

**DEPARTMENT OF POLICE SERVICES
CITY OF SHELTON, CONNECTICUT
POLICY MANUAL – Internal Affairs and
Investigations Page 1 of 15**

Chief Shawn Sequeira

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PREVIOUSLY TITLED : CONDUCT OF INTERNAL INVESTIGATION

SUBJECT: Internal Affairs and Investigations

I. PURPOSE

The purpose of this policy is to provide Shelton Police Department employees, and the public, the procedures for processing and investigating allegations of officer misconduct, malfeasance or any citizen complaint regarding an SPD employee.

II. POLICY

The Shelton Police Department's public image is determined by a professional response to allegations of misconduct against its employees. The establishment of procedures for the investigation of complaints is crucial to demonstrate and protect the Department's integrity. This Department shall accept and fairly and impartially investigate all complaints or allegations of misconduct to determine their validity, and to timely impose any disciplinary or non-disciplinary corrective actions that may be warranted. It is the Department's policy to investigate every instance of alleged misconduct against a member of this Department, whether criminal or administrative in nature, in accordance with federal or local laws, and Department policies and procedures. The Chief of Police or his designee is responsible for the overall administration of the investigations of citizen complaints and employee misconduct.

The Department shall accept and document all complaints against any employee regardless of whether the filed complaint is in writing, verbal, in person, by mail, by telephone (or TDD), by facsimile, electronic, or anonymous.

1. There shall be no retaliation in any form by any member of this agency directed at an individual who makes a complaint.
2. During the complaint intake process, no questions shall be asked of a complainant regarding their immigration status.
3. Employees who knowingly and intentionally withhold, omit, mislead, are not forthcoming, or engage in other behavior that would be considered lying about information related to a complaint, fail to cooperate with department investigations, breach required confidentiality of department investigations, or fail to report alleged misconduct or malfeasance of employees to an SPD supervisor shall be subject to disciplinary action

The Office of the Chief or his designee shall be responsible for the investigation of all allegations of serious misconduct and serious use of force incidents pursuant to Department policies and procedures. The Chief will have the authority to utilize resources outside the department to conduct investigations including retaining outside investigators.

III. DEFINITIONS *(Specific to this policy)*

Complaint: Any allegation by an individual regarding officer misconduct or malfeasance, Police services, policies, practices or procedures, claims for damages which allege officer misconduct, or officer misconduct; and any allegation of possible misconduct or claims of damage made by a Shelton Police Department Employee.

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

Case Number: A sequential number used to identify and track citizen investigations

Class 1 Complaints: Serious allegations, including alleged criminal conduct that has the potential to damage the reputation of the Department or its personnel.

Class 2 Complaints: Less serious allegations that warrant an investigation, but do not rise to the level of a more serious complaint.

Class 3 Complaints: Minor complaints by a citizen desiring to make an informal complaint against an employee, generally involving an employee's conduct and/or behavior.

Class 4 Complaints: Minor Service complaints by a citizen who contacts the Department questioning, or informally complaining, about a policy, procedure, or tactic used by the Department or an employee.

Counseling: Information relayed to an employee by a ranking officer or training officer, in which the information relayed points out strengths, weaknesses, or training needs, or offers the employee the opportunity to improve performance. Counseling is not disciplinary by itself, but may progressively lead to discipline.

Discipline: Adverse action taken by the agency against any employee as the result of a sustained internal affairs investigation including, but not limited to, a written reprimand, suspension, demotion or dismissal.

Employee: Any person employed by the Shelton Police Department, whether sworn or non-sworn, part-time or full-time.

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

**DEPARTMENT OF POLICE SERVICES
CITY OF SHELTON, CONNECTICUT
POLICY MANUAL – Internal Affairs and
Investigations Page 3 of 15**

Internal Complaint: A complaint that originates from within the Department. Such complaints may be initiated by other Shelton Police Department employees or from supervisors who observed, or were informed by other employees, of possible policy violations. These may also originate from the Chief of Police.

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

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

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

Officers: Any law enforcement officer employed by or assigned to the SPD, whether on including supervisors and members authorized to carry department issued weapons.

Preponderance of the Evidence Standard: The quantum of evidence that constitutes preponderance cannot be reduced to a simple formula. A preponderance of evidence has been described as just enough evidence, no matter how slight, to make it more likely than not that the allegation sought to be proved is true or false.

