



Town of Marlborough Police Department

GENERAL ORDER

SUBJECT: Civilian Complaints

Order Number: 2.15

DATE ISSUED: 09/10/10 BY ORDER OF POLICE CHIEF: COCOZZA

DATE EFFECTIVE: 09/10/10 REPLACES ORDER #(S): APR

CIVILIAN COMPLAINTS AGAINST DEPARTMENT PERSONNEL

PURPOSE: To define policy and procedures for receiving, reporting, and investigating allegations of misconduct by Department members.

I. POLICY

A. The image of the police department depends on the personal integrity and discipline of all its employees. The public image of this police department is determined, in part, by the professional response of the police department to allegations of misconduct by the police department or its employees. The Town of Marlborough Police Department shall:

1. Promptly, competently, professionally and impartially investigate all complaints.
2. Take appropriate disciplinary action in all cases where an investigation substantiates a violation of law, orders, rules, regulations, policies, or procedures of the Town of Marlborough Police Department has occurred.
3. Seek appropriate remedy for false allegations.
4. Establish rules, regulations, policies and procedures in order to direct and control the means by which law enforcement services are delivered in the most efficient and effective manner.

B. The police department encourages citizens to bring forward legitimate grievances regarding misconduct by employees. Police department members shall handle them efficiently, **via the department's complaint process** All employees are obligated to explain to inquiring citizens the complaint procedures.

1) The department's goal is to make complaint submission as easy as possible. Complaints can be made and will be accepted in person or in writing.

2) The department will create and post a civilian complaint form on the department's website (if created and capable of housing such documents), the Town of Marlborough Website (if created and capable of housing such documents) and post such documents in common areas at the police station that is readily available to the public to help make it easy as possible for any person or party to make a complaint. Complaint forms will also be available at the Town Clerks office.

3) The complaint form can be filed anonymously. Complaint forms can be submitted in any manner including via email, United States Postal Service, in person and or fax. The form can be filed in any fashion and each complaint will be handled according to policy as stated herein. WRITTEN COMPLAINTS CAN BE SUBMITTED VIA ANY MEANS. THEY DO NOT NEED TO BE ON DEPARTMENT COMPLAINT FORM

4) The created form shall be annexed to this manual for future reference.

NOTE: This procedure is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be considered as a creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this procedure, if proven, can only form the basis of a complaint by this police department, and then only in a non-judicial administrative setting.

II. DEFINITIONS

Civilian complaints are defined as any complaint received from a member of the public, whether it is initiated **orally or in writing**. Such a complaint can be categorized as being either a "service complaint" or a "personnel complaint."

A. Service Complaint

Shall be any complaint where a member of the police department acted properly within the scope of his/her authority and duties and the complainant merely disagrees with the actions of the member. For a complaint to be classified as a service complaint there must be no allegation of abusiveness or misconduct on the part of the member in connection with the incident **and the member must have acted properly according to the department policy and procedures..**

B. Personnel Complaint

Shall be any complaint where the complainant alleges misconduct, abusive conduct or abuse of authority by the member (s) and encompasses just about every situation which cannot be categorized as a service complaint.

III. PROCEDURE

A. Service Complaints

1. Whenever practical, service complaints should be resolved during the initial interview with the complainant by an on-duty supervisor. It is permissible to conduct this initial interview by telephone. At that time, after the complainant is permitted to state the complaint, the superior officer conducting the interview will explain the policy or procedure behind the member's actions **and how the member acted in accordance with the policy and procedure**. The complainant will be told that a record will be made of his/her complaint.
2. The superior officer will prepare a memorandum to document the complaint and the action taken. The memorandum should include the date and time that contact was made with the complainant.
3. The memorandum will be prepared and signed and forwarded to the Chief of Police.

B. Personnel Complaints

1. All personnel complaints will be directed to the on duty immediate supervisor of the officer concerned. If that supervisor is not present, another on duty supervisor will take initial steps to determine the seriousness of the allegation. If it is a minor complaint, that supervisor will attempt to rectify the situation at that time. The matter will be documented as described above and forwarded to the Chief for review. Other allegations not suitable for immediate resolution will be recorded by the supervisor concerned and forwarded to the Chief who will assign the complaint to the appropriate supervisor.

