

# OPERATIONS DIRECTIVE



# SOUTH WINDSOR POLICE DEPARTMENT

**Chapter:** 52 – INTERNAL AFFAIRS  
**Section:** 2 – CUSTOMER COMPLAINTS  
**Effective Date:** 02 NOVEMBER 2017  
**Issuing Authority:** Chief of Police  
**Rescinds** 01/01/2009, 01/01/2007, 05/07/2005, Q-4; 94-1, 03/01/1998,  
12/28/2015, 02/23/2017, 05/15/2017

---

## I. POLICY

It is the policy of the South Windsor Police Department to respond to allegations of misconduct or malfeasance against its employees, consistent with this policy, and fairly and impartially investigate all complaints or allegations of such conduct to determine their validity. The South Windsor Police Department shall impose any disciplinary or non-disciplinary corrective actions that may be warranted in a timely manner. The South Windsor Police 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 his/her immigration status.
3. Officers who withhold information, fail to cooperate with department investigations, or fail to report alleged misconduct or malfeasance of employees to a supervisor, shall be subject to disciplinary action.

## II. PURPOSE

It is the purpose of this policy to comply with (Connecticut General Statute 7-294bb) and to provide a uniform policy to accept, process, investigate, take appropriate action upon and resolve complaints from a member of the public relating to alleged misconduct or malfeasance committed by State of Connecticut law enforcement personnel.

Complaints may allege abuse of authority, corruption, criminality, poor or slow service, or other misconduct or malfeasance on the part of agency personnel.

## III. DEFINITIONS

1. Complaint: An allegation of employee misconduct or malfeasance.
2. Complainant: Any person who files a complaint regarding misconduct or malfeasance on the part of an agency employee.

3. Complaint Control Number: A unique numerical or alphanumeric code used to identify and track citizen complaint investigations.
4. 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.
5. Employee: Any person employed by the agency, whether sworn or non-sworn.
6. Internal Affairs Division or Unit: The designated division, unit or person with primary responsibility to conduct investigations of administrative or citizen complaints of misconduct or malfeasance.
7. Malfeasance: Illegal or dishonest activity especially by a public official.
8. Misconduct: Any act or omission by an employee that is illegal or which violates established policy.
9. Supervisor: Includes those holding the rank of Corporal or higher.

#### IV. PROCEDURE

The Office of the Chief of Police has primary oversight and authority over the investigation of complaints made against employees. The Chief of Police will assure that the complaint is assigned to the appropriate supervisor for investigation through the appropriate chain of command.

The Chief of Police shall ensure that the integrity of the department is maintained through an internal system where objectivity, fairness and justice are assured by intensive, impartial investigation and review.

##### A. General/Acceptance/Process and Filing of Complaints:

##### 1. General:

- a. All persons are encouraged to bring forward legitimate complaints regarding possible misconduct or malfeasance of employees of this agency. All employees must inform an individual of his or her right to make a complaint if the individual objects to an employee's conduct. All sworn and civilian employees shall be required to accept a complaint alleging misconduct or malfeasance by agency personnel. Employees have a duty to assist any person who wishes to file a citizen's complaint by documenting the information and allegations he/she provides, advising the individual how to proceed, and by promptly putting the complainant in contact with a supervisor who can assist them with filing his/her 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.

- b. All complaints shall be documented to include the date, time, location, 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.
- c. If the on-duty Watch Commander is not readily available to meet with the complainant, the officer/agency employee will inform the complainant that he/she will be contacted by a supervisor by the next business day.
- d. If a complaint involves a supervisor of higher rank than the Watch Commander accepting the complaint, the Watch Commander shall obtain/complete all of the necessary initial documentation and then forward the information to a Division Commander (via memorandum) not involved in the allegation. The Division Commander will then review the alleged complaint and either complete or coordinate the investigation.
- e. Sworn and civilian employees, who receive a complaint about their own conduct, shall immediately refer the complaint to their direct supervisor.
- f. The withdrawal of a complaint does not prohibit the agency from completing an investigation.
- g. Any investigation into the use of deadly physical force by a police officer that results in the death of a person will be investigated in accordance with Connecticut General Statute 51-277a.