Serious Misconduct: Suspected criminal misconduct and the specific forms of misconduct identified below in Section IV.E. Such conduct shall be investigated by the Professional Standards Division and the Criminal Investigation Division of the Attorney General's Office.

Serious Use of Force: Any action by an officer that involves: 1) the use of deadly force, 2) a use of force in which the person suffers serious bodily injury, or requires hospital admission; 3) a canine bite; and 4) the use of chemical spray or Electronic Control Weapon against a restrained person.

Summary Action: Corrective action (oral reprimand or counseling documented in writing) by supervisor or commander for minor violations of department rules, policies, or procedures department. Summary actions are the lowest level of corrective action and are generally handled by first line supervisors.

IA Investigator: Includes those holding the rank of Sergeant or above, or anyone acting in those capacities, any other sworn or non-sworn manager authorized to carry department issued weapon(s), or any other individual authorized by the Chief.

Use of Force Incidents Indicating Potential Criminal Liability: Includes, but is not limited to, all strikes, blow, kicks, or other similar uses of force against a handcuffed subject, and all accusations or complaints of excessive force.

IV. PROCEDURE

A. Acceptance, Filing and Intake of Complaints:

1. General:

All persons are encouraged to bring forward legitimate complaints regarding possible misconduct or malfeasance of employees of this agency. All sworn and civilian employees shall be required to accept a complaint alleging misconduct or malfeasance by agency personnel. All employees must courteously inform an individual of his or her right to make a complaint if the individual objects to an employee's conduct. Employees have a duty to assist any person who wishes to file a citizen's complaint by documenting the information and allegations they provide, advising the individual how to proceed, and by promptly putting the complainant in contact with a supervisor who can assist them with filing their complaint. No employee shall refuse to assist any person who wishes to file a citizen complaint or discourage, interfere with, hinder, delay, or obstruct a person from making a citizen complaint.

2. Acceptance of Complaint:

- a. The use of a standardized form to record complaints shall be implemented using the standardized form adopted by the Police Officer Standards and Training Council for such documentation or a standardized form that exceeds the model form adopted. Each complaint shall be assigned a case number to track complaints and a copy of this form shall be filed in a separate Complaint File.
- b. Complaints may be accepted in writing, verbally, in person, by mail, telephone (TDD), facsimile, and electronically, or by any other means. Anonymous and third party complaints will be accepted.
- c. All employees will assist those who express a desire to lodge complaints against any member of the agency. This includes:
 1. Calling a supervisor to the scene to conduct a preliminary inquiry and document the complaint.
 2. Explaining the Department's complaint procedures.
 3. Providing complaint form(s) and/or complaint filing information and/or giving instructions as to where the complaint forms may be obtained.
 4. Ensuring that complainants who are unable to read, write or understand the English language with sufficient proficiency to fill out the complaint form, or to be interviewed regarding their knowledge of the incident complained of, receive adequate language assistance to permit them to file their complaint and assist, as needed, in the investigation thereof. The name and identifying information of any person providing such language assistance to a complainant shall be recorded on the complaint form or in the body of the report.

**DEPARTMENT OF POLICE SERVICES
CITY OF SHELTON, CONNECTICUT
POLICY MANUAL – Internal Affairs and
Investigations Page 5 of 15**

