

TOWN OFSHELBURNE POLICE DEPARMENT INTERNAL AFFAIRS AND CITIZEN COMPLAINT POLICY

- I. Purpose:** It is imperative that the Shelburne Police Department ("SPD" or the "Department") operate with reasonable transparency and in a manner that is responsive to complaints alleging officer and employee misconduct and external concerns regarding the operation of the Department. Members of the public should be provided with a reasonable avenue for the redress of grievances they may have regarding service provided by SPD officers and employees or the conduct of the Department. This policy provide members of the Department with the procedures for the acceptance of complaints, the initiation of the administrative investigative process, the process for conducting a fair and reasonable investigation, the proper methods for adjudication of these administrative investigations, and the methods for the administration of fair, reasonable and defensible discipline. It is not required that SPD have a designated person or unit expressly for Internal Affairs/Office of Professional Standards ("IS/OPS"), but the Department shall designate, train, and have in place at all times, an officer, having at least the rank of corporal, who is the most knowledgeable person regarding these practices and procedures and who shall take the lead in processing and directing complaints for investigation (the "Designated Officer").
- II. Policy:** The Department shall accept and document all complaints, in whatever form received, alleging officer, employee or Department misconduct for the following principal reasons:
- A.** To ensure that complaints alleging employee or agency misconduct are accepted and investigated in a consistent and reasonable manner to uncover the truth of the allegations,
 - B.** To identify areas of misunderstanding by the complaining citizen,
 - C.** To identify employees whose attitude, behavior and/or performance is in need of counseling, correction and/or supervisory intervention,
 - D.** To protect agency employees and the Department from erroneous and non-meritorious complaints, and
 - E.** To identify Department policies, training and/or practices in need of reevaluation, clarification and/or correction.
 - F.** Nothing in this policy shall be construed to limit or constrain the powers and duties of the Selectboard under applicable provisions of State law and/or the Town of Shelburne Charter, including, without limitation, the Selectboard's power under § 147-5.1(b)(6) of the Charter to "inquire into the conduct of any officer, commission, or department and investigate any and all municipal affairs."

III. Definitions:

- A.** Complaint of employee misconduct: A complaint is an allegation from any source of an act or omission by a Department employee, which, if proven true, would be considered misconduct or a violation of Department or Town policies, agreements, rules or regulations.
- B.** Complaint of Department dissatisfaction: A complaint from an external source expressing dissatisfaction with a Department policy or practice.
- C.** Standard Commendation/Complaint Form: A standardized form available to the public which allows a person to file a commendation regarding, or a complaint against, an officer or the Department.
- D.** This Policy is intended to apply to both law enforcement officers and non-law enforcement personnel of the Shelburne Police Department, and the terms "officer" and "employee" are intended to be synonymous for the purposes of this Policy, except where the context clearly demonstrates otherwise.

IV. Exemptions:

- A.** Complaints that are limited to contesting the validity of traffic or civil ordinance citations or parking tickets are not considered complaints for the purposes of this Policy. The complaining party should courteously be referred to the proper court for resolution. However, where a complaint is made regarding a traffic citation or parking ticket, a supervisor of the issuing officer shall promptly review any available information, including available audio and video recordings, to determine whether the complaint is properly classified as exclusively a challenge to the validity of the citation or ticket and that complaint does not involve other allegations of misconduct or a violation of policies, agreements, rules or regulations. If the supervisor, upon such review, determines that a complaint initially classified as exempt under this Policy should be reclassified, he or she shall notify the complainant and the issuing officer and ask that the complainant complete a Standard Commendation/Complaint Form.
- B.** This Policy does not apply to minor misunderstandings on the part of a complainant that may be quickly resolved by an explanation of State law and/or Department Policy. Such minor misunderstandings may be resolved by the officer in charge and should be documented via the chain of command. If a complaining citizen is not satisfied with this resolution, he or she may complete a Standard Commendation/Complaint Form.