2. Acceptance of Complaint

- a. Complaints may be accepted in writing, verbally, in person, by mail, telephone (TDD), facsimile, electronically, anonymously, third-party or by any other means.
- b. The Chief of Police shall make available to the public, procedures for registering complaints against the department or its employees. The process and necessary forms, for making such complaints, are available on the agency's website. Personnel complaint forms are also available in the lobby of police headquarters and also at the Town hall.
- c. The use of a standardized form to record complaints, Civilian Complaint Form (CCF), shall be implemented. The agency form has been adopted by the Police Officer Standards and Training Council (POSTC) and meets/exceeds the model form.

- d. Each complaint shall be assigned a Complaint Control Number (CCN) to track complaints. CCNs will be issued by the Office of the Chief of Police. A copy of the CCF, along with the CCN, shall be filed in a separate complaint file within the Office of the Chief of Police.
  - e. In the event a complainant is unable to read, write or understand the English language with sufficient proficiency to fill out the complaint form, or to be interviewed regarding his/her knowledge of the incident complained of, contact should be made with an agency resource in order to provide adequate language assistance to permit the complainant to file his/her complaint and assist 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.
  - f. After a complaint is received and properly documented, the complainant may be placed under oath and requested to sign the complaint after reading, or having 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 the oath shall be noted.
3. Complaint Process
- a. When a complainant contacts an agency employee (sworn or non-sworn), via any contact method, with a request to file a complaint, contact shall be made with the on-duty Watch Commander in order to report the incident. The on-duty Watch Commander receiving the complaint shall gather all pertinent details regarding the complaint including (but not limited to):
    - (1) Date, time, location, 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; names, addresses, contact information, etc. of any witness(s) to the incident.
    - (2) Take possession of any available physical evidence and document evidence received via agency directives.
    - (3) Take photographs of the alleged injury, damage to property, etc.
    - (4) Request that the complainant(s) and/or witness(s) give a written statement regarding the complaint.

- b. The agency employee, or Watch Commander, receiving the complaint will request that the complainant fill out the CCF. Upon completion of the CCF, the agency employee, or Watch Commander, shall provide a copy of the completed form to the complainant, which acknowledges and verifies that the complaint has been received. The agency employee, or Watch Commander, shall also provide the complainant with information regarding the complaint and investigation process.
  - c. If, after reviewing the information contained within the CCF, it is determined that the complaint can be handled at the Watch Commander supervisory level, the on-duty Watch Commander will complete the investigation and follow the procedures set forth within this policy (section IV, B).
  - d. If, after reviewing the information contained within the CCF, it is determined that the complaint alleges one of the elements listed within the Internal Affairs Investigation section of this policy (section IV, C, #2), the on-duty Watch Commander shall obtain the initial information from the complainant. The on-duty Watch Commander will then follow the procedures listed within this policy in order to begin the process of an internal affairs investigation (section IV, B, #2).
  - e. Once the initial CCF and investigation is completed by the on-duty Watch Commander, the Watch Commander will complete a memorandum documenting the incident and then will forward it for review to the Division Commander of the employee named in the complaint. After the review is completed by the Division Commander, the complaint and the investigation documentation will then be forwarded to the Chief of Police for review. Any disciplinary action determined as a result of the investigation shall be communicated to the employee via the Chief of Police.
4. Submission to Tests/Procedures
- a. As part of the complaint investigation process, employees may be requested to participate in any of the following:
    - (1) Medical or laboratory examinations.
    - (2) Photographing.
    - (3) Audio or video recordings.
    - (4) Participating in a photo line-up.
    - (5) The submission of financial disclosure statements (upon the completion and execution of a search warrant).

## (6) Polygraph Exam

- (a) Employees of SWPD shall not be asked, nor be required to submit to, a polygraph exam during an internal affairs investigation, unless initiated by the accused employee.
- (b) Polygraphs may be utilized with non-SWPD employee complainants or witnesses during an internal investigation.

