



**Town of Essex**  
**Police Community Advisory**  
**Board**  
Phone: (802) 878-1341  
Email: [manager@essex.org](mailto:manager@essex.org)

## AGENDA

**Tuesday, December 16, 2025 – 6:00 PM**  
**81 Main St., Essex Junction, VT 05452**

This meeting will be in person and online. Available options to watch or join the meeting:

- **JOIN ONLINE:** [Zoom Meeting ID: 833 5079 9533 | Passcode: 160364](#)
- **JOIN CALLING:** (*toll free audio only*): (888) 788-0099 | Meeting ID: 833 5079 9533; Passcode: 160364

This agenda is available in alternative formats upon request.

1. **CALL TO ORDER** 6:00 PM
2. **AGENDA ADDITIONS/CHANGES**
3. **APPROVE AGENDA**
4. **PUBLIC TO BE HEARD**
  - a. Comments from the public on Consent items and items not on Agenda
5. **CONSENT ITEMS**
  - a. Approve minutes:  
November 18, 2025
6. **BUSINESS ITEMS**
  - a. Workplan
  - b. Giftcard winners
  - c. New EPD policy & update
7. **READING FILE**
  - a. Donations & fundraising policy
  - b. EPD Internal Affairs draft policy
8. **EXECUTIVE SESSION**
9. **ADJOURN**

**POLICE COMMUNITY ADVISORY BOARD**

**November 18, 2025**

**POLICE COMMUNITY ADVISORY BOARD**

**REGULAR MEETING**

**MINUTES OF MEETING- DRAFT**

**November 18, 2025**

**POLICE COMMUNITY ADVISORY BOARD:** Jenny Parker, Gwendolyn Evans, Dan Maguire, Nancy Bean, Dan Maguire

**ABSENT:** Christina Hagestad

**STAFF:** Alyssa March- Community Liaison, Essex Police Department and Ron Hoague (EPD Chief)

**ADMINISTRATION:**

**OTHERS PRESENT:** Vince C.

**1. CALL TO ORDER**

*Chair Gwendolyn Evans called the meeting to order at 5:58pm.*

**2. AGENDA ADDITIONS/CHANGES**

*Alyssa asked for the addition of the new member introducing herself.*

**3. AGENDA APPROVAL**

*The agenda was approved.*

**4. PUBLIC TO BE HEARD**

**5. CONSENT ITEMS**

*a. The Board approved the Minutes for the September and October meetings.*

**6. BUSINESS ITEMS**

*a. Nancy Bean is the newest member of the PCAB in the City. Nancy gave some background about herself and her connections to law enforcement throughout the years.*

*b. The Board discussed the Handbook for Board, Committee & Commission Members and they approve.*

*c. Alyssa showed PCAB the survey data to the Board. The Board went through each question and discussed some feedback and results that were shown. The Board agreed that the survey information is helpful for PCAB moving forward and gives ideas on how to support the community.*

*d. Gwendolyn shared her work plan ideas for the Board. Gwendolyn would like her and Chief to go to Vermont Edition of Vermont Public Radio and discuss PCAB.*

*Gwendolyn expressed how helpful National Night Out could be to get the community informed about PCAB and asked Alyssa if there was anyway PCAB could support planning and organizing NNO. Alyssa shared that she starts planning at the top of the year and would love the support.*

*Gwendolyn suggested NNO have a booth about service animals so community members can tell the difference between service animals and pets.*

*Gwendolyn shared that she knows that she has not been up to date with the PCAB Blog and asked if anyone else would like to take it over or take turns. The Board did not agree or disagree. Dan suggested that PCAB go "on tour" and Jenny agreed. The Board discussed going to local coffee shops to make it available to the public for members of the community to come speak to them and go to senior homes or senior centers and interacting with them. While discussing this topic, the Board questioned how the community members would be able to identify themselves in the community. There was discussion about shirts or hats stating that they are PCAB. The Board agreed that each member will come up with three different work plan ideas for next month's meeting.*

*e. Alyssa shared that the Whimsical Walk will not be having a table so Gwendolyn will not need to attend. Nancy offered to be with Alyssa at Troy's Toy Drive. Dan is still planning on going to The Train Hop and Gwendolyn might be interested in attending. Alyssa informed the Board that she will provide location details when she gets them.*

*f. The Chief asked the Board if they would like guest speakers to come back to PCAB to share who they are and how they work with EPD. Dan mentioned wanting Tabitha to come back and speak. Gwendolyn asked if someone from EPD could come back and discuss the Citizen's Academy and encouraged members to join for the learning experience. Chief says he can have someone come speak.*

*g. Alyssa suggested to the Board that they start a social media account to reach out to community members. The Board agreed that social media could be helpful.*

*h. The chief gave an update on EPD. Two officers graduate from the Academy next Wednesday. Two candidates are scheduled to attend the next academy in February and potentially two more will be going. The PD would be at 30 out of 31 officers.*

*Due to an officer leaving, the Traffic officer has stepped down and is covering the road. The Officers in special assignments (DEA and CUSI) will also be covering the road. Two officers are in the National Guard and will be on leave at some point next year.*

*Chief shared that budget season is here but the PD is in good standing.*

*Chief shared that in the next meeting, he will bring the new discipline policy for the Board to look at.*

## **7. ADJOURN**

*A motion to adjourn was made by Gwendolyn. The motion was seconded and approved by the Board. The meeting adjourned at 7:19pm.*

Respectfully submitted,

Alyssa March  
Community Affairs Liaison



## Town of Essex Fundraising and Donation Policy

*Draft Dated 11-25-25*

### A. Purpose Statement:

The Town of Essex recognizes the value of encouraging donations to support Town departments and initiatives to defer, reduce, or eliminate the need to raise property tax or other revenues for these purposes. The purpose of this policy is threefold: to ensure that the solicitation, acceptance, and distribution of donated assets follow consistent and best practices; to ensure compliance with applicable laws and accepted accounting procedures; and to ensure donated funds or services are used in accordance with the donor's intentions.

Allowing for private contributions to the Town can empower individuals and organizations to positively impact the community in their area of interest, and can potentially expand the community activities and resources available for our residents. Donations are often made for a reason that has significant or sentimental importance to the donor, whether to honor the legacy of a family member, to support a specific service that had a lasting impact on the donor, or to provide support for items or initiatives that would be "nice to have" but are not able to be prioritized within the municipal services or capital budgets in place.

This policy does not cover grant funding awarded to the Town, as grant funding and associated approval procedures are addressed under the Town's Purchasing Policy.

### B. Definitions:

*Donor: an individual, foundation, club, corporation, institution, or other entity that makes a gift to the Town.*

*Gift: any donation of money, services, materials, or other items of value to the Town.*

*Internal Controls: written procedures used to assure accountability and consistency in financial transactions.*

*Official capacity: The use of official titles, position, and authority on behalf of the Town in the course of fundraising efforts by employees, volunteers, or elected/appointed officials. Solicitation for business, commercial, or personal reasons by any of the above using their official capacity not directly related to Town operations is prohibited.*

| TOWN<br>MANAGER | PARKS AND<br>RECREATION | COMMUNITY<br>DEVELOPMENT | PUBLIC<br>WORKS | ASSESSOR | FINANCE  | TOWN CLERK | LIBRARY  | FIRE     | POLICE   |
|-----------------|-------------------------|--------------------------|-----------------|----------|----------|------------|----------|----------|----------|
| 878-1341        | 878-1342                | 878-1343                 | 878-1344        | 878-1345 | 878-1359 | 879-0413   | 879-0313 | 878-5308 | 878-8331 |

C. Specific requirements:

1. All fundraising and solicitation efforts undertaken in the Town's name shall be consistent with pursuing or achieving implementation of Town initiatives shown in Selectboard-endorsed plans, including but not limited to the Town Plan, Economic Development Plan, Transportation Plan, master plans, departmental work plans or strategic plans, or similar documents. Donations may also be sought to support specific events, programs, activities, or inclusion efforts, including but not limited to scholarship funds, overseen by Town departments in keeping with their mission. All requests initiated shall be in keeping with adopted goals, values, and mandates. An employee may participate in fundraising efforts in an official capacity only if authorized by action of the Town Manager or the Manager's designee. A volunteer, or volunteer board/commission/committee, or elected/appointed official may participate in fundraising efforts in an official capacity only if authorized by action of the Selectboard.
2. No solicitation of funds will state or imply that a donation would or could influence or affect how the donor is treated by Town officers, employees, and/or volunteers appointed by the Town Manager or Selectboard. Any sensitive information supplied to the Town during the course of fundraising shall not be shared for any reason unless the donor grants permission or if required by law. Donors would not be identified publicly unless they have approved the use of their name in connection with their gift.
3. All fundraising and solicitation efforts to support Town programs and projects that involve the following, or acceptance of gifts as described below, shall be authorized by the Selectboard in a Public Meeting:
  - a. gifts over \$15,000 in value received
  - b. solicitation of \$10,000 or more from an individual donor
  - c. Gifts of any value that require the Town to provide a monetary commitment.
4. The Town Manager may accept gifts under the thresholds above on behalf of the Town. The Town reserves the right to return or refuse any gift that is not consistent with its mission and values or that could introduce a conflict of interest. Furthermore, gifts may be rejected if or when undue influence would be exerted by the donor(s) to shape the spending of on the Town's programs or mission in their favor. The Town reserves the right to refuse gifts where conditions of acceptance would distort the program or mission in a way that changes the objective that would be achieved. An example would be if there was a donation offered to the Swim Team but accepting the gift would require reducing the ages served.
5. All gifts are to be acknowledged to donors within 30 days of receipt, to include a statement of appreciation on behalf of the Town. For gifts of \$1,000 or more, an individualized message of appreciation shall be provided to the donor via email and/or written letter/card. For donations under this amount, a statement of appreciation contained within a transaction receipt or other standardized format is acceptable. This shall be the minimum acknowledgement and additional expressions of gratitude to donors are encouraged.
6. All donated funds become public funds upon acceptance and shall be used and expended for