- d. All personnel who are approached by a person seeking to make a complaint will, when possible, call a supervisor, obtain a brief description of the allegation, record contact information from the complainant if provided and obtain a case number which should be provided to the complainant.
- e. If a supervisor is not readily available, the officer will inform the complainant that they will be contacted by a supervisor or the person or unit assigned to conduct internal affairs investigations by the next business day.
- f. Sworn and civilian employees who receive a complaint about their own conduct shall immediately refer the complaint to a supervisor.
- g. All complaints shall be documented to include the date, time, location, and nature of the complaint, complainant's information (name, address, date of birth, telephone number, or other contact information, if provided, date and time the complaint was received, and the name, rank and/or title of the person receiving the complaint.
- h. The withdrawal of a complaint does not prohibit the agency from completing an investigation.
- i. If complaints are received by mail, all correspondence received containing allegations shall be forwarded to the Chief of Police or the Chief's designee where they will be officially received. These complaints shall be assigned a case number. A letter of acknowledgment must be prepared advising the complainant that the matter is being investigated and that they will be contacted by the investigator assigned.
- j. Walk-in complaints, shall be referred to a Supervisor who shall then forward the complaint to the Internal Affairs designee. After the complaint is received and properly documented, the complainant may be placed under oath and requested to sign the complaint after reading or having it read to them the warning for perjury or false statement. If the complainant refuses to sign the complaint or acknowledge the oath, the complaint will still be accepted and investigated, however the refusal to sign or acknowledge shall be noted. In any event, the complaint will be assigned a case number and forwarded as above.
- k. Telephone complaints shall be referred to a Supervisor or the internal affairs designee. The party who receives the complaint shall obtain the details of the complaint as soon as practicable, dispatch a supervisor to the complainant's location, and proceed as described in the foregoing paragraph.
- l. Complaints from the field in which any member of the agency is approached by a complainant expressing allegations of misconduct or malfeasance shall immediately be reported to a supervisor. The complainant shall be requested to await the arrival of the supervisor. If a supervisor is unavailable, or the complainant is unable to await the arrival of a supervisor, the complainant should be informed that he/she may respond to the agency headquarters to make his/her complaint.

3. Validity and Timeliness of Complaints:

- a. Complaints by persons Under the Influence of Alcohol or Drugs: When a person who is noticeably intoxicated or impaired wishes to make a complaint, he or she shall be encouraged to wait until the earliest opportunity after he or she has regained sobriety to do so. When the Supervisor determines the circumstances require immediate action, preliminary details of a complaint should be taken by a Supervisor, when available, regardless of the person's sobriety. In that event, the internal affairs designee should re-interview the person after he or she has regained sobriety
- b. Delayed or Untimely Complaints: Complaints of misconduct or malfeasance shall be accepted regardless of when the alleged misconduct or malfeasance is alleged to have occurred. However, the timing of a complaint is one of the circumstances that the agency may consider in determining whether misconduct or malfeasance can be reliably substantiated and, if so, the nature and extent of discipline to be imposed. Where a delay in reporting alleged misconduct may call into question the veracity of the complainant, or has resulted in the loss or destruction of evidence or the inability to locate witnesses due to the passage of time, the facts and circumstances should be detailed in the report. Although allegations of criminal behavior may be made past the expiration of the applicable statute of limitations and criminal prosecution may no longer be possible, a criminal violator may still be held accountable administratively.

4. Complainant Who Fears Retaliation Associated With Filing A Complaint:

If a complainant expresses fears of retaliation as a result of filing a complaint, they must be assured that those fears will be taken seriously. Complainants should be asked to provide the basis for their concerns, if possible, and the information provided should be noted in the complaint. This will allow the unit, supervisor or internal affairs designee to be aware of these fears and develop reasonable strategies to assist the complainant in dispelling those fears.

B. Investigations of Citizens Complaint

1. General

- a. All investigations shall, to the extent reasonably possible, determine whether the officer's conduct was justified. No investigation being conducted by the Office of the Chief shall be closed simply because a subject or complainant is unavailable, unwilling, or unable to cooperate, including a refusal to provide medical records or proof of injury;

b. All investigations shall contain:

- 1) Documentation of the name and rank of all officers involved in, or on the scene during, the incident, and a canvass of the scene to identify civilian witnesses;
- 2) Thorough and complete interviews of all witnesses, subject to the SPD's *Garrity* Protocol, and an effort to resolve material inconsistencies between witness statements;
- 3) Photographs of the subject(s) and officer(s) injuries or alleged injuries; and
- 4) Documentation of any medical care provided.

