

## Personnel Complaints

### 1010.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Plymouth Township Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

No person appointed to a position in this Police Department pursuant to Civil Service Rules shall be subject to disciplinary action, except for fitness for duty; neglect or violation of any official duty; violation of law constituting a misdemeanor or felony; inefficiency, neglect, intemperance, disobedience of orders or conduct unbecoming an officer; intoxication on duty; engaging or participating in the conducting of any political or election campaign otherwise than to exercise his own right of suffrage.

### 1010.2 POLICY

The Plymouth Township Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law and municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

### 1010.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

#### 1010.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

**Informal** - A matter in which the Patrol Lieutenant is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

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**Formal** - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Internal Affairs Authority, Chief of Police or designee, depending on the seriousness and complexity of the investigation.

**Incomplete** - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Internal Affairs Authority, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

#### 1010.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

#### 1010.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

##### 1010.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the department website. Forms may also be available at other Township facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

##### 1010.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to the employee's supervisor, if available. If the employee's supervisor is not immediately available to take a complaint, the on-duty supervisor shall take the complaint. The supervisor, upon contact with the complainant, will provide them with a complaint form and shall complete and submit the documented complaint, as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

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#### **1010.5 DOCUMENTATION**

Supervisors shall ensure that all formal and informal complaints are documented in writing. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

The Administration Lieutenant or investigating authority should ensure all complaints and inquiries be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the Department should audit the log and send an audit report to the Chief of Police or the authorized designee.

#### **1010.6.3 DISPOSITIONS**

Each personnel complaint shall be classified with one of the following dispositions:

**Unfounded** - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded.

**Exonerated** - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

**Not sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

**Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

#### **1010.6.4 COMPLETION OF INVESTIGATIONS**

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within thirty days from the date of receipt, unless the Chief grants an exception.

#### **1010.6.5 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS**

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

#### **1010.8 ADMINISTRATIVE LEAVE**

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave or a temporary modified duty assignment.

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#### **1010.9 CRIMINAL INVESTIGATION**

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

##### **1010.9.1 CONFIDENCE IN LAW ENFORCEMENT ACT**

Officers who are charged with a felony or a misdemeanor may immediately be suspended until the final disposition of the charge or upon acceptance into a program of Accelerated Rehabilitative Disposition (ARD), whichever occurs first. If a judge terminates the participation of the officer in ARD, the suspension previously imposed shall be reinstated until final disposition of the charge (53 P.S. § 752.3; 53 P.S. § 752.4).

#### **1010.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES**

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

##### **1010.10.3 WRITTEN DECISION**

The written decision regarding a regular full-time officer shall include a clear statement of the charges and be filed with the appointing authority. A copy shall be furnished to the member within five days after being filed (53 P.S. § 812).

##### **1010.10.4 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT**

The Chief of Police or the authorized designee should ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint

#### **1010.13 APPEAL RIGHTS**

Non-probationary employees have the right to appeal a suspension without pay, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement, personnel rules, or state law.

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#### **1010.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS**

At-will and probationary employees and members other than non-probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy and are referred to the Employee Handbook for additional information. However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their names through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

In cases where an individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate, the probationary period may be extended at the discretion of the Chief of Police.

#### **1010.16 TRAINING**

The Chief of Police or designee should ensure that members who are assigned to conduct internal affairs investigations receive initial and periodic training in the handling of such investigations.