76 public purposes in accordance with generally accepted accounting principles and standards.  
77 Any funds received by donation will be run through the Town's established process for cash  
78 receipts. No Town department will be allowed to maintain fundraised dollars separately  
79 from Town accounts. Specific line items will be established to track donations for proper  
80 reporting in financial statements. Expenditure of donated funds will be in accordance with  
81 any restrictions placed by the donor and the Town's Purchasing Policy and procedures.

- 82 7. Failure by any member of the Town's employees, volunteers, or elected officials to comply  
83 with this policy and any related guidance documents may result in disciplinary action in  
84 accordance with applicable policies or practices.
- 85 8. The Town acknowledges the rights of Library Trustees granted under 22 V.S.A. § 143  
86 to manage any gifts or donations covered under this Policy.  
87

# ESSEX POLICE DEPARTMENT

## Department Directive



|                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| Date Issued:<br>October 2025, May 22, 2000                                                                                                                                                                                                                                                                                                                                                                                                                               | Number:<br>1.1.4                                                                                                |
| <b>CODE OF CONDUCT</b><br><b>Disciplinary Procedures</b>                                                                                                                                                                                                                                                                                                                                                                                                                 | <input type="checkbox"/> New<br><input checked="" type="checkbox"/> Amends<br><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 POLICY

- 1.1 It is the policy of the Essex Police Department to use discipline against its members with the goal of ensuring that its members are fully competent and prepared to provide professional law enforcement services for our community. To that end, we seek to ensure appropriate and fair discipline is used to correct the actions of those members who violate the policies and procedures of the department.

### 2.0 PROCEDURES

- 2.1 Disciplinary action against a member may be taken only with the approval of the Chief of Police.
- 2.2 The disciplinary guidelines shall be followed in imposing discipline unless the Chief of Police finds in his/her discretion, just cause to deviate from the guidelines. Nothing in this provision prevents the imposition of consecutive discipline for more than one violation occurring from the same incident. Nothing contained in this Article is to be construed as restricting or interfering with the right of the Chief of Police to demote a member in conjunction with or in addition to any imposed disciplinary action set out within the Disciplinary Guidelines.

- 2.3 Nothing contained in this Article is to be construed as restricting or interfering with the right and obligation of a Commanding Officer or supervisor to take appropriate administrative actions with respect to members under his/her command.
- 2.4 Nothing contained in this Article is to be construed as restricting or interfering with the right of the Chief of Police to temporarily relieve from duty with pay, or temporarily reassign any member against whom an allegation has been made pending the final disposition.
- 2.5 Administration of discipline shall be in accordance with Article XV of the Fraternal Order of Police / Essex Police Employee's Association Agreement.

### 3.0 DISCIPLINE OF MEMBER

- 3.1 In a case in which the Internal Affairs investigation concludes that the charges have been proved, the Chief of Police shall determine what, if any, disciplinary action to take against the member.
- 3.2 In determining what, if any, disciplinary action to take, the Chief of Police may consider the nature and severity of the Class I, II, or III violation, the member's personnel record, the recommendations, if any, of the investigator of the incident, and the nature and extent of disciplinary action taken in prior cases of a similar nature.
- 3.3 Nothing contained in this Article is to be construed as restricting or interfering with the right of the Chief of Police to demote a member in conjunction with any imposed disciplinary action.
- 3.4 After determining what, if any, disciplinary action to take, the Chief of Police shall advise the charged member, in writing, of the disciplinary action to be taken against him/her.
- 3.5 In all cases, the Chief of Police shall advise, in writing, the member or person other than a member who made the allegation of the disposition of the same.

### 4.0 APPEAL OF DISCIPLINARY ACTION TAKEN

- 4.1 ~~If the charged member did not request a hearing panel, or if a hearing was held and~~ discipline was imposed, he/she may appeal the charges and the disciplinary action taken by following the appropriate procedures as outlined in the Essex Police Employee's Association Agreement Article XI Step 2.

### 5.0 PROBATIONARY MEMBERS

- 5.1 Notwithstanding any other provision of this policy, a probationer may be summarily dismissed at any time by the Chief of Police.

## 6.0 DISCIPLINARY GUIDELINES

### 6.1 Acts of Misconduct (Class - 1) (All days suspended are off payroll.)

| <b>Violation</b>                                  | <b>1st Offense</b>  | <b>Subsequent Offense</b> |
|---------------------------------------------------|---------------------|---------------------------|
| Bribes                                            | dismissal           |                           |
| Cheating on Examination                           | dismissal           |                           |
| Criminal Conduct - Felony                         | dismissal           |                           |
| Courage                                           | 4 days - dismissal  | dismissal                 |
| Disclosure of Identity of Confidential Informant  |                     | dismissal                 |
| Disclosure of Identity of Members                 | 30 days - dismissal | dismissal                 |
| Discrimination                                    | 4 - dismissal       | dismissal                 |
| False Statements                                  | 30 days - dismissal | dismissal                 |
| Falsification and Misuse of Property and Evidence | dismissal           |                           |
| Gambling                                          | 4 days - dismissal  |                           |
| Mistreatment of Persons in Custody                | 4 days - dismissal  | dismissal                 |
| Possession and/or Use of Controlled Substance     | 30 days - dismissal | dismissal                 |
| Receipt, Processing, and Reporting of Allegations | 4 days - dismissal  | 8 days - dismissal        |
| Truthfulness                                      | dismissal           |                           |
| Use of Alcohol on Duty                            | 8 days - dismissal  | dismissal                 |
| Firearms                                          | 4 days - dismissal  | dismissal                 |
| Force                                             | 4 days - dismissal  | dismissal                 |

### 6.2 Acts of Misconduct (Class -2) (All days suspended are off payroll, unless noted otherwise.)

| <b>Violation</b>   | <b>1st Offense</b>           | <b>Subsequent Offenses</b> |
|--------------------|------------------------------|----------------------------|
| Abuse of Authority | Letter of Reprimand - 5 days | dismissal                  |
| Associations       | 4 - 8 days                   | 8 days - dismissal         |
| Conduct            | Letter of Reprimand - 5 days | 5 days - dismissal         |
|                    | 4 days - dismissal           |                            |

| <b>Violation</b>                                         | <b>1st Offense</b>                     | <b>Subsequent Offenses</b> |
|----------------------------------------------------------|----------------------------------------|----------------------------|
| Criminal Conduct - Misdemeanor                           |                                        | 30 days - dismissal        |
| Biased Expression                                        | 4 - 30 days                            | 30 days - dismissal        |
| Dissemination of Information                             | 1 - 30 days                            | 30 days - dismissal        |
| False Statements                                         | 4 - 8 days                             | 8 days - dismissal         |
| Gifts                                                    | 4 - 8 days                             | 8 days - dismissal         |
| Interference                                             | 4 - 8 days                             | 8 days - dismissal         |
| Membership in Organizations                              | 4 - 8 days                             | 8 days - dismissal         |
| Obedience to Orders                                      | 4 - dismissal                          | 8 days - dismissal         |
| Political Activity                                       | 1 - 8 days                             | 8 days - dismissal         |
| Residence                                                | 1 - 8 days and relocate within 10 days | suspension - dismissal     |
| Responsibility                                           | 4 days - dismissal                     | 8 days - dismissal         |
| Rewards                                                  | 1 - 8 days                             | 8 days - dismissal         |
| Soliciting Personal Advancement                          | 1 - 8 days                             | 4 days - dismissal         |
| Special Privileges                                       | 4 days - dismissal                     | 8 days - dismissal         |
| Use and Maintenance of Department Property and Equipment | 4 days AL - 4 days suspension          | 4 - 30 days                |
| Use of Alcohol on duty                                   | 8 days - dismissal                     | 30 days - dismissal        |
| Use of Alcohol off duty                                  | 1 - 8 days                             | 8 days - dismissal         |
| Violation of Rules                                       | 4 - 8 days                             | 8 days - dismissal         |
| Third offense on any Part C Code of Conduct Violation    | 1 - 4 days                             | 4 days - dismissal         |

