



DEPARTMENT MANUAL

SECTION 103-12

Issue Date: 4/16/2021	Effective Date: 5/15/2021	Revisions:	Chapter: Duty to Intervene
References: NEW YORK STATE ACCREDITATION STANDARDS			
Special Instructions: This Policy supersedes all previous Policies and Procedures			
Distribution: All Members of the Department			Page: 1
Issuing Authority: Chief John Barbelet			

Purpose

The purpose of this policy is to set forth the legal, ethical, and affirmative duty of the Tarrytown Police Department members to intervene to prevent or stop misconduct and/or other problematic behavior. This policy requires the mandatory intervention in and reporting of substantial deviation of departmental policy, procedure, rules or laws and prohibits retaliatory conduct or action against employees who intervene or make such reports.

Policy

The Tarrytown Police Department requires all of its employees to report serious acts of misconduct. All members of this Department have a duty to intervene to prevent or stop any other member from conducting any serious violation of department policy, procedures, rules or laws. Furthermore, this department prohibits retaliatory conduct against or interference with an employee who reports, assists, or seeks to report breaches of department policy, procedures, rules or laws or engages in activities protected by whistleblower statutes.

Definitions

Affirmative Duty- The personal responsibility and obligation of an employee to report wrongdoing. This is an affirmative duty, as opposed to only providing such information upon request.

False Report- A report that is not made in good faith and is based on information that is known or reasonably likely to be inaccurate; intentionally or negligently ignores exculpatory or mitigating information; or is made with the purpose of harassing or wrongly incriminating another employee.

Good Faith Report- A report that provides allegations concerning an employee who is reasonably believed to have committed a serious violation of departmental policy, procedures, rules, or laws.

Intervene- To verbally or physically interact with another member so as to prevent or alter a result or course of events.



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Misconduct- Action, inaction, and/or failure to act by any member of the Tarrytown Police Department, civilian or sworn, that violates TPD policy, the Constitution, or the law, including but not limited to criminal acts, applicable civil laws, administrative rules, or regulations.

Retaliatory Conduct- Conduct or action designed to serve as retribution against an employee who, in good faith, has reported or otherwise provided information regarding misconduct against another employee. In the context of this policy, retaliatory conduct includes any deliberate, purposeful actions or failures to act directed against employees that cause or that: (a) could reasonably be expected to cause physical harm, property damage, significant emotional stress, or other serious negative effect on another employee; (b) are designed to ridicule or embarrass; or (c) could seriously impair the efficiency, safety, or effectiveness of that employee, the Tarrytown Police Department, or both. Such conduct may take many forms, including but not limited to bullying; persistent offensive comments, threats, or intimidation; false reports or accusations; isolation; ostracism; posting of secure or personal information on the Internet; or acts that malign or disparage an individual's reputation.

Procedure

Duty to Intervene:

1. All members must recognize and act upon the duty to Intervene to prevent or stop any member from conducting any act that is unethical or that violates law or policy, including, but not limited to:
 - a. Excessive force, including intentionally escalating an encounter absent a lawful, necessary purpose;
 - b. Stops, searches, and arrests that are unconstitutional or violate TPD policy,
 - c. Retaliation against an individual participating in 1st Amendment protected activity,
 - d. Theft/fraud/waste;
 - e. Inappropriate language;
 - f. Sexual misconduct;
 - g. Harassment;
 - h. Falsifying documents; and
 - i. Inappropriate behavior.



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2. Additionally, members have an affirmative duty to intervene when they see actions that would discredit the TPD, unsafe behavior and/or bad tactics, corner cutting, and signs of a fellow member's stress and/or mental health issues that are affecting their performance.
3. Interventions may be verbal and/or physical depending on the urgency of the situation and the potential level of Misconduct and/or problematic behavior.

Duty to Report Misconduct:

4. All employees of this department have an affirmative duty to report acts of misconduct. Failure to report shall result in corrective or disciplinary action.
5. Acts of misconduct shall be immediately reported to the reporting employee's immediate supervisor. If the supervisor is suspected of involvement in the misconduct, the report should be made to the next employee in the chain of command.
6. The position of rank or the lack of rank does not preclude an officer from his/her duty to intervene when appropriate.
7. In situations involving highly egregious offenses or illegality that may have serious or broader implications, a complaint may be made directly to the Chief of Police. Examples of such highly egregious offenses or illegality include, but are not limited to, broad-based dishonesty, criminal conduct, conspiracy among employees, excessive use of force, or failure to act in the performance of duty.
8. All employees have an affirmative duty to cooperate fully during the investigation of any allegation of employee misconduct whether conducted by this department or another authorized authority.

Required Action:

9. Employees must take a preventive approach, whenever possible, if observing behavior that suggests that another member is about to engage in unethical or inappropriate behavior:
 - a. Examine the circumstances surrounding the incident to determine the appropriate form of intervention; and
 - b. Intervene verbally or physically, depending on the circumstances.
10. Take an active approach to intervene to stop any unethical behavior or misconduct, when such conduct is being committed by another member.



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11. If verbal interventions are not sufficient to stop the act, come between the offending member and the other individual involved when safe and feasible while preserving officer safety (e.g., maintaining tactical advantage over a suspect).
12. If the other member is receptive to the intervention, and the unethical conduct is avoided, members may proceed with their duties. If no misconduct occurs, there is no reporting requirement.
13. If the other member is not receptive to the intervention and misconduct occurs, members shall immediately contact a supervisor to respond to the scene, and ensure their body-worn camera (BWC) is activated.

Retaliatory Conduct

14. Retaliatory actions against employees who make good faith complaints or reports of misconduct against another employee pursuant to this policy are forbidden. Such retaliatory acts will form the basis for charges of misconduct, resulting in potential disciplinary action. Any complaint of retaliatory conduct shall be submitted to the reporting employee's supervisor. If the supervisor is the subject of, or is involved in the complaint, an employee shall submit the complaint to the next employee in the chain of command.

Supervisor Responsibilities

15. Supervisors are mandated reporters. Any supervisor made aware of potential or actual acts of misconduct shall, depending on rank, notify the next level of supervisory authority. The information will be directed to the Chief of Police for review.
16. All supervisors are responsible for ensuring that all employees under their supervision fully understand the importance of adherence to departmental policies, procedures, rules and laws, and that they also understand the commitment to ensuring employee compliance.
17. Supervisors shall provide support to those who are directly affected by retaliatory conduct.

Prevention of Misconduct

18. Prevention of employee misconduct and promotion of a principled and effective work environment require that all employees abide by this policy.

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19. The Tarrytown Police Department administrative training lieutenant shall ensure that employees fully understand this policy.
20. This policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy

Authority *J. Barbelet*
John Barbelet
Chief of Police