**B. Complaints Handled at the Watch Commander Level**

1. In general, the types of investigations that will be conducted at the Watch Commander supervisory level shall include (but not be limited to):
  - a. Failure to follow departmental procedures.
  - b. Slow or no response to calls for service.
  - c. Failure to take proper action.
  - d. Improper operation of department vehicles.
  - e. Tardiness in reporting for duty.
  - f. Violations of department dress code.
  - g. Poor demeanor or rudeness.
2. Complaints investigated/resolved at the Watch Commander supervisory level shall be documented via memorandum and forwarded to the Division Commander of the employee who was the subject of the investigation. The Division Commander will review all relevant details to ensure appropriate procedures were followed, an adequate investigation was conducted, and an acceptable resolution was reached. After resolution, the memorandum (along with any follow up documentation completed as a result of the investigation into the alleged complaint) shall be filed in the Office of the Chief of Police, for review and recording purposes.

**C. Complaints Handled via Internal Affairs Investigation**

1. Internal affairs investigations will be conducted by Division Commanders who will report directly to the Chief of Police, or his/her, designee. All internal affairs investigators have had formal, documented training in conducting internal affairs investigations. At the conclusion of an internal affairs investigation, the Division Commander shall prepare and present the Chief of Police with a conclusion of fact.

- a. The internal affairs investigator shall be responsible for:
  - (1) Investigating and determining the nature, facts and circumstances of the alleged complaint.
  - (2) Reporting the results of the investigation, any recommendations and the resolution of the investigation.
  - (3) Identifying and recommending further investigation and prosecution of criminal misconduct discovered on the part of any individual, during the course of an internal affairs investigation.
  - (4) Preparing suggested revisions of agency policies and procedures where existing deficiencies have been a contributing factor to misconduct.
2. In general, internal affairs investigations shall be ordered for:
  - b. Use of excessive force complaints.
  - c. Allegations of civil rights violations.
  - d. Corruption.
  - e. Claims of serious unethical conduct which may, or may not, be criminal.
  - f. As required by other agency directives or by law.
3. Generally, all internal affairs investigations will be completed within sixty (60) days. However, extenuating circumstances may prevent concluding the investigation within the 60-day time period. If the circumstances indicate that it may take longer to conclude the investigation, at the approval of the Chief of Police, the employee and the police union (if the employee wishes to advise the union of the pending internal affairs investigation) will be notified in writing that the investigation will last longer than sixty (60) days but shall not exceed 6 months.
4. When an internal affairs investigation has been concluded, the results shall be forwarded to the Chief of Police who will determine the appropriate action. Within 7 days of determining the final disposition, the Chief of Police shall notify the complainant(s), and all employees involved in the allegation, and advise them of the final disposition.
5. Nothing in this policy precludes the Chief of Police from referring an internal affairs investigation to an outside agency if such action would be in the best interest of the municipality and of justice.

D. Notification to the Chief of Police

1. As soon as practical, the Chief of Police shall be notified, via the chain of command, of all complaints against the department, or its employees.
2. The Chief of Police shall be notified immediately, via the chain of command, in the event a department employee is arrested, charged with a criminal offense or found to be under the influence of alcohol or drugs while on duty. The on-duty Watch Commander shall ensure that all reports documenting the incident are completed and shall forward copies of those reports through the chain of command to the Chief of Police.

E. Appeal Process

1. If the complainant, or the employee alleged within the complaint, does not agree with the investigative outcome determined by agency personnel, the ability to appeal the decision will exist.
2. The complainant, or the employee alleged within the complaint, may request that an internal review of the complaint investigation be conducted by a Division Commander not involved in the initial investigation/outcome. The results of the secondary review shall be forwarded to the Chief of Police for final case disposition.
3. Any employee subjected to disciplinary action, of any kind, may appeal the decision through the grievance procedures established in the respective union Collective Bargaining Agreement.