6.3 Acts of Misconduct- (Class-3) (All days are vacation.)

| <b>Violation</b>                                 | <b>1st Offense</b>                          | <b>Subsequent Offenses</b> |
|--------------------------------------------------|---------------------------------------------|----------------------------|
| Absence from Duty                                | Letter of Reprimand - 1 day                 | 2 - 4 days                 |
| Alcoholic Beverages in or on Department Property | Letter of Reprimand - 1 day                 | 2 - 4 days                 |
| Carrying firearms and other weapons              | Performance issue up to letter of reprimand | 1 - 4 days                 |
| Courtesy                                         | Letter of Reprimand - 2 days                | 3 - 4 days                 |
| Defamatory Expression                            | Performance - Letter of Reprimand           | 1 - 4 days                 |
|                                                  | Letter of Reprimand - 2 days                | 3 - 4 days                 |

| <b>Violation</b>                                          | <b>1st Offense</b>           | <b>Subsequent Offenses</b>                       |
|-----------------------------------------------------------|------------------------------|--------------------------------------------------|
| Employment Outside of the Department                      |                              |                                                  |
| Gifts                                                     | Letter of Reprimand - 2 days | 3 - 4 days                                       |
| Identification                                            | Letter of Reprimand - 1 day  | 2 - 4 days                                       |
| Indebtedness                                              | Letter of Reprimand - 2 days | 3 - 4 days                                       |
| Influencing Legislation                                   | Letter of Reprimand - 1 day  | 2 - 4 days                                       |
| Neglect of Duty                                           | Letter of Reprimand          | 1 - 4 days                                       |
| Off duty responsibilities                                 | Letter of Reprimand - 1 day  | 2 - 4 days                                       |
| Personal Appearance                                       | Letter of Reprimand          | 1 - 4 days                                       |
| Reporting for Duty                                        | Letter of Reprimand - 2 days | 3 - 4 days                                       |
| Soliciting                                                | Letter of Reprimand - 1 day  | 2 - 4 days                                       |
| Testimonials for Commercial Use                           | Letter of Reprimand - 1 day  | 2 - 4 days                                       |
| Timely Reports                                            | Letter of Reprimand          | 1 - 4 days                                       |
| Use and Maintenance of Department Property and Equipment. | Letter of Reprimand - 2 days | 3 - 4 days                                       |
| Violation of Rules                                        | Letter of Reprimand - 2 days | 3 - 4 days                                       |
| Conformance to Laws*                                      | Performance - 2 days         | (within a year of first offense) B<br>3 - 5 days |

7.0 \*Offense in excess of one year apart to be treated as 1<sup>st</sup> offense.

## 8.0 COMMENCEMENT OF DISCIPLINARY PROCEEDINGS

- 2.1 Disciplinary proceedings against a member commence with the service of charges upon the member.
- 2.2 Charges shall be served personally upon the member against whom they have been preferred. The member who serves the charges shall certify to the Chief of Police, in writing, the time and place of such service.
- 2.3 At the same time as charges are served upon him/her, a charged member shall be given a copy of all of the statements and other evidence compiled during the course of the investigation into the allegations against him/her.

### ~~3.0 — RIGHTS OF CHARGED MEMBER~~

- ~~3.1 — Whether he/she admits or denies the charges preferred, a charged member has the right to a hearing, at which he/she may be represented, may present evidence and testimony on his/her own behalf, and may examine and cross-examine witnesses.~~
- ~~3.2 — A charged member may, but is not required to, either admit or deny the charges preferred. If the charged member does not admit the charges it will be deemed that he/she denies the same. A charged member who wishes to admit the charges shall so advise the Chief of Police in writing. When a charged member admits the charges, it shall be deemed that the charges have been proved. Nonetheless, such an admission of charges shall not, by itself, constitute a waiver of the charged member's right to a hearing at which he/she may present evidence of mitigating or extenuating circumstances. A charged member who admits the charges preferred against him/her may, however waive his/her right to a hearing by so advising the Chief of Police, in writing, in which case a hearing will not be conducted. A charged member who admits the charges and waives his/her right to a hearing may, within four (4) calendar days of waiving his/her right to a hearing, submit a written statement to the Chief of Police for his/her consideration.~~
- ~~3.3 — A charged member may elect to have a hearing held before a hearing panel in accordance with subsection 4.0 of this section, which request shall be honored.~~
- ~~(I) — The hearing panel shall be comprised of three (3) members, who shall have no connection with the matter at issue.~~
- ~~(II) — Within seven days after the delivery to a member of written charges against such member, the member may file with the Chief of Police a request for the appointment of a hearing panel, in accordance with paragraph one (1) above, which request shall be honored.~~
- ~~3.4 — If the charged member does not request a hearing within seven (7) days after receipt of the written charges the Chief of Police may take such disciplinary action as he/she deems appropriate, including reprimand, suspension, demotion or removal.~~

### ~~4.0 — HEARING PANEL~~

- ~~4.1 — If the charged member requests a hearing panel, the Chief of Police shall provide the charged member in writing with the names of four (4) members within seven (7) calendar days after the charged member's actual request for a hearing. The names of the four (4) members, at least one of whom shall have the rank of Lieutenant or higher, shall have had no connection with the matters at issue. Within five (5) calendar days of his/her receipt of notification from the Chief of Police, the charged member shall notify the Chief of Police in writing, of the three names selected to serve as the hearing panel, provided that at least one member shall have the rank of Lieutenant or higher.~~

~~4.2 As soon as practicable the panel shall schedule a hearing and shall hold the same after timely notice to the charged member and the Chief of Police.~~

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4.3 — ~~At the discretion of the charged member the hearing may be closed or public. The charged member or member's representative or both may cross examine witnesses and present evidence. All witnesses shall testify under oath and all proceedings shall be recorded.~~

4.4 — ~~A charged member is not required to attend, or be represented at the hearing, and such failure shall not be construed as an admission of the charges preferred against him/her. However, the failure of a charged member to attend or be represented at a hearing shall constitute a waiver of his/her right to present evidence and testimony on his/her own behalf and to examine and cross examine witnesses. In such cases, the hearing panel shall hold whatever hearing(s) and shall take whatever evidence and testimony as it deems necessary and appropriate.~~

## 5.0 — ~~DECISION OF HEARING PANEL~~

5.1 — ~~At the conclusion of the hearing, the hearing panel shall decide, by majority vote, whether or not the charges have been proved by a preponderance of the evidence and shall report its findings and decisions, in writing, to the charged member and the Chief of Police. The decision of the panel and any resulting disciplinary action taken by the Chief of Police are final.~~

5.2 — ~~If the Hearing Panel decides that the charges have not been proved, no disciplinary action will be taken against the charged member, no record of the allegation or charges shall be placed in the member's personnel file, and any pay or other rights which the member may have lost as a result of a temporary suspension shall be restored.~~

5.3 — ~~If the hearing panel decides that the charges have been proved, it may, in its discretion, make recommendations to the Chief of Police with respect to the nature and extent of disciplinary action which would be appropriate. Such recommendations shall not be binding upon the Chief of Police.~~

## 6.0 — ~~DISCIPLINE OF MEMBER~~

6.1 — ~~In a case in which the charged member admits the charges preferred against him/her and waives his/her right to a hearing or in which the hearing panel concludes that the charges have been proved, the Chief of Police shall determine what, if any, disciplinary action to take against the member.~~

6.2 — ~~In determining what, if any, disciplinary action to take, the Chief of Police may consider the nature and severity of the Class I, II, or III violation, the member's personnel record, the recommendations, if any, of the Selectboard or hearing panel, and the nature and extent of disciplinary action taken in prior cases of a similar nature.~~

~~6.3 — Nothing contained in this Article is to be construed as restricting or interfering with the right of the Chief of Police to demote a member in conjunction with any imposed disciplinary action.~~

~~6.4 — After determining what, if any, disciplinary action to take, the Chief of Police shall advise the charged member, in writing, of the disciplinary action to be taken against him/her.~~

~~6.5 — In all cases in which the charged member admits the charges preferred against him/her and waives his/her right to a hearing, the Chief of Police, shall provide one (1) copy of his/her determination of the disciplinary action to be taken against the member through the chain of command, to the Supervisor of the member involved.~~

~~6.6 — In all cases, the Chief of Police shall advise, in writing, the member or person other than a member who made the allegation of the disposition of the same.~~

#### ~~7.0 — APPEAL OF DISCIPLINARY ACTION TAKEN~~

~~7.1 — If the charged member did not request a hearing panel, or if a hearing was held and discipline was imposed, he/she may appeal the charges and the disciplinary action taken by following the appropriate procedures as outlined in the Essex Police Employee's Association Agreement Article XI Step 2.~~

#### ~~8.0 — PROBATIONERS~~

~~8.1 — Notwithstanding any other provision of this Article, a probationer may be summarily dismissed at any time by the Chief of Police without a hearing.~~

