


HAVERFORD TOWNSHIP POLICE DEPARTMENT OPERATIONS MANUAL		
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Chapter: Two – Law Enforcement Functions		Section: Three – Internal Affairs
Chief of Police: <i>John F. Viola</i>		

SUBJECT: INVESTIGATION OF EMPLOYEE MISCONDUCT

I. PURPOSE

The purpose of this directive is to establish a policy for the reporting and investigation of police department employee misconduct. This directive shall provide employees and the public with the procedures for filing, accepting, processing and investigating complaints concerning allegations of employee misconduct.

II. POLICY

The establishment of procedures for investigating complaints and allegations of employee misconduct is crucial to demonstrate and protect the Department’s integrity. The Department shall accept and investigate fairly and impartially all complaints of employee misconduct in order to determine the validity of those allegations and if founded to impose any disciplinary actions that may be justified in a timely and consistent manner.
(PLEAC 2.3.1)

III. DEFINITIONS

Internal Affairs Investigator: Officer(s) assigned by the Chief of Police to conduct internal affairs investigations and has received training in internal affairs investigations.

IV. PROCEDURES

A. Training

1. Internal Affairs Investigator

- a) All officers who are assigned Internal Affairs Investigator duties shall have received training in internal affairs investigations.
- b) Training shall be in a manner prescribed by the department.
(PLEAC 2.3.2)

B. Complaint Procedures:

1. Complaints from employees

- a) All employees of the Department have the right, responsibility, and afforded the opportunity to promptly inform the Chief of Police of any instances of corruption, dishonesty, fraud, misconduct or other similar conditions existing within the Department or engaged in by any member of this department.
 - (1) Employees shall submit their complaint in writing to the Chief of Police in a sealed envelope and marked "Confidential".
 - (2) All employee complaints must be signed. The Chief of Police will hold all complaints in the strictness of confidence.
 - (3) The Chief of Police shall review these employee complaints and shall have all potentially founded allegations; as determined by the Chief of Police; investigated as outlined in this directive.
(PLEAC 2.3.1 c)
 - (4) The Chief of Police or his/her designee shall inform the reporting employee of the outcome of the investigation.
 - (5) All disciplinary actions on sustained findings of employee complaints of misconduct by another employee shall be initiated by the Chief of Police.

2. Complaints from citizens

- a) Personnel of this Department shall not interfere with, discourage, or delay a complainant in filing a complaint.
- b) Every effort shall be made to facilitate the convenient, courteous, and prompt receipt and processing of

complaints.

- c) Any member of the department will accept a complaint from any source, including anonymous sources.
- d) When an employee receives a complaint, they should notify an on-duty supervisor to respond and obtain detailed information from the complainant.
- e) When a complaint is received by telephone, the receiving officer shall obtain as much information about the complaint as they are willing to provide (i.e., name, address, phone number, email). The officer shall then provide a detailed written summary of the allegation received from the complainant on a department statement form. This information will be forwarded to the on-duty supervisor. If necessary, the on-duty supervisor may contact the complainant to obtain additional information.

3. Patrol Supervisor Responsibilities:

- a) Interview the complainant to determine the events in question and the alleged actions of the employee(s) involved in this event.
- b) Determine if the complainant has information about possible witnesses to the events in question.
- c) Evaluate the information to determine the degree of urgency and classification of the complaint. Complaints shall be classified as:
 - (1) A crime or criminal activity; or
 - (2) Non-criminal but of severe nature; or
 - (3) All others or non-urgent.
- d) In the event that the evaluation of the information alleges a crime or criminal activity notify the Duty Commander and the Detective Division Commander immediately.
- e) Complete an incident report titled "Complaint against Employee". Note in the summary narrative section of the report "Confidential Investigation continuing".
- f) Complete a supplemental report detailing all the facts of the complaint. Forward this report to the Division Commander having supervisory responsibility over the employee(s) named in the complaint.
 - (1) Note in this supplemental report the severity of the alleged complaint.

Example: Criminal in nature, severe but non-criminal in nature, or non-urgent in nature.