F. Validity and Timeliness of Complaints:

1. 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 Watch Commander determines that 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.



2. 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.

G. Complainant who Fears Retaliation Associated with Filing a Complaint:

If a complainant expresses fears of retaliation as a result of filing a complaint, he/she 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.

**V. COMPLAINT NOTIFICATION TIMELINE**

1. The Chief of Police, or his/her designee, shall ensure that all complaints received are processed and investigated appropriately as set forth in this policy. Internal affairs investigations shall be completed in a timely manner within the time limits determined by the Chief of Police, including extensions granted by the Chief of Police, or designee, for good cause.
2. Complainants shall be notified in writing within five (5) business days of receipt that (1) their complaint has been received by the agency and is currently pending, (2) that a customer complaint number has been assigned (including the assigned number), (3) that they may contact the designated investigator (identify by name, telephone and/or email) at any time for further information while the investigation is pending (4) that the assigned investigator shall contact the complainant(s), by phone or in writing, at least every four weeks to give them a status update of the investigation and (5) that they will be informed in writing of the outcome of the complaint promptly following conclusion of the investigation.

3. The subject of the investigation shall be promptly notified of the complaint in accordance with the provisions of applicable labor agreements. In the absence of an applicable labor agreement, an employee who is the subject of a complaint shall be notified in writing within five (5) business days of the receipt of such complaint of (1) the fact that a complaint has been made, (2) the identity of the complainant (if known), (3) the substance of the complaint, (4) the law or policy that is alleged to have been violated, (5) the date upon which the investigation is expected to be completed and (6) that they will be informed in writing of the outcome of the complaint promptly following conclusion of the investigation.
  - a. Where prior notification of the subject of a complaint is reasonably likely to impede the progress of an investigation, result in the loss or destruction of evidence, or jeopardize the safety of any individual, the Chief of Police may direct (in writing) that such notification be delayed, stating the reasons therefore and the anticipated extent of the delay.

## **VI. EMPLOYEE RELIEVED FROM DUTY**

1. The Watch Commander, or a department supervisor, may relieve an employee from duty, with pay, on a temporary basis, if he or she feels that as a result of the investigation the employee is psychologically or physically unfit to perform his/her job assignment or that continued job performance by the employee would subject the Town to future liability.
2. If a Watch Commander, or a department supervisor, relieves an employee of duty, the Division Commander, and the Chief of Police, will be immediately notified of the circumstances.

## **VII. REVIEW OF THE INVESTIGATION**

1. If a complaint is investigated at the Watch Commander supervisory level, the designated Division Commander, of the employee named in the complaint, shall review the investigation to determine the thoroughness, completeness, accuracy, level of remediation and objectivity of the investigation.
2. If a complaint is investigated at a level above first line supervision (aka Watch Commander), the completed report of the investigation conducted by a Division Commander, any potential disciplinary recommendation (if any), and the recommended case disposition shall be reviewed by the Chief of Police, or his/her designee. Final disciplinary actions shall only be determined by the Chief of Police.
3. At the conclusion of the investigation, the complainant shall be promptly notified in writing of the status and/or disposition of his/her complaint, by the Chief of Police, or his/her designee.