#### ~~9.0 — DISCIPLINARY GUIDELINES~~

~~9.1 — Acts of Misconduct (Class 1) (All days suspended are off payroll.)~~

| <del>Violation</del>                                        | <del>1st Offense</del>       | <del>Subsequent Offense</del> |
|-------------------------------------------------------------|------------------------------|-------------------------------|
| <del>Bribes</del>                                           | <del>dismissal</del>         |                               |
| <del>Cheating on Examination</del>                          | <del>dismissal</del>         |                               |
| <del>Criminal Conduct—Felony</del>                          | <del>dismissal</del>         |                               |
| <del>Courage</del>                                          | <del>4 days—dismissal</del>  | <del>dismissal</del>          |
| <del>Disclosure of Identity of Confidential Informant</del> |                              | <del>dismissal</del>          |
| <del>Disclosure of Identity of Members</del>                | <del>30 days—dismissal</del> | <del>dismissal</del>          |
| <del>Discrimination</del>                                   | <del>4—dismissal</del>       | <del>dismissal</del>          |
| <del>False Statements</del>                                 | <del>30 days—dismissal</del> | <del>dismissal</del>          |

| <del>Violation</del>                              | <del>1st Offense</del> | <del>Subsequent Offense</del> |
|---------------------------------------------------|------------------------|-------------------------------|
| Falsification and Misuse of Property and Evidence | dismissal              |                               |
| Gambling                                          | 4 days — dismissal     |                               |
| Mistreatment of Persons in Custody                | 4 days — dismissal     | dismissal                     |
| Possession and Use of Drugs                       | 30 days — dismissal    | dismissal                     |
| Receipt, Processing, and Reporting of Allegations | 4 days — dismissal     | 8 days — dismissal            |
| Truthfulness                                      | dismissal              |                               |
| Use of Alcohol on Duty                            | 8 days — dismissal     | dismissal                     |
| Firearms                                          | 4 days — dismissal     | dismissal                     |
| Force                                             | 4 days — dismissal     | dismissal                     |

9.2 ~~Acts of Misconduct (Class 2) (All days suspended are off payroll, unless noted otherwise.)~~

| <del>Violation</del>           | <del>1st Offense</del>                 | <del>Subsequent Offenses</del> |
|--------------------------------|----------------------------------------|--------------------------------|
| Abuse of Authority             | Letter of Reprimand — 5 days           | dismissal                      |
| Associations                   | 4 — 8 days                             | 8 days — dismissal             |
| Conduct                        | Letter of Reprimand — 5 days           | 5 days — dismissal             |
| Criminal Conduct — Misdemeanor | 4 days — dismissal                     | 30 days — dismissal            |
| Biased Expression              | 4 — 30 days                            | 30 days — dismissal            |
| Dissemination of Information   | 1 — 30 days                            | 30 days — dismissal            |
| False Statements               | 4 — 8 days                             | 8 days — dismissal             |
| Gifts                          | 4 — 8 days                             | 8 days — dismissal             |
| Interference                   | 4 — 8 days                             | 8 days — dismissal             |
| Membership in Organizations    | 4 — 8 days                             | 8 days — dismissal             |
| Obedience to Orders            | 4 — dismissal                          | 8 days — dismissal             |
| Political Activity             | 1 — 8 days                             | 8 days — dismissal             |
| Residence                      | 1 — 8 days and relocate within 10 days | suspension — dismissal         |
| Responsibility                 | 4 days — dismissal                     | 8 days — dismissal             |
| Rewards                        | 1 — 8 days                             | 8 days — dismissal             |

| <del>Violation</del>                                     | <del>1st Offense</del>      | <del>Subsequent Offenses</del> |
|----------------------------------------------------------|-----------------------------|--------------------------------|
| Soliciting Personal Advancement                          | 1—8 days                    | 4 days—dismissal               |
| Special Privileges                                       | 4 days—dismissal            | 8 days—dismissal               |
| Use and Maintenance of Department Property and Equipment | 4 days AL—4 days suspension | 4—30 days                      |
| Use of Alcohol on duty                                   | 8 days—dismissal            | 30 days—dismissal              |
| Use of Alcohol off duty                                  | 1—8 days                    | 8 days—dismissal               |
| Violation of Rules                                       | 4—8 days                    | 8 days—dismissal               |
| Third offense on any Part C Code of Conduct Violation    | 1—4 days                    | 4 days—dismissal               |

9.3—Acts of Misconduct (Class 3) (All days are vacation.)

| <del>Violation</del>                                      | <del>1st Offense</del>                      | <del>Subsequent Offenses</del> |
|-----------------------------------------------------------|---------------------------------------------|--------------------------------|
| Absence from Duty                                         | Letter of Reprimand—1 day                   | 2—4 days                       |
| Alcoholic Beverages in or on Department Property          | Letter of Reprimand—1 day                   | 2—4 days                       |
| Carrying firearms and other weapons                       | Performance issue up to letter of reprimand | 1—4 days                       |
| Courtesy                                                  | Letter of Reprimand—2 days                  | 3—4 days                       |
| Defamatory Expression                                     | Performance—Letter of Reprimand             | 1—4 days                       |
| Employment Outside of the Department                      | Letter of Reprimand—2 days                  | 3—4 days                       |
| Gifts                                                     | Letter of Reprimand—2 days                  | 3—4 days                       |
| Identification                                            | Letter of Reprimand—1 day                   | 2—4 days                       |
| Indebtedness                                              | Letter of Reprimand—2 days                  | 3—4 days                       |
| Influencing Legislation                                   | Letter of Reprimand—1 day                   | 2—4 days                       |
| Neglect of Duty                                           | Letter of Reprimand                         | 1—4 days                       |
| Off duty responsibilities                                 | Letter of Reprimand—1 day                   | 2—4 days                       |
| Personal Appearance                                       | Letter of Reprimand                         | 1—4 days                       |
| Reporting for Duty                                        | Letter of Reprimand—2 days                  | 3—4 days                       |
| Soliciting                                                | Letter of Reprimand—1 day                   | 2—4 days                       |
| Testimonials for Commercial Use                           | Letter of Reprimand—1 day                   | 2—4 days                       |
| Timely Reports                                            | Letter of Reprimand                         | 1—4 days                       |
| Use and Maintenance of Department Property and Equipment. | Letter of Reprimand—2 days                  | 3—4 days                       |
| Violation of Rules                                        | Letter of Reprimand—2 days                  | 3—4 days                       |

| <del>Violation</del> | <del>1st Offense</del> | <del>Subsequent Offenses</del>                              |
|----------------------|------------------------|-------------------------------------------------------------|
| Conformance to Laws* | Performance 2 days     | <i>(within a year of first offense)</i> <del>3-5 days</del> |

~~\*Offense in excess of one year apart to be treated as 1<sup>st</sup> offense.~~

DRAFT

# ESSEX POLICE DEPARTMENT

## Department Directive



|                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
| Date Issued:<br>August 16, 2004                                                                                                                                                                                                                                                                                                                                                                                                                                          | Number:<br>1.2.1                                                                                                       |
| <b>INTERNAL AFFAIRS</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <input checked="checked" type="checkbox"/> New<br><input type="checkbox"/> Amends<br><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.)

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

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

Physical Condition: Describe bruises, cuts, swelling etc.

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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:

- |                                                              |            |
|--------------------------------------------------------------|------------|
| <input type="checkbox"/> Notification of Complainant         | Date _____ |
| <input type="checkbox"/> Employee Notification               | Date _____ |
| <input type="checkbox"/> Notification to Employee Supervisor | Date _____ |
| <input type="checkbox"/> 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

**ESSEX POLICE DEPARTMENT  
NOTIFICATION OF CONSTITUTIONAL 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:

( XX ) Citizen Complaint      ( ) Active Internal Investigation

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

1. You have the right to remain silent. If you give up the right to remain silent, anything you say may be used against you in a court of law. You have the right to speak with an attorney before any questions are asked of you. If you cannot afford an attorney one will be appointed to represent you at the state's expense.

2. If you choose not to answer any questions, no disciplinary action will be taken against you based upon your refusal to answer.

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

|                                |                                  |
|--------------------------------|----------------------------------|
| _____<br>Signature of Employee | _____<br>August 16, 2004<br>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

# ESSEX POLICE DEPARTMENT

## Department Directive



|                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| Date Issued:<br>October 2025, August 16, 2004                                                                                                                                                                                                                                                                                                                                                                                                                            | Number:<br>1.2.1                                                                                                |
| <b>INTERNAL AFFAIRS</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <input type="checkbox"/> New<br><input checked="" type="checkbox"/> Amends<br><input type="checkbox"/> Rescinds |
| <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 POLICY

- 2.1 Based on the premise discipline is a function of command and a well-disciplined law enforcement agency is one which voluntarily and ungrudgingly conforms to policies and regulations, the Essex Police Department will make every effort to facilitate the

convenient, courteous, and prompt receipt and processing of complaints. Any member who interferes with, discourages or delays the making of such complaint(s) shall be subject to disciplinary action.

