. The Chief of Police will classify completed internal affairs investigations as:
 - a) Unfounded - no truth to allegations.
 - b) Exonerated - allegations true, but result of adherence to proper and appropriate police procedures and techniques.
 - c) Not sustained - unable to verify the truth of the matters under investigation.
 - d) Sustained - allegations true.
 - e) Completed investigations classified as unfounded, exonerated or not sustained will be maintained in internal affairs file in the Chief's office. Sustained complaints will be filed in the individual employee's department personnel file with a copy in the internal affairs files.
 - f) Notification- Any employee who becomes the subject of an internal affairs investigation shall be notified and a written copy of the allegations shall be given to them.

SIGNATURE OF THE CHIEF OF POLICE _____ **Edward Picard** _____ **Date** _____