

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 Livonia 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.

1010.2 POLICY

The Livonia 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 Shift Supervisor 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 shall be referred to the Administration for assignment.

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

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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 accessible from the Patrol Desk. Any member may supply the form to any person requesting one.

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 a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall 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. Any complaint against a supervisor will always be taken by a superior officer.

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.

COMPLAINTS OF A NON-CRIMINAL NATURE AGAINST MEMBERS

1010.5 DOCUMENTATION

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

All complaints should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the disposition.

The Chief of Police or designee shall complete a written annual analysis of all employee misconduct complaints and dispositions.

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1010.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1010.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Shift Supervisor shall forward unresolved personnel complaints to the Administration. The Chief of Police or the authorized designee will assign the complaint for investigation. A supervisor assigned to investigate a personnel complaint, or an internal complaint, shall have direct access to the Chief of Police. However, investigators are encouraged to follow the chain of command when it would not unnecessarily delay or interfere with the investigation.

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

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

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint 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 supervisor shall orally report the matter to the member's Division Commander or the 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 (not including weekends and holidays).
 - 2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Shift Supervisor who will then forward the form to the Administration.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Shift Supervisor and Chief of Police are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Civil Service Department, as appropriate, and the Shift Supervisor for direction regarding the supervisor's role in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (g) Investigating a complaint as follows:

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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.
- (h) Ensuring that the procedural rights of the accused member are followed.
- (i) Ensuring interviews of the complainant are generally conducted during reasonable hours.

1010.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

When conducting an administrative investigation, the following applies to members:

- (a) Interviews of an accused member should be conducted during reasonable hours and preferably when the member is on-duty. If the member is off-duty, he/she shall be compensated in accordance with the current collective bargaining agreement.
- (b) Unless waived by the member, interviews of an accused member should be at the Livonia Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused member.
- (d) Prior to any interview, an member should be informed of the nature of the investigation.
- (e) All interviews should be for a reasonable period and the member's personal needs should be accommodated.
- (f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any member 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.
 - (a) A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Garrity* advisement. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and shall 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).
 - (b) No information or evidence administratively coerced from an member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor. An involuntary statement made by an officer as defined by MCL 15.391, may only be disclosed with the written consent of the officer, pursuant to a court order or when needed for an administrative, civil or criminal proceeding as provided in MCL 15.395.
- (h) All members 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 members shall not

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consult or meet with a representative or attorney collectively or in groups prior to being interviewed.

- (i) All members shall provide complete and truthful responses to questions posed during interviews.
- (j) No member may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation.

1010.6.3 ADMINISTRATIVE INVESTIGATION 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.

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.

1010.6.4 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.

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1010.6.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall complete the investigation within 60 days from the date of discovery of the violation by an individual authorized to initiate an investigation (MCL 38.514; MCL 51.362).

1010.6.6 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.

1010.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices, vehicles and any other department-issued equipment (e.g., computers, personal communication devices), may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

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 member to administrative leave. Any member placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (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 member may be required to remain available for contact at all times during such shift and will report as ordered.

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.

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

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The Livonia Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

COMPLAINTS OF A CRIMINAL NATURE AGAINST MEMBERS

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. Each level of command should review the report and may include their comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

1010.10.1 DEPARTMENTAL AUTHORITY TO DISCIPLINE

Final departmental disciplinary authority and responsibility rests with the Chief of Police.

The following penalties may be assessed against any employee of the Department as disciplinary action:

- Oral Reprimand (Oral Reprimands do not require approval by the Chief of Police)
- Written Reprimand
- Suspension from duty without pay or benefits
- Demotion
- Dismissal

Other command personnel may take the following corrective measures when the member's misconduct is not serious in nature and/or not recurring:

- Performance notation
- Emergency/temporary relief from duty subject to approval by the Division Commander
- Written recommendations for other penalties
- Training and/or counseling in lieu of punitive discipline subject to approval by the Chief of Police or designee

SUSPENSION, RELIEF FROM DUTY, DISMISSAL, CHARGES AGAINST EMPLOYEES

All training and counseling resulting from a performance issue must be documented and forwarded to the Chief of Police or designee. Training and/or counseling should be used when the misconduct of the member is deemed to be minor in nature. The direct supervisor will meet with the member to verbally inform him/her of the violation. The supervisor will also discuss corrective measures with the member to avoid future violations, which may include additional training.

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1010.10.2 DIVISION COMMANDER RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Division Commander of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Division Commander 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 Division Commander may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Division Commander shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

1010.10.3 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 Division Commander 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 the event disciplinary action is initiated, the process outlined in the current collective bargaining agreement shall be followed.

In cases of a suspension or demotion, a Special Order shall be issued (see the Administrative Communications Police for further information).

1010.10.4 NOTICE REQUIREMENTS

If no disciplinary action beyond an oral or written reprimand is taken, the member shall be notified that an investigation was conducted (MCL 423.509).

If disciplinary action is taken, a copy of the Chief of Police's written decision of disciplinary action shall be filed with the civil service commission no later than 90 days from the date of discovery of the violation (MCL 38.514; MCL 51.362).

1010.10.5 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.

Generally, the specifics of any disciplinary action should not be disclosed to the complainant.

1010.10.6 NOTICE REQUIREMENTS FOR DISCIPLINE DISCLOSURE

Disclosure of a disciplinary report, letter of reprimand or other disciplinary action to a complainant requires notice be mailed to the affected member as set forth in MCLA 423.506.

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1010.11 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

A member resigning/retiring under Department charges or during investigation of Department charges, provided the employee is aware of such investigation, is deemed by the Department, for internal purposes, to be guilty of the charges.

1010.12 HEARING BY CIVIL SERVICE COMMISSION

Refer to the current collective bargaining agreement for guidelines regarding a Civil Service Commission hearing. The hearing shall be convened and conducted as provided by applicable law. The disciplinary action shall not become effective until a decision is issued by the civil service commission (MCL 38.514; MCL 51.362).

1010.13 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary members have the right to appeal a suspension without pay, demotion, reduction in pay or step, or termination from employment. The member has the right to appeal using the procedures established by any applicable civil service procedures, collective bargaining agreement and/or personnel rules (MCL 38.513; MCL 51.362).

1010.14 PROBATIONARY MEMBERS AND OTHER MEMBERS

At-will members 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 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.

A probationary member may be discharged for cause pursuant to the procedures set forth in this policy and the current collective bargaining agreement.

1010.15 RETENTION OF PERSONNEL INVESTIGATION FILES

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