


## Personnel Complaints

### 1010.1 POLICY HEADER

<b>Original Effective Date:</b>	<b>Revised Date:</b>
September 1, 2021	January 4, 2023
Authorization:  Jason Haberman Chief of Police	

### 1010.2 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Mt. Lebanon 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.

### 1010.3 POLICY

The Mt. Lebanon 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.

### 1010.4 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.

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#### 1010.4.1 COMPLAINT CLASSIFICATIONS

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

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

**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 Watch Commander, 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 Watch Commander, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

#### 1010.4.2 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.

### 1010.5 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

#### 1010.5.1 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 Municipality facilities.

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

#### 1010.5.2 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 a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall

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obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form 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.

### **1010.6 DOCUMENTATION**

Supervisors shall ensure that all formal and informal complaints are documented on a Supervisory Review form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in a file that records and tracks complaints. The file shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, Police Administration should audit the file.

### **1010.7 SUPERVISORY REVIEWS**

When an allegation involves misconduct less serious in nature the complaint will be administratively investigated by a Lieutenant as follows.

#### **1010.7.1 LIEUTENANT RESPONSIBILITIES**

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the Lieutenant receiving the complaint, unless the Lieutenant is the complainant, or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another Lieutenant investigate any complaint.

A Lieutenant who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of Lieutenant include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any complaint, a [Supervisory Review Form](#) is completed.
  1. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a Lieutenant shall orally report the matter to the member's Deputy Chief of Police, who will initiate appropriate action.
- (b) Responding to all complaints in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
  1. Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
  2. If the matter is resolved and no further action is required, the Lieutenant will note the resolution on the Supervisory Review form and forward the form to the appropriate Deputy Chief of Police.

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- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Duty Officer is notified as soon as practicable.
- (e) Investigating a complaint as follows:
  - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
  - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (f) Ensuring that the procedural rights of the accused member are followed.
- (g) Ensuring interviews of the complainant are generally conducted during reasonable hours.

#### 1010.7.2 SUPERVISORY REVIEW DISPOSITIONS

Each Supervisory Review 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.

#### 1010.8 PERSONNEL INVESTIGATIONS

When an allegation involves misconduct that is serious in nature, a Personnel Investigation shall be initiated by Police Administration, and the following applies to employees:

- (a) Interviews of an accused employee should be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, he/she shall be compensated.
- (b) Unless waived by the employee, interviews of an accused employee should be at the Mt. Lebanon Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused employee.
- (d) Prior to any interview, an employee should be informed of the nature of the investigation.

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- (e) All interviews should be for a reasonable period and the employee's personal needs should be accommodated.
- (f) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
  - 1. An employee should be given an order to answer questions in an administrative investigation that might incriminate the employee in a criminal matter only after the employee has been given a Garrity advisement. Administrative investigators should consider the impact that compelling a statement from the employee may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
  - 2. No information or evidence administratively coerced from an employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview should be provided to the employee prior to any subsequent interview.
- (i) All employees subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved employees should not meet prior to being interviewed.
- (j) All employees shall provide complete and truthful responses to questions posed during interviews.
- (k) No employee may be compelled to submit to a deception detection device examination, nor shall any refusal to submit to such examination be mentioned in any investigation.

#### 1010.8.1 PERSONNEL INVESTIGATIONS FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

**Introduction** - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

**Synopsis** - Provide a brief summary of the facts giving rise to the investigation.

**Summary** - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

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**Evidence** - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

**Conclusion** - A recommendation regarding further action or disposition should be provided.

**Exhibits** - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

#### 1010.8.2 PERSONNEL INVESTIGATION DISPOSITIONS

Each Personnel Investigation 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.

#### 1010.8.3 COMPLETION OF INVESTIGATIONS

Every member assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation.

#### 1010.8.4 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.

#### 1010.9 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

#### 1010.10 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,

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the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment. A suspended member is not permitted to wear any part of the official uniform, or act in the capacity of, or represent themselves as a Mt. Lebanon Police Officer in any manner
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

#### **1010.11 CRIMINAL INVESTIGATION**

Where a member is accused of potential criminal conduct, a separate 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.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

With the approval of the Chief of Police, the Mt. Lebanon Police Department may release limited employment information concerning the arrest or detention of any member (refer to the Media Relations Policy). No disciplinary action should be taken until an independent administrative investigation is conducted.