V. Procedures:

- A.** Sources for complaints: A complaint may originate from any of the following sources:
- a.** Individual aggrieved person
 - b.** Third party
 - c.** Anonymous
(Subject to their inherent limitations, third party complaints and anonymous complaints shall be accepted and reviewed for merit, like any other complaint).
 - d.** Department employee
 - e.** News media
 - f.** Governmental agency, board, commission or manager
 - g.** Complaints can be made by members of the public:
 - i.** In person
 - ii.** By telephone (including via transcription, as appropriate)
 - iii.** By letter
 - iv.** Email or other electronic means
- B.** All persons making complaints, to the extent that they can be identified, shall be advised of the existence of this Policy and shall be provided with a copy of this Policy, if requested.
- C.** For accuracy purposes, written complaints shall be encouraged over oral complaints. In the event that the complainant does not wish to make a written complaint and/or complete a Standard Commendation/Complaint Form, the Department employee receiving the complaint will take reasonable and appropriate steps to obtain a recorded statement from the complainant.
- D.** An officer receiving a complaint while on duty at a location other than the police department/Town office building shall endeavor to use the voice link system to record complaints whenever possible.
- E.** The Town Manager shall receive a copy of all written complaints. Complaints involving the Chief of Police shall be directed to the Town Manager, who may request that an outside agency conduct any necessary investigation utilizing the procedures contained in this Policy.
- F.** Informational public brochure: The Department shall develop an informational public brochure to inform members of the community how to provide the Department with commendations, suggestions, express dissatisfaction with the Department, or make a complaint alleging employee misconduct. These brochures shall be available in public areas

of the Shelburne Police Department, the Town Clerk's office and on the Town's website.

G. Police employee responsibilities: Whenever a police employee becomes aware of a complaint meeting the above complaint definition(s) or becomes aware of misconduct of another SPD employee, s/he shall:

- a.** Immediately notify a supervisor or the acting officer in charge and ensure that follow-up to the complaining person will not be delayed.
- b.** If a supervisor cannot be made available or the party making the complaint refuses to wait for the supervisor, the employee will gather all available information regarding the complaint and contact numbers.
- c.** The employee shall ensure that this information is given to a supervisor at the earliest moment during the employee's duty shift.
 - i.** Failure to follow these acceptance provisions may result in disciplinary action against the involved employee under applicable provisions of the Collective Bargaining Agreement then in effect.

H. Supervisor's responsibilities: Whenever a supervisor becomes aware of a person requesting to make a complaint or an incident which will likely result in a complaint or administrative investigation, the supervisor shall conduct an immediate preliminary investigation including:

- a.** Conduct a recorded interview with the complaining person attempting to ascertain each and every allegation of misconduct alleged. The complaining person may refuse to be recorded. In such instance, the supervisor shall continue to interview the complainant and note the refusal on the completed Standard Commendation/Complaint Form. Should the allegations not amount to a complaint consistent with the definition(s) set forth above, the supervisor will advise the party that his/her dissatisfaction will be recorded and forwarded via the chain of command for Department review.
- b.** The supervisor accepting the complaint, or if the incident is an occurrence likely to result in a complaint or administrative investigation and no specific complaining person is present, the supervisor shall respond to the scene of the police encounter/incident and:
 - i.** Determine the identity of persons involved, witnesses, and other agency personnel who were present;
 - ii.** Ensure that proper evidence is collected and/or documented;
 - iii.** Ensure that all reasonable documentation and physical evidence is maintained. This includes police reports,

process the complaint and conduct any investigation related thereto.

L. Investigative procedures:

- a.** The officer assigned to conduct the administrative investigation shall:
 - i.** Evaluate the allegations contained in the Standard Commendation/Complaint Form, listen to any recording of the complainant, if available, and consult with the person(s) accepting the complaint and/or learning of the allegation(s),
 - ii.** Obtain all police reports, communications/dispatch records, transmissions, video recordings, and other police documents,
 - iii.** Determine the specific allegations of the complainant and identify any other misconduct or violations of Department or Town policies, agreements, rules or regulations, whether alleged by the complainant or not, and
 - iv.** Conduct interviews normally in the following sequence:
 - (a)** Complaining person
 - (b)** Other public witnesses
 - (c)** Department witnesses
 - (d)** Accused officers/employees
- b.** Officers/employees shall be given written notice of any intended interview regarding allegations of misconduct or violations and shall be allowed a reasonable period of time prior to the actual interview to prepare, unless the exigencies of the situation dictate otherwise. Interviews shall take place at a reasonable location designated by the Designated Officer, usually at the SPD offices, and at a reasonable time, usually during the officer's/employee's scheduled work shift. The interview shall be completed with reasonable dispatch, and reasonable breaks shall be allowed.
- c.** An officer asked to participate in an interview, upon receiving notice of the same and subject to the Officer's Rights, described below, shall be cooperative, impartial and truthful when asked for information concerning a matter under investigation.
- d.** The Department shall not release the photograph of an officer who is the subject of an investigation without the written permission of the officer.
- e.** Once an investigation into a complaint is initiated, no officer or employee of the Department other than the Designated Officer (and any assisting officer who has been assigned investigative tasks by the

