



Hilliard Division of Police Policy Manual		Policy 1010
Subject: Personnel Complaints		
Standard Reference: OCLEA 3.2018.7		
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Approved By: Chief Robert A. Fisher		<i>Robert A. Fisher</i>

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 Hilliard Division of Police. 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.

1010.1.1 CERTIFICATION STANDARDS

This policy contains content that pertains to the following Ohio Collaborative Law Enforcement Agency Certification (OCLEAC) Standard: 3.2018.7.

1010.2 POLICY

- A. The Hilliard Division of Police takes seriously all complaints regarding the service provided by the Division and the conduct of its members.
- B. The Division accepts and addresses all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.
- C. It is also the policy of the division to ensure that the community can report misconduct without concern for reprisal or retaliation.
- D. The Division investigates all complaints, including anonymous complaints, of alleged misconduct against the division or division employees.
- E. The Division's investigative process is conducted in accordance the collective bargaining agreements and/or city policy covering the involved personnel.

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1010.3 PERSONNEL COMPLAINTS

- A. Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of division or city policy, or of federal, state or local law.
- B. Personnel complaints may be generated internally or by the public.
- C. Inquiries about conduct or performance that, if true, would not violate division or city policy, or of federal, state or local law, 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 Division.

1010.3.1 COMPLAINT CLASSIFICATIONS

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

Informal – is an investigation, generally conducted by an employee’s first line supervisor, for minor allegations of misconduct and only involve potential of minor levels of discipline.

Formal – is an investigation for serious allegations of misconduct. Formal investigations involve a formal investigative process to include but not limited to:

1. Notifying the employee of the nature of the investigation
2. Providing the employee with a copy of the written complaint
3. Scheduling interviews and providing employees an opportunity to obtain representation
4. Formal questioning, including Garrity Warnings when applicable.

1010.3.2 SOURCES OF COMPLAINTS

A. The following applies to the source of complaints:

1. Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
2. Any division member becoming aware of alleged misconduct shall immediately notify a supervisor.
3. Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
4. Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
5. Tort claims and lawsuits may generate a personnel complaint.
6. Violations identified during other formal investigative processes.

1010.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1010.4.1 COMPLAINT FORMS

- A. The procedures for registering a complaint against the division or its employees are made available to the public.
- B. The complaint process is outlined on the Division’s webpage and available at the police facility.

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1. Complaints may be registered electronically on the kiosk in the lobby of the police facility, via the division's website or from obtaining a form from the division.

1010.4.2 ACCEPTANCE

- A. All complaints will be courteously accepted by any division 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.
- B. Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs, information or physical evidence may be obtained as necessary.
- C. Complaints shall be accepted in person, by telephone, mail, email or division complaint form. The division will accept complaints regardless if the complainant signs the complaint form.

1010.4.3 INFORMATION PROVIDED TO COMPLAINANT

- A. At the time a formal complaint is filed, the complainant is provided:
 1. A copy of the division's Inquiry into Employee or Policy form, HPD-187.
 2. A copy of their written statement as a receipt that the complaint has been received.
- B. If the complaint is not filed in person, the Chief of Police will ensure the documents are provided via mail or email, if the forwarding information is available.

1010.5 DOCUMENTATION

- A. Supervisors shall ensure that all formal complaints are documented on a complaint form, HPD-032. Supervisors also ensure that the nature of the complaint is clearly defined.
- B. All personnel complaints are forwarded to the office of the Chief of Police for accounting and assignment purposes. Personnel complaints are assigned an investigation number and logged on a worksheet for tracking.
- C. The Chief of Police or designee compiles an annual statistical summary of all complaints and internal investigations which is made available to the public.

1010.6 ADMINISTRATIVE INVESTIGATIONS

The administrative investigation process is conducted in accordance with the collective bargaining agreements and/or city policy covering the affected employee.

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1010.6.1 SUPERVISOR RESPONSIBILITIES

- A. In general, the primary responsibility for the investigation of a personnel complaint shall rest with the Chief of Police. The Chief of Police or the authorized designee may direct that another supervisor investigates any complaint.
- B. A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.
- C. Supervisor responsibilities include, but are not limited to:
 - 1. Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed, and if applicable, the complainant is given a copy of their statement and a copy of the Inquiry into Employee or Policy form, HPD-187.
 - 2. The original complaint form and any supporting documents are directed to the office of the Chief of Police, via the chain of command, to be assigned for further investigation.
 - a. 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 Deputy Chief or the Chief of Police, who will initiate appropriate action.
 - 3. Responding to all complainants in a courteous and professional manner.
 - 4. Resolving those personnel complaints that can be appropriately resolved immediately.
 - 5. Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Chief of Police is notified via the chain of command as soon as practicable.
 - 6. Promptly contacting the Bureau Commander for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
 - 7. Conducting initial investigatory steps to include:
 - a. Obtaining names, addresses and telephone numbers of witnesses.
 - b. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
 - c. Preservation of evidence, if any.

1010.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

- A. Administrative investigations will be conducted under the terms of the personnel's collective bargaining agreement. For employees who are not covered under a collective bargaining agreement, the following process will be followed.
 - 1. Personnel should be given a copy of the Administrative Proceeding Notification, HPD-129 prior to being questioned in a formal interview.
 - 2. Personnel who are the subject of an investigation also receive a copy of the Request for Investigation HPD-032, and/or the allegations under investigation as reduced to writing.