##### **1010.11.1 CONFIDENCE IN LAW ENFORCEMENT ACT**

Officers who are charged with a felony or a serious misdemeanor shall be immediately 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).

#### **1010.12 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES**

Upon completion of an investigation, a report should be forwarded to the Chief of Police through the chain of command. Each level of command should review the report and include their comments in writing before forwarding the report. Lieutenants shall not make recommendations of discipline. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

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#### 1010.12.1 DEPUTY CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any completed investigation, the Deputy Chief of Police of the involved member shall review the entire investigative file and any other relevant materials.

The Deputy Chief of Police may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief of Police, the Deputy Chief of Police may return the entire investigation to the assigned investigator for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Deputy Chief of Police shall include all relevant materials supporting the recommendation.

#### 1010.12.2 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Deputy Chief of Police for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, that should be imposed in consultation with the Municipal Manager. In the event disciplinary action is proposed, the Chief of Police shall provide the member with a written notice and the following:

- (a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.
  - 1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.
  - 2. If the member elects to respond orally, the presentation shall be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response, or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

#### 1010.12.3 WRITTEN DECISION

The written decision regarding an officer shall include a clear statement of the charges and be filed with the Civil Service Commission. A copy shall be furnished to the member within five days (53 P.S. § 55644).



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### 1010.12.4 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 PRE-DISCIPLINE EMPLOYEE RESPONSE**

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to conduct further investigation, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

### **1010.14 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE**

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

### **1010.15 APPEAL RIGHTS**

Non-probationary employees, not covered below, 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 and/or personnel rules.

#### 1010.15.1 HEARINGS AND APPEALS FOR CIVIL SERVICE EMPLOYEES

Non-probationary employees subject to civil service may request a hearing when the discipline imposed is a suspension without pay or discharge before the Civil Service Board if designated by ordinance. Alternatively, officers may proceed to a grievance arbitration as provided in the applicable collective bargaining agreement.

Upon completion of a hearing before the Civil Service Board, an employee has the right to appeal the decision in accordance with 2 Pa.C.S. § 751 et seq.

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#### **1010.16 PROBATIONARY EMPLOYEES AND OTHER MEMBERS**

Probationary employees, including Recruits, 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. However, any of these individuals released for misconduct maybe 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.

#### **1010.17 RETENTION OF PERSONNEL INVESTIGATION FILES**

All personnel complaints shall be securely stored and maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

#### **1010.18 TRAINING**

Police Administration shall ensure that members who are assigned to conduct personnel investigations receive initial and periodic training in the handling of such investigations.

## Attachments

## Form 425 - Supervisory Review.pdf



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## Supervisory Review – Commendation / Complaint



How Received	<input type="checkbox"/> Telephone <input type="checkbox"/> Voicemail <input type="checkbox"/> In-Person <input type="checkbox"/> Written <input type="checkbox"/> Online					
Received By			Date			
Nature	<input type="checkbox"/> Commendation <input type="checkbox"/> Complaint					
Reporting Person	<input type="checkbox"/> Citizen <input type="checkbox"/> Department Member <input type="checkbox"/> Municipal Official / Employee					
Name			DOB			
Home Address						
Work Address						
Home Phone			Work Phone			
Cell Phone						
Sex	<input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Other:			Race		
Subject Member				Employee #		
Date of Occurrence			Time of Occurrence			
Location						
Summary of Commendation / Complaint						
Supervisor Name				Employee #		
Supervisor Signature			Date			
Complaint Disposition	<input type="checkbox"/> Unfounded <input type="checkbox"/> Not Sustained <input type="checkbox"/> Exonerated <input type="checkbox"/> Sustained					
Recommended Action	<input type="checkbox"/> Resolved – No Further Action <input type="checkbox"/> Counseling Statement <input type="checkbox"/> Initiate Personnel Investigation <input type="checkbox"/> Other:					
Police Administration Endorsement						
Deputy Chief				Date		
Chief of Police				Date		