



# NEW MILFORD POLICE DEPARTMENT

## SECTION 6.1

### INTERNAL AFFAIRS

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<b>SUBJECT: CITIZEN COMPLAINTS AGAINST POLICE OFFICERS</b>		
<b>Issue Date: 05/21/2019</b>	<b>Effective Date: 05/24/2019</b>	<b>Distribution: All Personnel</b>
<b>Amends/Rescinds GO:</b>		<b>Review Date: 02/12/2020</b>
<b>Per Order of Chief of Police:</b>  <b>Spencer Cerruto, Chief of Police</b>		<b>POSTC State Accreditation:</b>  <b>1.5.9; 2.5.6; 2.6.12; 2.8.3</b>
<i>This General Order is for departmental use only and does not apply in any criminal or civil proceeding. This General Order should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this General Order will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting</i>		

#### I. PURPOSE:

The purpose of this policy is to provide all New Milford Police Department employees, and the public, the procedures for accepting, processing, and investigating allegations of officer misconduct or citizen complaints. This policy defines provisions applicable only to the receipt and processing of complaints.

#### II. POLICY:

The New Milford Police Department's public image is determined by a professional response to allegations of misconduct against its employees. The establishment of procedures for the acceptance of complaints is crucial to demonstrate and protect the department's integrity. This Department shall accept, and fairly and impartially investigate, all complaints or allegations of misconduct to determine their validity. The Department shall timely impose any disciplinary or non-disciplinary corrective actions that may be warranted. All complaints against the Department and/or employee conduct shall be accepted and documented regardless of whether the filed complaint is in writing, verbally in person, by mail, by telephone (or TDD), by facsimile or electronically, or anonymously. The Chief of Police or his designee will maintain a record of all complaints made against the agency or employees, and maintain the files in a secure area.

#### III. DEFINITIONS:

Complaint: An allegation by a member of the public regarding department services, policy or

procedure, officer misconduct, claims for damages which allege officer misconduct, and any allegation of possible misconduct of a NMPD employee.

Complainant: Any person who files a complaint regarding the conduct of any Department employee, or the NMPD's policies, procedures, or actions.

Complaint Control Number: A sequential number used to identify and track citizen complaint investigations, which is assigned by certain members of the Internal Affairs Division.

Critical Firearm Discharge: A discharge of a firearm by a NMPD officer, but does not include range and training discharges and discharges at animals.

Discipline: A written reprimand, suspension, demotion, or dismissal.

Officers: Any law enforcement officer employed by, or assigned to, the New Milford Police Department, whether on or off-duty, including supervisors and members authorized to carry department issued weapons.

Employee: Any person employed by the New Milford Police Department, whether sworn or non-sworn.

External Complaint: A complaint that originates from outside the department.

Internal Complaint: A complaint that originates from within the NMPD. Such complaints may be initiated by other NMPD employees or from supervisors who observed, or were informed by other employees, of possible policy violations.

Internal Affairs Division (IAD): The designated Division with primary responsibility for conducting investigations of Administrative or Citizen Complaints of Misconduct.

Malfeasance: Illegal or dishonest activity especially by a public official.

Misconduct: Any conduct by an NMPD employee that violates NMPD policy or the law.

Summary Action: Disciplinary action in the form of an oral reprimand, or counseling documented in writing, taken by an officer's supervisor or commander for minor violations of department rules, policies, or procedures as defined by NMPD. Summary actions are the lowest level of disciplinary action.

Supervisor: Includes those holding the rank of Sergeant or higher.

**IV. PROCEDURES:****A. Internal Affairs Responsibility**

6.1.1. 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, unit, person or designated supervisor for investigation through the appropriate chain of command. The designated division, unit, person or supervisor 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 findings to a supervisor up to and including the Chief of Police, if warranted, the results of the investigation, any recommendations and the resolution of the 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 New Milford Police Department Policies and Procedures where existing deficiencies have been a contributing factor to misconduct.

**B. Acceptance / Filing of Complaints**

6.1.2. All persons are encouraged to bring forward legitimate complaints regarding possible misconduct or malfeasance of employees of the New Milford Police Department.

6.1.3. All sworn and civilian employees shall be required to accept a complaint alleging misconduct or malfeasance by agency personnel.

6.1.4. 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.

6.1.5. 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.

**C. Complaint Intake Procedure**

6.1.6. 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.

6.1.7. All employees will assist those who express a desire to lodge complaints against any member of the New Milford Police Department. 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.
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.

6.1.8. 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 (CCN) which should be provided to the complainant.

6.1.9. If a supervisor is not readily available, the employee will inform the complainant that they will be contacted by a supervisor or the person or unit assigned to conduct internal affairs investigations by the next business day.