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- B. Personnel are afforded all applicable rights, warnings and notification specified in current collective bargaining agreements and/or policies of the City of Hilliard.

1010.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

- A. Investigations of personnel complaints shall be thorough and complete. The documentation should follow this format:
 1. **Synopsis** - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.
 2. **Complaint** - Provide a brief summary of the facts giving rise to the investigation. List the allegations separately, including applicable policy sections.
 3. **Investigation** - A chronological narrative of the investigation.
 4. **Findings** - Listing allegations individually, a summary of evidence applicable to each allegation provided to establish the classification of disposition.
 5. **Recommendations** - A recommendation regarding further action or disposition will be provided separately for each allegation.
 6. **Exhibits** - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

1010.6.4 DISPOSITIONS

- A. Each personnel complaint shall be classified with one of the following dispositions:
 1. **Unfounded** - When the investigation discloses that the alleged acts did not occur or did not involve division members. Complaints that are determined to be frivolous will fall within the classification of unfounded.
 2. **Exonerated** - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.
 3. **Not sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.
 4. **Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.
 5. **Policy Failure** - Division policy did not address the circumstances, or the actions of the division member was within policy and resulted in the conduct leading to the incident.
- B. 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.

1010.6.5 COMPLETION OF INVESTIGATIONS

- A. Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct should proceed with due diligence in an effort to complete the investigation within sixty (60) days from the date of assignment.

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- B. The Chief of Police may grant an extension where extenuating circumstances require additional time.

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

- A. Any administrative searches will be conducted in accordance with all laws, applicable collective bargaining agreements, and/or city policy covering the affected employee.
 - 1. Following requirements in applicable collective bargaining agreements, assigned lockers, storage spaces and other areas, including desks, offices and City owned vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.
 - 2. Following requirements established in applicable collective bargaining agreements, 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

- A. Certain infractions may require that a supervisor relieve division personnel from duty. Supervisors have the authority to relieve from duty an officer or employee for the balance of the workday when division personnel:
 - 1. Are under the influence of alcohol or drugs, or have an odor of an alcoholic beverage about their person (the supervisor should obtain a breath test prior to relieving division personnel from duty) or otherwise unfit for duty;
 - 2. Commits any violation of criminal law;
 - 3. Commits acts of gross insubordination or misconduct; or
 - 4. When the supervisor, because of a particular incident or circumstance, believes it to be in the best interest of the division, requires that division personnel be relieved from duty.
- B. When an employee is relieved of duty, they are instructed to report to the office of the Chief of Police at a specified date and time.
- C. 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 Division, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:
 - 1. May be required to relinquish any division badge, identification, keys, assigned weapons and any other division equipment.
 - 2. May have limited access only to public areas of the police facility, unless escorted by a supervisor

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3. Shall be required to continue to comply with all policies and lawful orders of a supervisor.
4. 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.
5. The employee is required to remain available for contact during their assigned shift hours and will report as ordered.

1010.9 CRIMINAL INVESTIGATION

- A. 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.
- B. Any separate administrative investigation may parallel a criminal investigation. Due diligence is required to not share information between the criminal and administrative investigations, unless directed by the Chief of Police.
- C. The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police, at his or her discretion, may request a criminal investigation by an outside law enforcement agency.
- D. 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.
- E. The Hilliard Division of Police 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.

1010.10 PRE-DISCIPLINE CONFERENCE

- A. The pre-discipline conference 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:
 1. The response is not intended to be an adversarial or formal hearing.
 2. 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.
 3. 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.
 4. In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.

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5. 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.

1010.11 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of an investigation, the investigation report is forwarded to the Chief of Police through the chain of command.

1010.11.1 DEPUTY CHIEF RESPONSIBILITIES

- A. Upon receipt of any completed personnel investigation, the Deputy Chief shall review the entire investigative file, the member's personnel file and any other relevant materials.
- B. The Deputy Chief may make recommendations regarding the disposition of any allegation.
- C. Prior to forwarding recommendations to the Chief of Police, the Deputy Chief may return the entire investigation to the assigned investigator or supervisor for further investigation or action.
- D. When forwarding any written recommendation to the Chief of Police, the Deputy Chief 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.

1010.11.2 CHIEF OF POLICE RESPONSIBILITIES

- A. Upon receipt of any written recommendation, 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 for further investigation or action.
- B. 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 proposed, the Chief of Police shall provide the member with a written notice of and the following:
 1. Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
 2. An opportunity for Chief's hearing conducted under the terms of the applicable collective bargaining agreement.
 3. For personnel not covered by a collective bargaining agreement, the member will be provided the opportunity to respond orally or in writing to the Chief of Police within seven days of receiving the notice.
 - a. 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.
 - b. If the member elects to respond orally, the presentation shall be recorded by the Division. Upon request, the member shall be provided with a copy of the recording.

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- C. 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.

1010.11.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

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

1010.12 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 investigative file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

1010.13 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, 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.

1010.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

- A. 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. However, any of these individuals released for misconduct should be afforded an opportunity for a single appearance before the Chief of Police or the authorized designee, to discuss the punitive action.
- B. Any probationary period may be extended at the recommendation of the Chief of Police in cases where the individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate.

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 and applicable collective bargaining agreements.

1010.16 STATE REPORTING REQUIREMENT FOR SUSPENSIONS

The Chief of Police or the authorized designee shall notify the Director of Public Safety in writing of an officer's suspension and the cause of the suspension ([ORC § 737.12](#)).