

**TOWN OF BENNINGTON
INTERIM CITIZEN ADVISORY COMMITTEE PROTOCOL**

WHEREAS, the Town of Bennington Police Department has adopted a procedure for internal investigations by General Order #19-01 dated February 25, 2020 (the Investigations Policy); and

WHEREAS, 20 VSA § 2401 requires that reviews of certain types of alleged unprofessional conduct by police officers be investigated; and

WHEREAS, 20 VSA § 2401(4)(e) requires that such investigations be subject to civilian review; and

WHEREAS, the Investigations Policy, Sec. II(C)(3), currently provides that the Town Manager or members of the Select Board perform this function; and

WHEREAS, the Select Board wishes to adopt a set of protocols for civilian review of allegations of unprofessional conduct that will assure public scrutiny of police conduct and internal discipline; and

WHEREAS, the Select Board recognizes that investigations of specific allegations of illegal conduct by particular officers shall be treated as confidential under applicable Vermont law prior to resolution;

NOW THEREFORE, the Town of Bennington Select Board, with the concurrence of the Town Manager, hereby adopts the following protocol for review of allegations of unprofessional police conduct subject to civilian review under 20 VSA § 2401(4)(e), including but not limited to complaints alleging unprofessional conduct that are determined to be unfounded by the Chief of Police (the Chief):

1. When a complaint is received by the Bennington Police Department against an officer(s) other than the Chief, and when the complaint alleges conduct that reasonably could be considered unprofessional as defined by 20 VSA § 2401(5), the Chief, or the Chief's designee, shall investigate the complaint, develop a full and complete report, and present the report and findings for civilian review to the designated civilian Advisory Committee (currently the Select Board).

2. The Advisory Committee and Town Manager shall meet to review the report and its findings. The Chief of Police shall present the report, answer questions, and provide documentation on procedures and protocols of the Department used in the Chief's investigation. The Chief's findings shall be explained, and justification provided. The Advisory Committee may request additional information or explanation.

3. The Advisory Committee may decide to accept the report or to accept the report with comments. Alternatively, the Advisory Committee may disagree with the findings of the Chief. In the event of disagreement, the Advisory Committee shall provide its reasons in writing to the Chief and the Manager as well as its recommended actions to either sanction the officer(s) or to provide other corrective actions to prevent a future occurrence. Such corrective actions may include additional training for the officer(s), a change in protocol or procedure to prevent the actions, and/or a combination of the aforementioned actions. In this case, municipal counsel shall

also be notified.

4. If the report recommends sanctions against an officer for unprofessional conduct that involves, or if the Chief and the Manager agree after reviewing the response from the Advisory Committee that sanctions should be imposed, the officer shall be notified by the Chief and the protocols provided by the Police Union Working Agreement shall then control.

5. Except as otherwise required by law:

- a. Investigatory reports about complaints that allege illegal conduct by particular officers shall be treated as confidential, and review of such reports shall be in executive session, prior to final action by the Advisory Committee.
- b. Investigatory reports about complaints that allege unprofessional but not illegal conduct by particular officers shall be treated as public documents, and review of such reports shall be in open session.

6. The determination by the Advisory Committee shall be made by vote in open session. In matters in which the Advisory Committee does not support a referral for further disciplinary and/or criminal proceedings proceeding arising out of potentially illegal conduct by a particular officer, the investigatory report and findings, together with any comments by the Advisory Committee, shall thereafter be made public, subject to any specific redactions required under 1 V.S.A. § 317(c).

7. In any matter in which the Advisory Committee supports a referral for further disciplinary and/or criminal proceedings arising out of allegedly illegal conduct, as recommended by the Chief and/or the Town Manager, the Advisory Committee's public vote shall not identify the officer by name, and the investigatory report shall be released, if at all, subject to any specific redactions required under 1 V.S.A. § 317(c).

8. In any matter in which the Advisory Committee decides that the evidence may support a finding of illegal conduct by a particular officer, but in which further disciplinary and/or criminal proceedings are not recommended by the Chief and/or the Town Manager, the Advisory Committee's may vote to forward the report to the State's Attorney or Attorney General for further review. In such case, the Advisory Committee's public vote shall not identify the officer by name, and the investigatory report shall be released, if at all, subject to any specific redactions required under 1 V.S.A. § 317(c).

9. Upon the conclusion of any disciplinary and/or criminal proceeding involving alleged illegal conduct by a particular police officer, as soon as possible all related records shall be made public to the extent authorized by law. Such records, including video footage, shall be posted on the Bennington Police Department website for a period of 30 days, or otherwise made available for public review.

Adopted by the Select Board August 10, 2020