The complainant will be advised accordingly and directed to call the Chief if they are not contacted with three days by the supervisor. **The Chief of Police will then resume the investigation into the complaint forwarded and contact the complainant with the results of the investigation and a resolution if applicable.**

An on-call supervisor will be contacted if a member receives a personnel or service complaint at a time when no on duty supervisors are present.

Members receiving the complaint will have the complainants contact information recorded in the Dispatch log. A notification to the on call will be made without delay if the allegation is serious in nature.

2. The initial interview may be conducted over the telephone, if appropriate. A memorandum will be prepared summarizing the initial interview and the intended course of action.

NOTE: At this stage, the Chief shall be notified concerning allegations that if founded, would constitute a criminal act, or involves an allegation of serious misconduct. The line-supervisor's proper discretion is imperative. The Chief of Police will be notified if any doubt exists concerning the level of allegation.

3. The initial interview must be followed up by a formal interview with the complainant at headquarters. At that time a sworn statement may be obtained as needed from the complainant. In the case of a complaint from a third party, the actual complainant is the person from whom the statement must be obtained. The refusal of a complainant to be interviewed or the refusal of the third party to identify or make available for statement the actual complainant must be documented; however, this refusal does not necessarily mean that no further investigation will be conducted. The Chief of Police will be contacted in such situations to provide further direction on how to proceed. If this is encountered in cases of serious allegations, an investigation must be conducted to determine if independent witnesses or physical evidence can be developed or discovered. The Chief of Police may opt to pass these duties to another police investigative agency depending on the circumstance. At the conclusion of the formal statement, the complainant will be told that the police department will conduct a thorough investigation into his/her complaint and that appropriate action will be taken. The complainant will be told that he/she may be contacted again to obtain additional information.
4. Following the formal statement by the complainant, the member involved will be interviewed. He/she will be told that a complaint has been received and will be told the nature of the allegation. The superior officer investigating the complaint will inform the member that he will take a formal statement from the member within twenty-four hours of the initial interview. The member will be told that he/she has an obligation to give the statement, but he/she has the right to have a union representative and/or attorney present. If the superior officer is prepared at that time and the member wishes to waive the right to the presence of an authorized representative, the formal statement can immediately follow the initial interview of the member. In either case, a memorandum must be prepared summarizing the initial interview with the member. Statements should also be taken from any witnesses as necessary depending on the circumstances.
5. Upon completion of the investigation, the superior officer in charge of the investigation shall prepare a final memorandum which summarizes the complaint, sets forth the findings and conclusions of the investigation, and makes a recommendation for final action to be taken by the police department. The entire package will be signed and forwarded to the Chief of Police.
 - a.) The investigating supervisor's conclusion will be noted in the last paragraph of the memorandum. That conclusion will include one of the following four dispositions:
 - Substantiated
 - Completely or partially confirmed.

- Unsubstantiated
 - Cannot prove or disprove.
- Exonerated
 - Allegation is true, but the conduct was legal and proper.
- Unfounded
 - Allegations are false.

6. The member will be informed in writing by the Chief of Police of the results of the investigation.

C. The Chief of Police

1. Maintain confidential records of internal investigations. All files are to be kept in a locked file cabinet. No member of the police department, regardless of rank or assignment, is permitted to review such records without approval of the Chief of Police. Such records will be kept in accordance with legal requirements.
2. All complaints will be recorded and numbered annually in a log maintained by the Chief of Police. This log will include a intake date and type (p/s), member identification (if known), disposition date and type, and assigned supervisor.
3. Ensure that the investigation is conducted according to established policies and procedures.
4. Maintain close liaison with the District Attorney in investigating alleged criminal conduct. Where liability is an issue, the Town Supervisor will be contacted.
5. The complainant will be told that the investigation and any subsequent action is an administrative proceeding, and that the complainant will not be informed of any actual disciplinary action taken. This information shall be provided by the Chief of Police or his designee.
6. Complaint date will be reported monthly to the Town Board. The data shall include a numerical breakdown of complaints by type (service or personnel), status of the complaint, shift of the complaint (day/night) and the complainant sex and racial status if provided.