C. Role of Internal Affairs Division

1. Upon receipt of the Complaint Form, the complaint will be forwarded to the IA Division Commander, who will review and classify its proper category for assignment. Categories are identified in section C below.
2. The IA Division Commander shall evaluate complaints of criminal conduct made against SPD employees, and report findings to the Chief. The Chief will authorize transfer of the criminal allegation investigation to the States Attorney's Office. A parallel Internal Affairs Investigation will be conducted to ensure no administrative or departmental violations have occurred, but may be delayed until the resolution of the criminal investigation.
3. Upon completion of the Internal Investigation Report, the report and all supporting documents shall be forwarded to the Chief of Police, or designee, for review. The Chief may accept the report as completed or return the report for further investigation.
4. The IA Division Commander shall have the following additional responsibilities:
 - a. Maintain a central file for complaints in a secured area, and in conformity with records retention requirements of local law;
 - b. Conduct a regular audit of complaints to ascertain the need for changes in training or policy;

c. Track complaints against individual employees to assist in employee risk analysis

D. Complaint Categories

The following chart depicts the types of complaints, which are defined by the seriousness of the allegation, along with whom the complaint is generally investigated and reviewed by:

TYPES	DESCRIPTION	GENERALLY HANDLED BY
CLASS 1	Allegations that have the potential to damage the reputation of the Department or its personnel, and generally include, but are not limited to, allegations of serious misconduct, serious violations of Standards of Conduct and other written directives, or criminal conduct.	<p><u>One or more of the following:</u></p> <p>-THE OFFICE OF THE CHIEF AND / OR IA DIVISION</p> <p>-DETECTIVE BUREAU AND/OR OUTSIDE AGENCY INCLUDING PRIVATE INVESTIGATOR</p> <p>Formal Investigation</p>
CLASS 2	Allegations that generally include, but are not limited to, allegations of a non-serious nature and violations of Standards of Conduct and other written directives of a non-serious nature.	<p>-OFFICE OF THE CHIEF AND/OR INTERNAL AFFAIRS DIVISION</p> <p>Formal Investigation</p>

**DEPARTMENT OF POLICE SERVICES
CITY OF SHELTON, CONNECTICUT
POLICY MANUAL – Internal Affairs and
Investigations Page 9 of 15**

CLASS 3	Minor complaints by a citizen desiring to make an informal complaint against an employee, generally involving an employee's conduct and/or behavior.	FIRST-LINE SUPERVISOR Informal and Documented as Informational Purposes Only
CLASS 4	Minor complaints by a citizen who contacts the Department questioning or informally complaining about a policy, procedure, or tactic used by the Department or an employee.	FIRST-LINE SUPERVISOR Informal and Documented as Informational Purposes Only

E. Serious Misconduct

Serious Misconduct is understood by the SPD to mean suspected criminal misconduct and includes, but is not limited to the following misconduct.

1. All civil suits alleging any misconduct by an officer while acting in an official capacity;
2. All civil suits against an officer for off-duty conduct (while not acting in an official capacity) alleging physical violence, threats of physical violence, racial bias, dishonesty, or fraud;
3. All criminal arrests or filing of criminal charges against an SPD employee;
4. All allegations of unlawful discrimination (e.g., on the basis of race, ethnicity, gender, religion, national origin, sexual orientation, or disability), including improper ethnic remarks and gender bias, but excluding employment discrimination;
5. Allegations of Amendment Violations;
6. Act of retaliation or retribution;

7. All allegations of excessive use of force or improper threat of force (including strikes, blows, kicks, or other similar uses of force against a compliant subject or administered with a punitive purpose) ;
8. Any failure to report use of force reports as required by SPD policies and procedures;
9. The intentional providing of false or incomplete information during the course of a SPD investigation, or in any report, log, or similar document;
10. All incidents in which SPD has received written notification from the SA in a criminal case that there has been: (1) an order suppressing evidence because of any constitutional violation involving potential misconduct by an SPD Officer, or (2) any other judicial finding of employee misconduct made in the course of a judicial proceeding, or any request by a federal judge, local judge, or magistrate that a misconduct investigation be initiated pursuant to some information developed during a judicial proceeding before a judge or magistrate. SPD shall request that all such entities provide them with written notification whenever it has been determined that any of the above has occurred.