### 3.0 RESPONSIBILITIES

- 3.1 The responsibility for the overall supervision and control of the department's internal affairs function is with the Chief of Police.
- 3.2 The assigned Lieutenant will have functional responsibility for internal investigations and shall report directly to the Chief of Police. Where the Lieutenant is a principal in an incident, the Chief of Police will oversee the investigation. Where the Chief of Police is the subject of an investigation, the complaint will be submitted to the appointing authority and the Vermont Criminal Justice Training Council.
- 3.3 The internal affairs function is responsible for:
  - 3.3.1 Recording, registering, and controlling the investigation of complaints against department employees, or the department itself;
  - 3.3.2 Supervising and controlling the investigation of alleged misconduct within the department;
  - 3.3.3 Maintaining the confidentiality of the internal affairs investigations and records; and
  - 3.3.4 Ensuring that all allegations of misconduct are investigated and adjudicated promptly, fairly, impartially, and thoroughly.

### 4.0 COMPLAINT INITIATION AND PROCESSING

- 4.1 The Essex Police Department will accept complaints of alleged or suspected violations of law, ordinances, department rules, regulations or policies. These include:
  - 4.1.1 Those violations reported to any member of the Essex Police Department by other members of the Essex Police Department, either orally or in writing; and
  - 4.1.2 Citizens (*including prisoners*) in person, by telephone, or by correspondence either signed or anonymous.
- 4.2 Those violations observed or suspected by supervising or command officers;
  - 4.2.1 Any alleged or suspected breach of integrity or case of moral turpitude from whatever source it may be reported or developed;
  - 4.2.2 Any situation in which a citizen has been injured or killed by an officer, whether on duty or not;
  - 4.2.3 Any situation involving the discharge of firearms by an officer with the following exception(s):

- 4.2.3.1 Unintentional discharge of a department owned weapon which does not involve death, injury or property damage.
  - 4.2.3.2 Euthanizing injured animals.
  - 4.2.3.3 Firearms Training or other legitimate firearms events.
- 4.2.4 Assisting any member of the Essex Police Department by investigating cases of personal harassment, threats, false accusations, or continued situations, which may be harmful to the Essex Police Department member.
- 4.2.5 Any time a citizen complaint or other investigation directed at a member requires the member to participate in a lineup, submit to a medical or laboratory examination, submit a financial disclosure, provide photographs for a lineup, or submit to a polygraph examination;
- 4.2.6 If the conduct alleged is of a criminal nature or may become criminal in nature, the Chief of Police or Designee may contact an outside agency to conduct an independent investigation separate from the internal investigation.
- 4.2.7 Citizen complaints will not be investigated if received more than (number of days) days after the alleged incident except if the complaint involves alleged criminal activity or the complainant can show worthy cause for not coming forward sooner.
- 4.3 The Essex Police Department shall maintain a record of all complaints. The records activity is a function of the internal investigations component and is an exception to personnel records to the extent the investigative work product will be filed separately and will be under the control of the Chief of Police or Designee.
- 4.4 To maintain confidentiality, records pertaining to internal investigations shall be properly secured by the individuals responsible for the internal investigations function.
  - 4.4.1 After a complainant has contacted the Essex Police Department regarding an alleged violation, the Chief of Police or Designee will respond to the complainant, acknowledging the complaint has been received and is being investigated. This responsibility lies with the Chief of Police or Designee.
  - 4.4.2 Whenever practical and possible, the Chief of Police or Designee shall provide the complainant with periodic status reports pertaining to the progress of the investigation.
  - 4.4.3 At the completion of the investigation the Chief of Police or Designee will advise the complainant of the findings:

SUBSTANTIATED

The allegation/investigation is supported by sufficient evidence to justify a reasonable conclusion of a violation of law or department regulation(s).

### NOT SUBSTANTIATED

Insufficient evidence exists to either prove or disprove the allegation/investigation.

### UNFOUNDED

All information firmly supports the allegation is false. The member involved is totally cleared/absolved of any misconduct.

### EXONERATED

1. Proper Conduct - The incident occurred but was lawful and proper. The member involved is totally exonerated of any misconduct.
2. Policy Failure - The incident occurred but was lawful and proper in accordance with policy and procedure, however a review of such policies and/or additional training may be necessary to prevent future allegations of misconduct. The department member is totally exonerated of any misconduct.
3. Misconduct Not Based Upon the Complaint, Sustained - Substantiated misconduct not alleged in the complaint.

## 4.5 Compliance

- 4.5.1 Members who are subject to an internal investigation will not discuss the matter with any individuals except the assigned investigator(s) and supervisors who have a direct involvement in the inquiry process.
- 4.5.2 Any member who is aware of an internal issue and possesses relevant information to that inquiry is required to bring it to the attention of their supervisor or the assigned investigator(s). A failure to do so, even if not specifically asked for, may result in significant disciplinary action.
- 4.5.3 Matters subject to an internal investigation shall only be discussed with subject members, witnesses, and supervisors with an authorized involvement in such matters.
- 4.5.4 All information, documents, recordings, and other material relevant to an internal investigation shall be considered confidential and privileged. The assigned investigator(s) shall take all reasonable and necessary precautions to maintain the confidentiality of such items and ensure that it's provided only to supervisors within the chain of command who have a direct and authorized involvement in the internal investigation process.

## 5.0 TYPES OF INVESTIGATIONS

5.1. 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.

### 5.2 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.

### 5.3 Internal Affairs Investigation

- (I) A formal investigation is conducted on allegations of serious misconduct by an employee.
- (II) Internal investigations are concerned with complaints or information received of personal abuse, domestic or relationship violence or abuse, stalking, sexual assault, other illegal actions, unethical and unprofessional conduct generally classified as follows:
  - a. Commission of any crime defined by Vermont statute or federal law as a felony or misdemeanor. Complaints shall be investigated by the Chief of Police or Designee.
  - b. The acceptance of gifts and gratuities, unprofessionalism or rudeness, favored treatment, or any activity or conduct which is prejudicial to the policy or rules and regulations of the Essex Police Department. Complaints may be investigated by the Chief of Police or Designee.
  - c. In every instance, complaints will ultimately be reviewed by the Chief of Police or Designee. A mechanism for review by the Selectboard for conduct required to be reported to the Vermont Criminal Justice Training Council has been established.
- (III) Internal Investigations shall not concern inadequacies of procedural matters, poorly written reports, matters of dress, or similar violations, except when such violations may be indicative of something more serious. Such concerns are the focus of supervisory staff and are suitable for Supervisory Review.

## 6.0 PROCEDURES FOR SUPERVISORY REVIEWS

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

- 6.1.1 Notify the employee under investigation as soon as practical;
- 6.1.2 Conduct necessary interviews;

6.1.3 The investigation shall be initiated without unreasonable delay and the completed Supervisory Review report shall be completed within 30 days.

6.1.4 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.

6.1.4.1 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.

6.1.4.2 Details of Complaint - Show a chronological summary of the incident or event.

6.1.4.3 Summary of all Statements Obtained

6.1.4.4 Finding of Fact - Provide a summary of the facts as determined by the investigation.

6.1.4.5 Attachments - Enumerate all attached forms, statements or other supporting documentation.

6.2 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:

SUBSTANTIATED

The allegation/investigation is supported by sufficient evidence to justify a reasonable conclusion of a violation of law or department regulation(s).

NOT SUBSTANTIATED

Insufficient evidence exists to either prove or disprove the allegation/investigation.

UNFOUNDED

All information firmly supports the allegation is false. The member involved is totally cleared/absolved of any misconduct.

EXONERATED

Proper Conduct - The incident occurred but was lawful and proper. The member involved is totally exonerated of any misconduct.

Policy Failure - The incident occurred but was lawful and proper in accordance with policy and procedure, however a review of such policies and/or additional training may be necessary to prevent future allegations of misconduct. The department member is totally exonerated of any misconduct.

Misconduct Not Based Upon the Complaint, Sustained - Substantiated misconduct not alleged in the complaint.

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

6.3.1 notify the employee, and the appropriate division commander of the final adjudication and disposition.

6.3.2 reasonable efforts will be made to notify the complainant of the adjudication and disposition of the investigation in writing.

7.0 PROCEDURES FOR AN INTERNAL AFFAIRS INVESTIGATION

7.1 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, Vermont Attorney General and/or other investigating agencies to determine if a criminal investigation is warranted. If a criminal investigation is to be conducted, it will be investigated by an outside agency independent and separate from the internal investigation.

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

7.3 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.

7.4 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.

7.5 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.

7.5.1 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.

- 7.5.2 The interrogation of any employee shall be at a reasonable hour, unless the exigencies of the investigation dictate otherwise.
- 7.5.3 The interrogation shall take place at a location designated by the investigating officer, usually at the Police Station.
- 7.5.4 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.
- 7.5.5 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.
- 7.5.6 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.
- 7.5.7 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.
- 7.5.8 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.
- 7.5.9 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.
- 7.5.10 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.
- 7.5.11 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.
- 7.5.12 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.
  - 7.5.12.1 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.