Designated Officer) shall contact the complainant in any manner regarding the complaint while the investigation is pending.

M. Officer Rights:

- a.** At the conclusion of the investigation the officer shall be given notice, a copy of any written accusations against him or her, a copy of any written findings, and a copy of the final investigative report and supporting materials;
- b.** The officer shall have the right to request that an attorney retained by the officer or a union representative be present with him or her at all investigative hearings or proceedings regarding the written accusation; (Weingarten Rule)
- c.** Officer's rights guaranteed by Federal Constitutional Standards and Vermont Law shall be respected. (i.e. Miranda/Garrity)
- d.** The officer shall have the right to be heard and present evidence at any hearing or proceeding on the written accusation. The officer's attorney or representative may make this presentation.
- e.** The officer or the person making the accusation has the right to record any proceeding or hearing on the accusation.
- f.** The officer shall have the right to appeal any decision reached by the hearing in accordance with the Town policies and the terms of any Collective Bargaining Agreement then in effect.
- g.** Officers shall not be required to produce or disclose personal financial records except pursuant to a valid search warrant or subpoena.
- h.** Nothing in this Policy shall be construed to limit or impair any rights that an officer may have under any applicable Collective Bargaining Agreement in effect during any administrative investigation. Nothing herein shall be construed to prohibit the Designated Officer from informing the officer that his or her conduct may become the subject of disciplinary action under any applicable Collective Bargaining Agreement in effect during any administrative investigation.
- i.** No officer shall be compelled to take a polygraph, participate in a photo or live line-up, or submit to medical or laboratory examinations during the course of an internal investigation initiated pursuant to this policy.
- j.** Subject to applicable provisions of Vermont law, information gained exclusively during the course of an internal investigation shall not be used in a criminal prosecution and shall be confidential to the extent permitted by law.

N. Disposition:

- a.** The Designated Officer will prepare an investigative report and submit it through the chain of command for adjudication and disposition. The Designated Officer is a fact finder only and is not expected to draw conclusions or make recommendations.
- b.** On the basis of the findings contained in the investigative report, the Chief of Police, or his or her designee, shall render a decision on each of the allegations, using the following categories and applying a "preponderance of the evidence" standard of proof:
 - i.** Sustained: there was a preponderance of evidence to prove the allegation;
 - ii.** Not Sustained: there was not sufficient evidence to either prove or disprove the allegation;
 - iii.** Exonerated: the actions of the officer were consistent with the law and Department and Town policies, agreements, rules and regulations;
 - iv.** Unfounded: the allegation did not occur;
 - v.** Policy and/or training deficiency: the facts forming the basis of the allegation occurred, but any misconduct was the fault of deficiencies in Department policy and/or training and cannot be attributed to the fault of the employee involved.
 - vi.** The Chief of Police is responsible to ensure that the procedures used to produce the investigative report, the report itself, and the final determination relative to each allegation are consistent with this Policy.

When allegations are sustained, the specific charges and processing will be conducted according to the personnel practices of the Department and as provided in the Collective Bargaining Agreement then in effect.

O. Additional Responsibilities of the Designated Officer:

- a.** The Designated Officer shall prepare the letter to the complainant following the conclusion of the investigation and the disposition of the complaint advising the person that the matter has been resolved. The letter to the complainant shall indicate only the category of disposition. The complainant shall not be notified regarding the details of any specific disciplinary actions or proposed disciplinary actions.
- b.** The Designated Officer is responsible for the quality control of the complaint and administrative investigation process and shall:

- i.** Review all final complaint investigations to ensure that they are consistent with the practices of the Department/Office;
- ii.** Maintain records of the process;
- iii.** Maintain the completed investigative and adjudication files in a secure, confidential manner;
- iv.** Conduct an annual audit of the process;
- v.** Maintain statistical documentation regarding the process and prepare any overall reports consistent with the directions of the Chief of Police; and
- vi.** Alert the Department to any noticeable trends that may require specific supervisory direction, policy review or training evaluation.