**VIII. CASE DISPOSITIONS – STANDARDS:**

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

1. Exonerated: The investigation determined by a preponderance of the evidence that misconduct or malfeasance was committed, but not by the subject of the investigation.
2. Unfounded: The investigation determined by a preponderance of the evidence that the misconduct or malfeasance complained of did not occur.
3. Not Sustained: The investigation was unable to determine by a preponderance of the evidence whether or not the misconduct or malfeasance complained of occurred, or whether or not it was committed by the subject of the investigation.
4. Sustained: The investigation determined by a preponderance of the evidence that the misconduct or malfeasance complained of occurred and that it was committed by the subject of the investigation.
5. Misconduct Not Based on Original Complaint: The investigation determined by a preponderance of the evidence that other misconduct or malfeasance which was not the basis for the original investigation occurred, was discovered during the course of the original investigation, and was committed by the subject of the investigation.
6. Withdrawn: At some point prior to the completion of the investigation, the complainant notified the agency that he/she wished the investigation to be discontinued and concurrence for this action was obtained from the Chief of Police.
7. Summary Action: Disciplinary action in the form of an oral reprimand, or counseling documented in writing, was taken by an employee's supervisor or commander for minor violations of department rules, policies or procedures as defined by this agency. Summary actions are the lowest level of disciplinary action or remediation.
8. Reconciled: At the discretion of the Chief of Police, the process of reconciliation may be encouraged in lieu of any of the above dispositions. When authorized by the Chief of Police, supervisors receiving complaints shall, to the extent possible, bring together the complainant and the officer or employee involved in minor violations and attempt reconciliation. This may be used where the complaint is from a misunderstanding on the part of the affected officer, employee or the complainant. Reconciliation may be employed for complaints of a minor nature that do not reflect:
  - a. Discredit upon the agency.
  - b. Discredit upon the involved employee.

- c. Commission of a criminal offense.
- d. Allegations of racism, bigotry or prejudice against any race, religion, creed, national origin, sexual orientation, or circumstances beyond the individual's control.

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

## **IX. TRAINING**

All supervisory personnel will be provided with training on the department's complaint policy and the responsibilities of supervisors conducting internal investigations upon the implementation of this policy.

All supervisory personnel will be provided with periodic refresher training, as determined by the department, regarding the policies and procedures contained herein and professionally accepted practices related to conducting internal investigations.

## **X. PUBLIC INFORMATION AND ACCESS**

The Chief of Police will:

- 1. Ensure that informational materials are made available to the public through police personnel at the police department facility, the police agency website and other designated public facilities.

## **XI. SECURITY/CONFIDENTIALITY OF INTERNAL AFFAIRS RECORDS**

- 1. The Chief of Police is responsible for maintaining accurate and complete records of all complaints against the department and its employees. The records shall remain in a locked cabinet located within the Office of the Chief of Police. The Chief of Police, and his/her designee, shall be the only personnel authorized to access these files, except as otherwise required by law.
- 2. Complaint records shall be destroyed per the State of Connecticut Records Retention Schedule and applicable Collective Bargaining Agreements between the Town of South Windsor and labor unions represented within the police department.
- 3. The Chief of Police, or his/her designee, shall also compile a yearly statistical summary of complaints and investigations for dissemination through the department's annual report.

## **XII. EMPLOYEE RIGHTS**

1. An employee has the right to the presence of a union official whenever an employee is requested or required to give a statement that could result in his/her discipline or discharge. Unless the employee requests the presence of a union official, the employee will be deemed to have waived that right. An employee also has the right to the presence of an attorney in accordance with the Municipal Employees Relations Act and the Weingarten Decision.
2. Prior to, or during an employee's interrogation, the employee may review any reports or statements that the employee may have made on the subject of his/her interrogation.
3. Prior to the employee's interrogation, he/she is entitled to review any complaint made against him/her.
4. During the interrogation, the employee may consult with his/her union representative in the absence of the interrogator.
5. The employee may be interviewed about his/her off-duty behavior, when his/her off-duty conduct involves action while engaged in his/her capacity as a police employee, or reflects on the South Windsor Police Department.
6. Prior to the employee's interrogation, he/she may invoke the Fifth Amendment. However, the Fifth Amendment cannot be used as a defense to discipline imposed upon the employee for refusing to answer pertinent questions strictly and narrowly confined to the performance of his/her police duty.

Police Officers have CONSTITUTIONAL RIGHTS, particularly the right to be free from compulsory self-incrimination and the right to procedural due process.

**IF INVOLVED IN A DEADLY USE OF FORCE**

1. Criminal Investigation - *Fifth Amendment/Miranda*.
  - a. An officer has the right to remain silent and to an attorney. An officer should not be afraid to invoke these rights in order to consult with an attorney before speaking with an investigator.  
  