7.5.12.2 The employee shall not become directly or indirectly involved in the investigation unless expressly requested to do so by the Chief of Police.

7.6 The investigating officer shall:

- 7.6.1 Review the Citizen Complaint Form to make sure that the form has been filled out properly and signed by the complainant.
- 7.6.2 Whenever possible obtain a detailed and comprehensive statement signed by the complainant.
- 7.6.3 Obtain statements from witnesses.
- 7.6.4 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.
- 7.6.5 Conduct a thorough investigation and provide status reports to the Chief of Police or his/her designee regarding the status of the case.
- 7.6.6 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.
- 7.6.7 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:

7.7 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.

7.8 Details of Complaint - Show a chronological summary of the incident or event.

7.9 Summary of all Statements Obtained

7.10 Finding of Fact - Provide a summary of the facts as determined by the investigation.

7.11 Attachments - Enumerate all attached forms, statements or other supporting documentation.

7.12 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:

SUBSTANTIATED

The allegation/investigation is supported by sufficient evidence to justify a reasonable conclusion of a violation of law or department regulation(s).

NOT SUBSTANTIATED

Insufficient evidence exists to either prove or disprove the allegation/investigation.

UNFOUNDED

All information firmly supports the allegation is false. The member involved is totally cleared/absolved of any misconduct.

#### EXONERATED

Proper Conduct - The incident occurred but was lawful and proper. The member involved is totally exonerated of any misconduct.

Policy Failure - The incident occurred but was lawful and proper in accordance with policy and procedure, however a review of such policies and/or additional training may be necessary to prevent future allegations of misconduct. The department member is totally exonerated of any misconduct.

Misconduct Not Based Upon the Complaint, Sustained - Substantiated misconduct not alleged in the complaint.

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

7.13.1 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.

7.13.2 Reasonable efforts will be made to notify the complainant of the adjudication and disposition of the investigation in writing.

#### 8.0 OPERATIONAL CONCEPTS

8.1 The (Agency Name) shall maintain liaison with the State's Attorney's Office, Vermont Attorney General's Office or other appropriate Agency/Department in investigations involving alleged criminal conduct on the part of a member. No action may be taken by members conducting such an inquiry that in any way interferes with or compromises a criminal investigation.

8.2 Supervisors have a responsibility to discover inefficiency or misconduct at its earliest stages and should not rely on a higher authority in the organization when issues are within the scope of their own authority.

8.3 The Chief of Police or Designee shall notify the involved member of a citizen complaint and/or internal investigation unless such notification could compromise the investigation. At the time of the notification, the member shall receive in writing a statement of the allegation(s) and their rights and responsibilities relative to the investigation. When it is determined the notification should be made, it must be determined whether the member will receive administrative or constitutional rights.

8.4 When a member is advised of administrative rights, the member is required to answer all questions fully and truthfully, and disciplinary action, including dismissal, may be imposed for a refusal to answer.

8.5 In cases where the Essex Police Department desires to have the option of using any statements made by the member in a subsequent criminal proceeding, then:

- 8.5.1 The member must be advised of their Miranda rights;
  - 8.5.2 The member must be advised no adverse disciplinary or administrative action will be taken based upon a refusal to answer any questions;
  - 8.5.3 In any case where the option to use incriminating statements must be retained, the investigating authority shall have the member complete a Miranda Warning.
  - 8.5.4 Voluntary statements or confessions made by an employee while being questioned would be admissible in criminal proceedings.
- 8.6 No member shall become involved in an investigation in any manner unless expressly requested to do so by the Chief of Police or Designee.
- 8.7 Disciplinary Authority
- 8.7.1 A supervisor may impose an emergency suspension against a member when there are indications that the member has been consuming alcohol and/or is under the influence of drugs. An emergency suspension under their authority would be considered a temporary administrative action due to a member's physical or psychological fitness for duty.
  - 8.7.2 NOTE: Any person so suspended shall be instructed to report to the Chief of Police or Designee as soon as reasonably practicable, unless circumstances dictate a different course of action. The supervisory member imposing or recommending the emergency suspension will report at the same time.
- 8.8 Supervisory personnel may recommend and take disciplinary measures as specified in Article XV, Agreement between the Town of Essex and the Fraternal Order of Police / Essex Police Employee's Association.
- 8.9 Special Tests
- 8.9.1 An on-duty supervisor is required to direct a member to submit to an evidentiary breath test when the level of inebriation is a factor directly related to duty performance or to operating a departmental vehicle.
  - 8.9.2 An accused employee may request a breath test, blood test or polygraph test (at their own expense) if they believe such a test would be beneficial to their defense.
  - 8.9.3 At the direction of the Chief of Police or Designee and the expense of the agency, members may be required to submit to tests or disclosures when it is specifically directed and narrowly related to an internal affairs investigation regarding the member. Failure to follow a direct order of this nature may result in a separate disciplinary action against the member.
  - 8.9.4 Examples of specific requests that may be made of members during an investigation include, but are not limited to the following:
    - 8.9.4.1 Polygraph examinations
    - 8.9.4.2 Medical, psychiatric, or laboratory examinations, including chemical tests
    - 8.9.4.3 Photographs

- 8.9.4.4 In-person line-up
- 8.9.4.5 Submission of financial disclosure or other personal papers
- 8.9.4.6 Search of equipment used by the employee regarding the performance of their official duties

#### 8.10 Search of agency owned storage, vehicles and workspaces

- 8.10.1 A member's assigned (lockers, vehicles, workspaces, storage cabinmates, etc.) is the property of the Essex Police Department and as such, no grant of property right or privacy is expressed or implied. All agency owned (lockers, vehicles, workspaces, storage cabinmates, etc.) are the property of the Essex Police Department whether assigned or non-assigned and may be subject to search.
- 8.10.2 Except in exigent circumstances, only the Chief of Police or Designee may authorize a search of an individual employee's assigned (locker, vehicle, workspace, storage cabinmate, etc.).
- 8.10.3 During any authorized search, at least one supervisory member shall be present, along with the investigating member and the employee who has been assigned or is using that (locker, vehicle, workspace, storage cabinmate, etc.) if possible.

### 9.0 POLICY FAILURE

- 9.1 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".
- 9.2 The investigator's report shall specify:
  - 9.2.1 the specific policy involved;
  - 9.2.2 the harm done to the complainant or the problem that it caused;
  - 9.2.3 any recommended changes to the existing policy to prevent future problems of the same nature.

### 10.0 RECORDS AND REPORTING

- 10.1 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.
- 10.2 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.)

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

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

Physical Condition: Describe bruises, cuts, swelling etc.

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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 \_\_\_\_\_

DRAFT

## 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

DRAFT

**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:**

- |                                                              |            |
|--------------------------------------------------------------|------------|
| <input type="checkbox"/> Notification of Complainant         | Date _____ |
| <input type="checkbox"/> Employee Notification               | Date _____ |
| <input type="checkbox"/> Notification to Employee Supervisor | Date _____ |
| <input type="checkbox"/> 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 # \_\_\_\_\_

DRAFT

**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

**ESSEX POLICE DEPARTMENT  
NOTIFICATION OF CONSTITUTIONAL 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 **Constitutional Rights**.

1. You have the right to remain silent. If you give up the right to remain silent, anything you say may be used against you in a court of law. You have the right to speak with an attorney before any questions are asked of you. If you cannot afford an attorney one will be appointed to represent you at the state's expense.

2. If you choose not to answer any questions, no disciplinary action will be taken against you based upon your refusal to answer.

The undersigned hereby acknowledges that he/she was notified of the allegation(s) and informed of the above constitutional 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

*This model policy is approved for dissemination by the Vermont Criminal Justice Training Council and may be used in full or in part. Users of this policy should be mindful of collective bargaining agreements and specific legal requirements and make appropriate consultations prior to implementation.*

## **Vermont Criminal Justice Training Council Internal Investigations**

### **Purpose:**

The purpose of this policy is to ensure the integrity of the **(Agency Name)** members by establishing an effective internal affairs program to ensure prompt and thorough investigation of alleged or suspected misconduct. Such procedures will:

1. Clear the innocent;
2. Provide early indicators of possible personnel issues;
3. Establish guilt of wrong doers;
4. Facilitate prompt and just disciplinary action;
5. Uncover defective procedures or material; and
6. Provide a mechanism for civilian review.

### **Policy:**

Based on the premise discipline is a function of command and a well-disciplined law enforcement agency is one which voluntarily and ungrudgingly conforms to policies and regulations, the **(Agency Name)** will make every effort to facilitate the convenient, courteous, and prompt receipt and processing of complaints. Any member who interferes with, discourages or delays the making of such complaint(s) shall be subject to disciplinary action.