F. Investigation of Public Complaints: Investigator's Role/Responsibility

1. Those assigned to investigate a citizen complaint shall ensure the following protocols are applied in all investigations:
 - a. Every complaint must be investigated and evaluated based on the Preponderance of Evidence.
 - b. Anyone who is the subject of a complaint, or who authorized the conduct that led to the complaint, is explicitly prohibited from investigating said incident.

c. During the investigation of a citizen complaint, all relevant evidence including circumstantial, direct, and physical will be considered, and credibility determinations made, if feasible. Officer's statements will not be given any automatic preference over a citizen's statement, nor will a witness' statement be disregarded on account that the witness is connected to the complainant. Every effort will be made to resolve material inconsistencies or discrepancies between witness statements and other collected evidence.

d. The Investigator will not close an investigation because the complaint is withdrawn, the alleged victim is unwilling or unable to provide medical records or proof of injury, or the complainant will not provide additional medical statements or written statements.

e. The Investigator will consider whether any rule, policy, or procedure of the SPD was violated.

f. Conduct an investigation in accordance with the procedures outlined in this policy.

2. At the conclusion of the investigation the investigator shall prepare report in accordance with the requirements outlined in this policy

G. Employee Responsibilities to Report Misconduct

1. An employee must report any instances of employee misconduct as soon as practicable following receipt of information regarding the misconduct.
2. In applicable circumstances, employees are to prevent the deterioration or destruction of any evidence that would support or refute the allegation of misconduct.

H. Confidentiality of Complaints

3. All employees who have knowledge that a complaint has been submitted, or will likely occur, are prohibited from discussing material issues related to the matter, unless it is exempt as described below.
4. Exemptions include: employees subject to the investigation when consulting with Union or legal representation, in accordance with supervisory directives, testifying at an official hearing regarding the matter, or otherwise authorized by law, policy, or regulation.

I. Notifying Complainant Regarding Status of Complaint Investigation

1. Upon receipt of a complaint, the investigator shall provide a copy of the Complaint Form to the complainant, acknowledging its receipt. For formal investigations, the investigator will also send written documentation to the complainant (if known), acknowledging its receipt, including who the complaint will be assigned to.
2. For formal or informal investigations, the reporting party shall be notified as indicated below, by the Chief of police or his designee, informing him/her of the results of the Departments investigation.

J. Investigative Interviews and Procedures of SPD Employees

1. Prior to being interviewed, the employee against whom a complaint has been made shall be provided written notice of the allegations of the complaint and the employee's rights and responsibilities relative to the investigation.
2. Normally interviews will be conducted while the employee is on duty, unless the seriousness of the investigation or other justifiable reason is such that an immediate interview is required.
3. During interviews there will be designated one primary interviewer.
4. The complete interview shall normally be electronically recorded. The recording will note the time at which breaks are taken in the interview process, who requested the break, and the time at which the interview resumed. If there are circumstances where the interview is not able to be recorded, that shall be documented in the IA report.
5. The employee shall be provided with the name and rank of all persons present during the questioning.
6. Subject to the approval of the Chief of Police, employees will be administered the applicable Warnings prior to interview:
 - a. Garrity Warnings: For compelled statements if the inquiry is administrative
 - b. Miranda Warnings: Where the inquiry is criminal and the officer is under arrest or in custody.

7. Employees may have Union representation during the Internal Interview.
 - a. Employees, under internal (administrative) review, may have present a union representative with them during any administrative internal investigative interrogation so long as the representative is not involved in any manner (*i.e. a witness or subject of the complaint*) with the incident under investigation, or a conflict of interest does not exist.
 - b. The representative's role is primarily that of an observer and shall not be permitted to interrupt the interview except for the purpose of advising and/or conferring with the subject who is concerned about a contractual right. The IA investigator reserves the right to end the interview if there is continuous disruptive behavior.
 - c. In criminal investigations the employee has the right to talk to legal counsel or to have one present during questioning.

8. Examinations and Searches
 - a. The department may direct order that the employee undergo an intoxicilizer, blood, urine, psychological, polygraph, medical examination, or any other exam, including submission of financial disclosure statements that are not prohibited by law, if it is believed that such an examination is pertinent to the investigation, so long as they do not violate law, or any Union Contract.
 - b. An on-duty supervisor may order an employee to submit to a breath, blood, or urine test when there is reasonable suspicion that alcohol and/or drug usage is suspected as the factor directly related to allegations of misconduct, and is required to submit to such tests as the result of either being involved in a traffic accident with a department vehicle or involved in a discharge of a firearm.
 - c. An employee may be ordered to participate in a lineup if it is used solely for administrative purposes. This does not in any way affect the requirements of a legal order to participate. This includes photographic identifications, if the investigator deems it necessary
 - d. Desks, lockers, storage space, rooms, offices, equipment, information systems, work areas, and vehicles are the property of the City of Shelton and are subject to inspection. They may also be searched to retrieve city owned property, or to discover evidence of work related misconduct, if there is reason to suspect (*reasonable suspicion*) such evidence is contained therein
 - e. Private property can be stored in areas mentioned above; however, employees will not expect privacy in those areas. Only those employees who are acting in their official capacity may be authorized to search or inspect areas assigned to other employees.
 - f. In the event that the IA involves fraud or theft, the circumstances of the investigation may require the employee to submit financial disclosure statements.