P. Appeals:

If the complainant is dissatisfied with the results or handling of their complaint by the Chief of Police, he or she may request, within 10 calendar days of notification regarding disposition, that the Town Manager review the complaint further. If the complainant is dissatisfied with the results or handling of their complaint by the Town Manager, he or she may request, within 10 calendar days of notification regarding disposition, that the Selectboard review the complaint further. Review by the Town Manager and Selectboard shall be limited to reviewing the record of the complaint investigation to determine whether the Chief of Police's disposition of the complaint complies with this Policy and is supported by substantial evidence in the record as a whole.

Q. Criminal Conduct - Further Actions:

When criminal allegations involving a member of the Department are identified, the Chief of Police shall be notified immediately, unless the allegations involve the Chief of Police, in which case the Town Manager shall be notified:

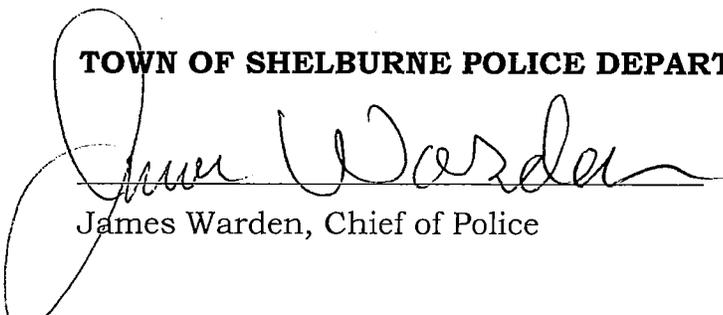
- a.** Crime within SPD jurisdiction: the appropriate criminal investigation unit will investigate the criminal aspect unless the Department elects to have the investigation conducted by an outside entity. The administrative investigation will be conducted as provided herein and is not dependent on the conclusion of the criminal investigation. Normally the initiation of a personnel complaint and the start of the administrative investigation will proceed concurrently with the criminal investigation.

b. Crime outside agency jurisdiction: The Department, acting through the chain of command, shall:

- i. Develop and maintain liaison with the involved agency, and
- ii. Conduct the administrative investigation ~~in~~ the same as it would had the incident occurred within its jurisdiction.

ADOPTED this 27th day of May, 2014.

TOWN OF SHELBURNE POLICE DEPARTMENT

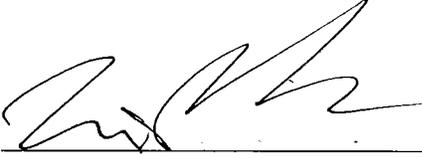

James Warden, Chief of Police

To the extent otherwise required by law, the foregoing Policy, which is adopted in part to fulfill certain legal obligations of the Town of Shelburne, is further **ADOPTED AND APPROVED** this 27th day of May, 2014, by:

TOWN OF SHELBURNE SELECTBOARD

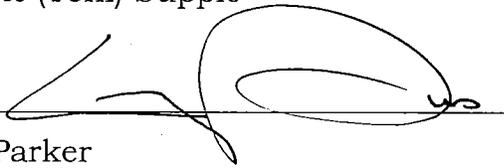

Gary Von Stange, Chair


Allison Cranmer, Vice Chair


Tom Pudvar


Lori Supple

Antoinette (Toni) Supple

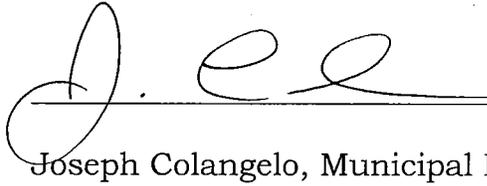


Colleen Parker

**AFSCME, COUNCIL 93, AFL-CIO, LOCAL 1343
SHELBURNE TOWN EMPLOYEES CHAPTER 8**

 5-28-14
Josh Flore, Shop Steward

SHELBURNE TOWN MANAGER

 28-May-2014
Joseph Colangelo, Municipal Manager

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