#### **I. Responsibility**

**(Agency Name)** will investigate all complaints against the agency or its personnel. Anonymous complaints can be difficult to investigate; however, the agency should carefully review each complaint for validation before disregarding it for lack of credibility. It shall be the responsibility of all department members to adhere to this policy.

#### **II. Administration**

- A. The **(Agency Head or Designee)** is responsible for the internal investigation function of the **(Agency Name)**. The **(Agency Head or Designee)** will have

the functional responsibility for internal investigations and shall report directly to the **(Agency Head and/or Appointing Authority)**. Where the **(Designee)** is a principle in an incident, the **(Agency Head)** will oversee the investigation. Where the **(Agency Head)** is the subject of an investigation, the complaint will be submitted to the appointing authority and the Vermont Criminal Justice Training Council.

- B. The internal investigation function is responsible for:
1. Recording, registering, and controlling the investigation of complaints against members, or the agency itself;
  2. Supervising and controlling the investigation of alleged misconduct or corruption within the agency; and
  3. Maintaining the confidentiality of professional standards investigations and records.

- C. The internal investigations function shall not involve itself with the inadequacies of procedural matters, poorly written reports, matters of dress, or similar violations, except when such violations may be indicative or something more serious. Such concerns are the focus of supervisory staff.

Internal investigations are concerned with complaints or information received of personal abuse, domestic or relationship violence or abuse, stalking, sexual assault, other illegal actions, unethical and unprofessional conduct generally classified as follows:

1. Commission of any crime defined by Vermont statute or federal law as a felony or misdemeanor. Complaints shall be investigated by the **(Agency Head or Designee)**.
  2. The acceptance of gifts and gratuities, unprofessionalism or rudeness, favored treatment, or any activity or conduct which is prejudicial to the policy or rules and regulations of the **(Agency Name)**. Complaints may be investigated by the **(Agency Head or Designee)**.
  3. In every instance, complaints will ultimately be reviewed by the **(Agency Head or Designee)**. A mechanism for review by the **(Selectboard or other elected or appointed body)** for conduct required to be reported to the Vermont Criminal Justice Training Council shall be established.
- D. When a member is notified they have become the subject of an internal investigation, the department will issue the member a written statement of

the allegation(s) and the member's duties and rights during an investigation. When members are interviewed relative to an internal investigation, they shall read and sign an administrative interview notification on a form prescribed by the **(Agency Name)**.

### III. **Complaint Processing**

#### A. Complaint Processing

1. The **(Agency Name)** will accept complaints of alleged or suspected violations of law, ordinances, department rules, regulations or policies. These include:
  - a. Those violations reported to any member of the **(Agency Name)** by other members of the **(Agency Name)**, either orally or in writing; and
  - b. Citizens (*including prisoners*) in person, by telephone, or by correspondence either signed or anonymous.
2. Those violations observed or suspected by supervising or command officers;
  - a. Any alleged or suspected breach of integrity or case of moral turpitude from whatever source it may be reported or developed;
  - b. Any situation in which a citizen has been injured or killed by an officer, whether on duty or not;
  - c. Any situation involving the discharge of firearms by an officer with the following exception(s):
    1. Unintentional discharge of a department owned weapon which does not involve death, injury or property damage.
    2. Euthanizing injured animals.
    3. Firearms Training or other legitimate firearms events.
  - d. Assisting any member of the **(Agency Name)** by investigating cases of personal harassment, threats, false accusations, or continued situations, which may be harmful to the **(Agency Name)** member.

- e. Any time a citizen complaint or other investigation directed at a member requires the member to participate in a lineup, submit to a medical or laboratory examination, submit a financial disclosure, provide photographs for a lineup, or submit to a polygraph examination;
  - f. If the conduct alleged is of a criminal nature or may become criminal in nature, the **(Agency Head or Designee)** may contact an outside agency to conduct an independent investigation separate from the internal investigation.
  - g. Citizen complaints will not be investigated if received more than **(number of days)** days after the alleged incident except if the complaint involves alleged criminal activity or the complainant can show worthy cause for not coming forward sooner.
- B. All complaints received in person or via telephone will follow the procedures as set forth in this policy. Exceptions are anonymous complaints where the **(Agency Head or Designee)** will fill in the known information on the appropriate agency form and forward as required.
- 1. Persons who wish to file a formal complaint against any member of the **(Agency Name)** shall immediately be directed to a supervisor (preferably) or, if none available, an on-duty member at the time the complainant appears. The supervisor or designated member will provide the complainant with their name, rank and other appropriate contact information for identification purposes.
  - 2. Members will treat a complainant courteously and with respect and civility, recognizing the difficult position people who file complaints against law enforcement may feel they are in. If a member takes the initial complaint, they shall discuss the matter with no one other than a supervisor and preferably only the **(Agency Head or Designee)** for internal complaints.
  - 3. Should the complainant, after speaking with the **(Agency Head or Designee)**, or if not available another member, and being advised of the complaint procedure, insist on filing their complaint personally with a higher authority, appropriate arrangements to refer the complainant to that higher authority shall be provided.

4. Following a verbal discussion as to the substance of the complaint, the **(Agency Head or Designee)** shall furnish the complainant with a blank copy of an approved complaint form. The **(Agency Head or Designee)** providing the form to the complainant must advise them they have 14 days to complete and return the form to continue the process. If the citizen has impediments to completing a written statement, the **(Agency Head or Designee)** shall offer to record the statement and/or write the statement on the complainant's behalf.
5. The **(Agency Head or Designee)** shall complete the appropriate portion(s) of the complaint form, noting the date and time the complaint was received from the complainant.
6. The **(Agency Head or Designee)** will complete the internal investigation form and shall include a brief comment relative to the complainant's apparent rationality and demeanor. Should they suspect the complainant is under the influence of an intoxicant or drug, or is suffering from a psychological disorder, or evidence any other trait or condition bearing on the complainant's credibility, these conditions and descriptions shall be noted together with any other pertinent remarks. Should the complaint be received over the phone, the call should be recorded whenever possible.
7. In those instances where a complainant has alleged the use of excessive force by a member, the **(Agency Head or Designee)** taking the complaint shall carefully note the presence of any unusual marks, bruises or abrasions on the person or the complainant. They shall record all such injuries by the use of color photography or video and collect witness contact information whenever possible.
8. After reviewing all available material pertaining to the complainant, the **(Agency Head or Designee)** taking the complaint shall indicate the name of the member who is under investigation together with their rank and current assignment.
9. The Internal Investigation Complaint Form shall be forwarded, either in person or by sealed envelope, to the **(Agency Head or Designee)** if collected by another member.
10. In cases alleging criminal conduct on the part of a member and after a decision by the **(Agency Head or Designee)** to do so, the **(Agency Head or Designee)** will advise the State's Attorney's Office, Vermont Attorney General's Office and/or any other appropriate Department/Agency of the nature of the complaint. The **(Agency Head or Designee)** will maintain liaison with the State's Attorney's Office, Vermont Attorney General's Office and/or

any other appropriate Department/Agency and may seek legal advice and assistance in case preparation.

- C. The **(Agency Name)** shall maintain a record of all complaints. The records activity is a function of the internal investigations component and is an exception to personnel records to the extent the investigative work product will be filed separately and will be under the control of the **(Agency Head or Designee)**.
1. To maintain confidentiality, records pertaining to internal investigations shall be properly secured by the individuals responsible for the internal investigations function.
    - a. After a complainant has contacted the **(Agency Name)** regarding an alleged violation, the **(Agency Head or Designee)** will respond to the complainant, acknowledging the complaint has been received and is being investigated. This responsibility lies with the **(Agency Head or Designee)**.
    - b. Whenever practical and possible, the **(Agency Head or Designee)** shall provide the complainant with periodic status reports pertaining to the progress of the investigation.
    - c. At the completion of the investigation the **(Agency Head or Designee)** will advise the complainant of the findings:

SUBSTANTIATED

The allegation/investigation is supported by sufficient evidence to justify a reasonable conclusion of a violation of law or department regulation(s).

NOT-SUBSTANTIATED

Insufficient evidence exists to either prove or disprove the allegation/investigation.

UNFOUNDED

All information firmly supports the allegation is false. The member involved is totally cleared/absolved of any misconduct.

### EXONERATED

1. Proper Conduct - The incident occurred, but was lawful and proper. The member involved is totally exonerated of any misconduct.
2. Policy Failure - The incident occurred, but was lawful and proper in accordance with policy and procedure, however a review of such policies and/or additional training may be necessary to prevent future allegations of misconduct. The department member is totally exonerated of any misconduct.
3. Misconduct Not Based Upon the Complaint, Sustained - Substantiated misconduct not alleged in the complaint.