K. Disposition and Adjudication of Complaints

1. All investigations into complaint allegations of misconduct require review and disposition by the employee's chain of command.
2. All complaint allegations of employee misconduct will be fully investigated and documented.
3. All summary actions shall be documented and copies and disposition(s) provided to the subject officer. Copies may, where appropriate, be incorporated in the employee's performance evaluation.
4. Once the investigation is deemed complete, the Internal Affairs Commander shall review the complaint report and investigative findings. This authority will compile a report of findings and make a "conclusion of fact" for each allegation and provide a disposition for each allegation as follows:
 - a. *Sustained*: where the investigation determines, by the preponderance of the evidence, that the person's allegation is supported by sufficient evidence to determine that the incident occurred and the actions of the officer were improper;
 - b. *Not sustained*: where the investigation determines, by the preponderance of the evidence, that there is insufficient fact(s) to decide whether the alleged misconduct occurred;
 - c. *Exonerated*: where the investigation determines, by the preponderance of the evidence, that the alleged conduct did occur but did not violate SPD policies, procedures, or training; or
 - d. *Unfounded*: where the investigation determines, by the preponderance of the evidence, that there are no facts to support that the incident complained of actually occurred.
5. Investigative findings shall also include whether: (i) the employee action complied with policy, training, and legal standards regardless of whether the complainant suffered harm; (ii) the incident involved misconduct by any employee; (iii) the use of different tactics should or could have been employed;
6. Disciplinary action shall be administered in accordance with Department policy and the applicable Union Contract.
7. Following final disposition of the complaint, a letter shall be sent to the complainant, addressed from the Chief or his/her designee, explaining the final disposition.

**DEPARTMENT OF POLICE SERVICES
CITY OF SHELTON, CONNECTICUT
POLICY MANUAL – Internal Affairs and
Investigations Page 15 of 15**

8. All Internal Investigations shall remain open until a final disciplinary decision is made by the chief of police.
9. In cases where there exists probable cause to believe that a fraudulent complaint was logged (*officially documented*) in violation of Connecticut law, the case may be referred to the States Attorney's Office for a prosecutorial review.

L. IA Case File

1. Internal Affairs shall be informed of all final disciplinary decisions.
2. Any requests for completed Internal Investigation reports shall be directed to the office of the Mayor of Shelton.
3. Case investigation files shall be retained for a period of time as defined by law, Union Contract, or the Chief.

M. INTERNAL AFFAIRS INVESTIGATIONS TIME LIMIT:

To achieve a timely resolution to all internal affairs issues, an internal affairs investigation will generally be completed within sixty (60) days of the assignment. The Chief of Police shall be apprised of the status of these investigations on a weekly basis. In cases where extenuating circumstances exist, the time limit for the conclusion of the investigation may be extended by the Chief of Police

N. PUBLIC INFORMATION AND ACCESS

- a. Ensure informational materials are made available to the public
- b. Ensure that copies of this policy and complaint forms are available at the town hall or another municipal building located within the municipality served by the law enforcement agency, other than a municipal building in which the law enforcement agency is located. This information should include relevant phone numbers and any addresses where complaints can be made. This information must explain the complaint process in English and Spanish.
- c. The complaint policy and forms should be made available online where the agency, or the municipality served by the law enforcement agency, has an Internet website.

O. Training

The Department will continue to provide training to all SPD employees on the citizen complaint process and the appropriate responses in handling citizen complaints.

Note: This Order supersedes any previously issued conflicting order, rule, or regulation of the department.

Signed _____	Signature on File _____	_____
	Shawn Sequeira Chief of Police	Date