6.1.10. Sworn and civilian employees who receive a complaint about their own conduct shall immediately refer the complaint to a supervisor.

6.1.11. All complaints shall be documented to include the date, time, location, and nature of the complaint, complainant's information (name, address, date of birth, telephone number, or other contact information, if provided, date and time the complaint was received, and the name, rank and/or title of the person receiving the complaint.

6.1.12. The withdrawal of a complaint does not prohibit the New Milford Police Department from completing an investigation.

6.1.13. If complaints are received by mail, all correspondence received containing allegations shall be forwarded to the Chief of Police or the Chief's designee 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.

6.1.14. Walk-in complaints, shall be referred to a Supervisor who shall then forward the complaint to the Internal Affairs designee. 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.

6.1.15. Telephone complaints shall be referred to a Supervisor or the internal affairs designee. 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.

6.1.16. 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.

6.1.17. All citizen complaints shall be documented utilizing the standardized form adopted by the Police Officer Standards and Training Council for such documentation or a standardized form that exceeds the model form adopted. Each complaint shall be assigned a Complaint Control Number (CCN) to track complaints and a copy of this form shall be filed in a separate Complaint File.

#### **D. Validity and Timeliness of Complaints**

6.1.18. 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.

6.1.19. 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.

6.1.20. 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, an employee may still be held accountable administratively.

6.1.21. 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 unit, supervisor or internal affairs designee to be aware of these fears and develop reasonable strategies to assist the complainant in dispelling those fears.

#### **E. Investigation of Complaints**

6.1.22. The Chief of Police or the Chiefs designee shall assure that all complaints received are processed and investigated appropriately as set forth in this policy. Internal Affairs investigations shall be completed in a timely manner within the time limits determined by the Chief of Police, including extensions granted by the Chief of Police or designee for good cause.

6.1.23. Complainants shall be notified in writing within five (5) business days of receipt that; (1) their complaint has been received by the agency and is currently pending; (2) that a complaint number has been assigned (including the assigned number); (3) that they will be informed in writing of the outcome of the complaint promptly following conclusion of the investigation, and (4) that they may contact the designated investigator (identify by name, telephone and/or email) at any time for further information while the investigation is pending.

6.1.24. 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; (1) the fact that a complaint has been made, (2) the identity of the complainant, if known, (3) the substance of the complaint, (4) the law or policy that is alleged to have been violated, and (5) the date upon which the investigation is expected to be completed.

6.1.25. 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.

6.1.26. Nothing in this policy 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.

**F. Review of the Investigation**

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

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

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

6.1.30. Findings of completed investigations and disciplinary recommendations if any, shall be promptly conveyed, in writing, to the employee through his or her chain of command.

**G. Case Disposition Standards**

6.1.31. For each charge or allegation of misconduct or malfeasance which forms the basis for an internal affairs investigation, such charge or allegation shall be classified upon closing of the investigation in one of the following manners: This includes:

1. **Exonerated:** The investigation determined by a preponderance of the evidence that misconduct or malfeasance was committed, but not by the subject.
2. **Unfounded:** The investigation determined by a preponderance of the evidence that the misconduct or malfeasance complained of did not occur.
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.
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.
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.

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.
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 agency. Summary actions are the lowest level of disciplinary action or remediation.
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.
  - b. Discredit upon the involved employee.
  - c. Commission of a criminal offense; or
  - d. Allegations of racism, bigotry or prejudice against any race, religion, creed, national origin, sexual orientation, or circumstances beyond the individual's control.

Reconciliation must be documented through the chain of command to the Chief of Police or his or her designee. Reconciliation does not preclude further corrective action on the part of the agency.

#### **H. Training**

6.1.32. All supervisory personnel will be required to attend training on the department's Complaint Policy and the responsibilities of supervisors conducting internal investigations upon the implementation of this policy.

6.1.33. All supervisory personnel will be required to attend periodic training, as determined by the department, regarding the policies and procedures contained herein and professionally accepted practices related to conducting internal investigation.

#### **I. Public Information and Access**

6.1.34. The Chief of police will ensure informational materials are made available to the public through police personnel, the police department facility, the police agency web site,

the general government web site of the agency, the internet, libraries, community groups, community centers and at other designated public facilities.

6.1.35. The Chief of Police will ensure that copies of this policy and complaint forms are available at the town hall or another municipal building located within the municipality served by the law enforcement agency, other than a municipal building in which the law enforcement agency is located. 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.

6.1.36. The complaint policy and forms should be made available online where the agency, or the municipality served by the law enforcement agency, has an Internet website.