\*Remember: An officer may speak with an investigator, but anything he/she says can be used against him/her in a criminal proceeding. If an officer does elect to speak, he/she may stop at any time.
2. Internal Investigation - *Garrity Rights*.
  - a. When being ordered to answer questions.
  - b. Questions must relate to officer's duties or fitness for duty.
  - c. Must be advised that failure to answer will be considered insubordination and could lead to discipline up to and including termination.
  - d. Must be provided with some degree of immunity from criminal prosecution.
3. Internal Investigation - *Weingarten Rights*.
  - a. An officer has the right to the presence of a union official whenever the officer is requested or required to give a statement which could result in his/her discipline or discharge.
  - b. Unless the officer requests the presence of a union official, he/she will be deemed to have waived that right.
  - c. Prior to, or during the officer's interrogation, he/she may review any reports or statements he/she may have made on the subject of his/her interrogation.
  - d. During the interrogation, an officer may consult with his/her union representative in the absence of the interrogator.
  - e. An officer is not required to answer any questions concerning his/her off-duty conduct during the interrogation, unless his/her off-duty conduct involves action while engaged in his/her capacity as a police officer.

### **Garrity Rule**

By invoking the Garrity Rule, the officer is invoking his or her right against self-incrimination. Any statements made after invoking Garrity, may only be used for department investigation purposes and not for criminal prosecution purposes. The Garrity Rule stems from the court case *Garrity v. New Jersey*, 385 U.S. 493 (1967), which was decided in 1966 by the United States Supreme Court. It was a traffic ticket fixing case of all things.

Officers were advised that they had to answer questions subjecting them to criminal prosecution or lose their jobs. The Court held that this was Unconstitutional.

Technically, there are two prongs under the Garrity rights. First, if an officer is compelled to answer questions as a condition of employment, the officer's answers and the fruits of those answers may not be used against the officer in a subsequent criminal prosecution. Second, the department becomes limited as to what they may ask. Such questions must be specifically, narrowly, and directly tailored to the officer's job.

Thus, the basic thrust of the Garrity Rights or Garrity Rule is that a department member may be compelled to give statements under threat of discipline or discharge but those statements may not be used in the criminal prosecution of the individual officer. This means that the Garrity Rule only protects a department member from criminal prosecution based upon statements he or she might make under threat of discipline or discharge.

Also, the Garrity Rule is not automatically triggered simply because questioning is taking place. The officer must announce that he or she wants the protections under Garrity. The above statement should be prepared in writing, and the officer should obtain a copy of it. If a written statement is being taken from an officer, the officer should insist that the Garrity Warning actually be typed in the statement. Consult your attorney and union delegate for the laws regarding Garrity in your state before providing any statement.

**Garrity Warning**  
*(To be used for non-sworn personnel)*

1. I am being questioned as part of an investigation by this agency into potential violations of department rules and regulations, or for my fitness for duty. This investigation concerns

---

---

2. I have invoked my Miranda rights on the grounds that I might incriminate myself in a criminal matter.

3. I have been granted use immunity. No answer given by me, nor evidence derived from the answer, may be used against me in any criminal proceeding, except for perjury or false swearing.

4. I understand that I must now answer questions specifically, directly and narrowly related to the performance of my official duties or my fitness for office.

5. If I refuse to answer, I may be subject to discipline for that refusal which can result in my dismissal from this agency.