#### D. Compliance

1. Members who are subject to an internal investigation will not discuss the matter with any individuals except the assigned investigator(s) and supervisors who have a direct involvement in the inquiry process.
2. Any member who is aware of an internal issue and possesses relevant information to that inquiry is required to bring it to the attention of their supervisor or the assigned investigator(s). A failure to do so, even if not specifically asked for, may result in significant disciplinary action.
3. Matters subject to an internal investigation shall only be discussed with subject members, witnesses, and supervisors with an authorized involvement in such matters.
4. All information, documents, recordings, and other material relevant to an internal investigation shall be considered confidential and privileged. The assigned investigator(s) shall take all reasonable and necessary precautions to maintain the confidentiality of such items and ensure that it's provided only to supervisors within the chain of command who have a direct and authorized involvement in the internal investigation process.

#### IV. Operational

- A. The **(Agency Name)** shall maintain liaison with the State's Attorney's Office, Vermont Attorney General's Office or other appropriate Agency/Department in investigations involving alleged criminal conduct on the part of a member. No action may be taken by members conducting such an inquiry that in any way interferes with or compromises a criminal investigation.

- B. Supervisors have a responsibility to discover inefficiency or misconduct at its earliest stages and should not rely on a higher authority in the organization when issues are within the scope of their own authority.
- C. The **(Agency Head or Designee)** shall notify the involved member of a citizen complaint and/or internal investigation unless such notification could compromise the investigation. At the time of the notification, the member shall receive in writing a statement of the allegation(s) and their rights and responsibilities relative to the investigation. When it is determined the notification should be made, it must be determined whether the member will receive administrative or constitutional rights.
  - 1. When a member is advised of administrative rights, the member is required to answer all questions fully and truthfully, and disciplinary action, including dismissal, may be imposed for a refusal to answer.
  - 2. In cases where the **(Agency Name)** desires to have the option of using any statements made by the member in a subsequent criminal proceeding, then:
    - a. The member must be advised of their Miranda rights;
    - b. The member must be advised no adverse disciplinary or administrative action will be taken based upon a refusal to answer any questions;
    - c. In any case where the option to use incriminating statements must be retained, the investigating authority shall have the member complete a Miranda Warning.
    - d. Voluntary statements or confessions made by an employee while being questioned would be admissible in criminal proceedings.
- D. No member shall become involved in an investigation in any manner unless expressly requested to do so by the **(Agency Head or Designee)**.

**V. Disciplinary Authority**

- A. A supervisor may impose an emergency suspension against a member when there are indications that the member has been consuming alcohol and/or is under the influence of drugs. An emergency suspension under their authority would be considered a temporary administrative action due to a member's physical or psychological fitness for duty.

**NOTE:** Any person so suspended shall be instructed to report to the **(Agency Head or Designee)** as soon as reasonably practicable, unless circumstances dictate a different course of action. The supervisory member imposing or recommending the emergency suspension will report at the same time.

B. Supervisory personnel may recommend and take the following disciplinary measures ***(Refer to Collective Bargaining Agreements Where Appropriate)***:

1. Oral reprimand;
2. Written reprimand;
3. Emergency suspension; and
4. Written recommendations for other penalties.

Final authority and responsibility for discipline rests with the **(Agency Head or Designee)**. The **(Agency Head or Designee)** retains the prerogative and right to sanction or withhold any disciplinary action until such time as any appeal has been concluded. ***(Refer to any collective bargaining agreements)***.

**VI. Special Tests**

- A. An on-duty supervisor is required to direct a member to submit to an evidentiary breath test when the level of inebriation is a factor directly related to duty performance or to operating a departmental vehicle.
  1. An accused employee may request a breath test or polygraph test if they believe such a test would be beneficial to their defense.
- B. At the direction of the **(Agency Head or Designee)**, and the expense of the agency, members may be required to submit to tests or disclosures when it is specifically directed and narrowly related to an internal affairs investigation regarding the member. Failure to follow a direct order of this nature may result in a separate disciplinary action against the member.
- C. Examples of specific requests that may be made of members during an investigation include, but are not limited to the following:
  1. Polygraph examinations

2. Medical, psychiatric, or laboratory examinations, including chemical tests
3. Photographs
4. In-person line-up
5. Submission of financial disclosure or other personal papers
6. Search of equipment used by the employee regarding the performance of their official duties

**VII. Interview Rights**

- A. All interviews will be conducted while the member is on duty, unless the seriousness of the investigation is of such a degree an immediate interview is required.
- B. The accused member being interviewed shall not be subjected to offensive language or threatened with transfer, dismissal or disciplinary action. No promise or reward shall be made as an inducement to answer any questions.
- C. Members will be afforded an opportunity for appropriate representation relative to the complaint made prior to being interviewed. **(refer to collective bargaining agreements)**

**VIII. Investigating Member's Responsibilities**

- A. Consistent with existing departmental policy, the investigating member assigned to a complaint is authorized to employ all recognized investigative methods in conducting a meaningful investigation of a complaint filed against a member of the **(Agency Name)**.
- B. The impact of an internal investigation on the integrity of the **(Agency Name)** and on employee morale necessitates a speedy resolution to such issues. The investigating member is responsible for the completion of an assigned investigation within **(Days Pursuant to Agreement)** days of said assignment. Status reports are required every **(Days Pursuant to Agreement)** days. There may be exceptions to the **(Days Pursuant to Agreement)** limit, but such extensions may only be granted in cases where extenuating circumstances exist.

- C. The **(Agency Head or Designee)** will complete a report when the investigation is completed. The investigator will conclude their report with one of the following categories:

SUBSTANTIATED

The allegation/investigation is supported by sufficient evidence to justify a reasonable conclusion of a violation of law or department regulations.

NOT-SUBSTANTIATED

Insufficient evidence exists to either to prove or disprove the allegation.

UNFOUNDED

All information firmly supports the allegation is false. The department member involved is totally cleared/absolved of any misconduct.

EXONERATED

Proper Conduct - The incident occurred, but was lawful and proper. The department member involved is totally exonerated of any misconduct.

Policy Failure - The incident occurred, but was lawful and proper in accordance with department policy and procedure; however, a review of such policies and/or additional training may be necessary to prevent future allegations of misconduct. The department member is totally exonerated of any misconduct.

MISCONDUCT NOT BASED UPON THE COMPLAINT, SUSTAINED –  
Substantiated misconduct not alleged in the complaint.

- D. When the act complained of is a crime and the evidence is such that had the action been by a private person would have resulted in arrest, the investigating member will explain the circumstances to the **(Agency Head or Designee)** and request a decision as to whether:
1. The accused member should be arrested forthwith; or
  2. A warrant for arrest should be applied for; or

3. Whether criminal action should be delayed pending further investigation and consultation with the State's Attorney's Office and/or Attorney General's Office.
- E. The final investigative report will be forwarded to the **(Agency Head or Designee)**, along with any recommendations for alternate action, made in writing.

**IX. Review and Disposition by the (Agency Head or Designee).**

- A. After due consideration of all information pertaining to the complaint and investigation, including recommendations by the investigating member, the **(Agency Head or Designee)** shall decide upon the disposition of the complaint.
- B. The **(Agency Head or Designee)** will notify the investigated member and other appropriate persons the final adjudication and disposition.
- C. The **(Agency Head or Designee)** will notify the complainant of the final determination of the complaint.

**X. Records**

- A. All records pertaining to citizen complaints and internal investigations shall be maintained in a secure file.
- B. The **(Agency Head or Designee)** shall prepare an annual summary of internal investigations at the end of each calendar year. The report shall be statistical in nature and shall not identify any member by name. The summary report shall contain information relating to:
  1. The number of investigations
  2. The adjudication of those investigations
  3. Disciplinary action
  4. Any other pertinent information.

**XI. Search of agency owned storage, vehicles and workspaces**

- A. A member's assigned **(lockers, vehicles, workspaces, storage cabinmates, etc.)** is the property of the **(Agency Name)**, and as such, no grant of property right or privacy is expressed or implied. All agency owned

**(lockers, vehicles, workspaces, storage cabinmates, etc.)** are the property of the **(Agency Name)** whether assigned or non-assigned and may be subject to search.

- B. Except in exigent circumstances, only the **(Agency Head or Designee)** may authorize a search of an individual employee's assigned **(locker, vehicle, workspace, storage cabinmate, etc.)**.
- C. During any authorized search, at least one supervisory member shall be present, along with the investigating member and the employee who has been assigned or is using that **(locker, vehicle, workspace, storage cabinmate, etc.)** if possible.

## **XII. Policy Failure**

- A. When adjudicating a complaint, it may be found a citizen has a valid and justifiable grievance, but the member involved acted properly within the prescribed policy.
- B. In such cases, the investigating member shall recommend the appropriate adjudication as it relates to the employee and prepare, in conjunction with the **(Agency Head or Designee)** an additional section to the narrative report entitled "Policy Failure."
- C. The investigator's report shall specify:
  - 1. The specific policy involved.
  - 2. The harm done to the complainant or the problem that it caused.
  - 3. Any recommended changes to the existing policy to prevent future problems of the same nature.
- D. If the **(Agency Head or Designee)** concurs with the investigator's conclusions regarding the policy failure, he/she shall assign a person to be responsible for preparing the appropriate policy change.