6. Anything I say may be used against me in any subsequent department charges.

7. I have the right to consult with a representative of my collective bargaining unit, or another representative of my choice, and have him or her present during the interview.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Location: \_\_\_\_\_

Witnessed by: \_\_\_\_\_

\_\_\_\_\_



**Garrity Warning***(To be used for sworn law enforcement personnel)*(Compliant with the requirements of Connecticut General Statute 7-294d(c)(2)(I))

You are being questioned as part of an official administrative investigation being conducted by your employer, the South Windsor Police Department. During the course of this interview, you will be asked questions specifically, directly and narrowly related to the performance of your official duties and/or your fitness for office. You are hereby ordered to answer each of the questions posed truthfully and completely. You are entitled to all of the rights and privileges guaranteed by the law and the Constitution of the United States, including the right not to be compelled to incriminate yourself, as well as any additional rights established by state law or contractual agreement between your employer and your labor organization, if any. You are advised that, if you refuse to answer questions related to the performance of your official duties and/or your fitness for office, you will be subject to administrative disciplinary charges carrying the penalty of dismissal or termination from employment with this agency. If you choose to answer questions truthfully and completely, neither your oral testimony nor written statement, nor any information or evidence gained by reason of such oral testimony or written statement, may be used against you in any pending or subsequent criminal proceeding. However, such testimony or statements may be used against you in this or any subsequent administrative disciplinary proceeding as evidence of misconduct or violation of the rules, regulations, policies or orders of your employer pertaining to your job performance, or in decertification proceedings conducted pursuant to the provisions of Connecticut General Statute 7-294d(c)(2)(I).

ACKNOWLEDGEMENT: I, \_\_\_\_\_, fully understand my rights and responsibilities as set forth above. I further swear or affirm that the oral testimony given, or written statement made, concerning the case now in question, is the truth, the whole truth, and nothing but the truth; subject to the pains and penalties of perjury or false statement.

---

*(Signature)*

---

*(Date)*

---

*(Time)*

---

*(Witness)*

---

*(Date)*

---

*(Time)*

### ***Weingarten Rights***

#### **EMPLOYEE'S RIGHT TO UNION REPRESENTATION**

The right of employees to have union representation at investigatory interviews was announced by the U.S. Supreme Court in a 1975 case ([NLRB vs. Weingarten, Inc. 420 U.S. 251, 88 LRRM 2689](#)). These rights have become known as the Weingarten rights.

Employees have Weingarten rights only during investigatory interviews. An investigatory interview occurs when a supervisor questions an employee to obtain information which could be used as a basis for discipline or asks an employee to defend his or her conduct.

If an employee has a reasonable belief that discipline or other adverse consequences may result from what he or she says, the employee has the right to request union representation. Management is not required to inform the employee of his/her Weingarten rights; it is the employee's responsibility to know and request.

When the employee makes the request for a union representative to be present, management has three options:

- a. It can stop questioning until the representative arrives;
- b. It can call off the interview; or
- c. It can tell the employee that it will call off the interview unless the employee voluntarily gives up his/her rights to a union representative (an option the employee should always refuse).

Employers will often assert that the only role of a union representative in an investigatory interview is to observe the discussion. The Supreme Court, however, clearly acknowledges a representative's right to assist and counsel workers during the interview.

The Supreme Court has also ruled that during an investigatory interview management must inform the union representative of the subject of the interrogation. The representative must also be allowed to speak privately with the employee before the interview. During the questioning, the representative can interrupt to clarify a question or to object to confusing or intimidating tactics.

While the interview is in progress, the representative cannot tell the employee what to say but he may advise them on how to answer a question. At the end of the interview, the union representative can add information to support the employee's case.

On June 15, 2004, The National Labor Relations Board ruled by a 3-2 vote that employees who work in a nonunionized workplace are not entitled under Section 7 of the National Labor Relations Act to have a co-worker accompany them to an interview with their employer, even if the affected employee reasonably believes that the interview might result in discipline.

This decision effectively reversed the July 2000 decision of the Clinton Board that extended Weingarten Rights to non-union employees.

END

**HISTORICAL CHANGES TO POLICY**

1. 2015 – Policy revised to reflect formatting changes and policy changes to comply with State of Connecticut, Public Act 14-166.
2. February, 2017 – changed the term “Agent” to “Corporal” throughout policy.
3. May 15, 2017 – Added new section X (Security/Confidentiality of Internal Affairs Records).
4. November, 2017 – Multiple changes made to policy in order to align policy with the State of Connecticut model policy as well as accreditation standards.