- g) Advise the complainant that a full investigation will be conducted and forwarded to the Chief of Police. Advise the complainant that they will be made aware of the results of the investigation. Also advise the complainant that a false complaint may result in possible criminal charges and/or civil liabilities
- h) Once a complaint is received, the on-duty supervisor shall forward the complaint (via inter-office mail or email) to the Chief of Police or their designee. The Chief of Police or designee will evaluate the nature of the complaint and assign the investigation to a command staff member or front-line supervisor as necessary.

4. Supervisors with supervisory control responsibilities:

- a) Shall conduct an investigation into complaints against employees under their supervision that are of a non-urgent nature.
(PLEAC 2.3.1 a)
- b) Shall provide the employee who is the subject of the investigation a copy of the supervisors supplemental detailing the allegation(s) of misconduct.
- c) Shall ensure that a complete and thorough investigation is conducted.
- d) Shall complete and forward an investigative report to their Division Commander detailing the investigation and the findings of the investigation.

5. Chief of Police Responsibilities:

- a) Shall review and approve all investigations that are assigned by the Chief of Police to another member of the Department.
- b) Shall review and evaluate all written reports submitted by the Division Commander or the Detective Division Commander.
- c) Shall determine the appropriate action necessary to resolve the complaint.
- d) Shall notify the complainant of the final results of the investigation.

(PLEAC 2.3.1 b ,c)

C. Investigation Procedures

1. Investigative Interviews and Procedures:

- a) All investigations of employee misconduct shall be confidential in nature and conducted in a manner that best reveals the facts while preserving the dignity of all persons.
- b) Prior to being interviewed, the subject employee shall be provided a copy of the supervisor's supplemental detailing the allegation(s) of misconduct and be advised that an investigation will be conducted into the complaint allegations.
- c) All interviews shall be conducted while the employee is on duty unless the seriousness of the investigation is such that an immediate interview is required.
- d) The complete interview may be recorded. The recording shall note the time and date of the interview, persons present at the interview, the time at which breaks are taken, who requested the break, the time at which the interview resumed and the time the interview was concluded.
- e) The employee shall be provided with the name and rank of all persons present during the questioning. The employee shall also be given the following admonitions:
 - (1) *You are advised that this is an internal administrative investigation only; however you may be subject to future disciplinary action.*
 - (2) *You will be asked and are required to answer truthfully all questions specifically related to the performance of your duties and your fitness for office.*
 - (3) *If you refuse to answer these questions, you can be subject to discipline that can be as much as discharge or removal from office.*
 - (4) *Advise the employee any answers given are to be used solely for internal administrative purposes and may not be used in any subsequent criminal prosecution should such occur.*
- f) Counsel at Interview:
 - (1) Employees may have an attorney, union representative, superior, or personal representative with them during any internal investigative interview so long as the individual is not involved in any manner with the incident under investigation.
 - (2) The employee's representative's role is primarily that of observer. He/she should be advised not to

intervene in the interview unless requested to do so by the subject employee or unless the interview leads to issues of potential criminal activity. However, the employee shall be required to answer all questions truthfully and completely during the administrative interview. An employee may not invoke their “Fifth Amendment” right against self incrimination during this administrative interview.

g) Examinations and Searches:

- (1) A Division Commander or the Chief of Police may direct that the employee undergo a blood alcohol breath test, blood, urine, psychological, medical examination or any other exam not prohibited by law if it is believed that such an examination is necessary for a fair and impartial investigation and just cause exists to have the officer submit to this testing.
 - (a) This paragraph does not relieve the officer from submitting to random drug testing as required in the Township drug testing policy.
- (2) An on-duty supervisor may direct an employee to submit to a breath, blood or urine test when there is just cause that alcohol and/or drug usage is suspected as the factor directly related to allegations of misconduct.
- (3) An employee’s photograph may be used in a photo array if it is used solely for administrative purposes.
- (4) Property belonging to the Department is subject to inspection for investigative purposes unless the employee has been granted a reasonable expectation of privacy in vehicles, desks, files, storage lockers, computers or similar items or places.

2. All employee misconduct investigations shall be completed 60 days from the date the complaint is received unless an extension is granted by the Chief of Police. The complainant and the employee(s) who is the focus of the investigation shall be notified of any delay.

D. Disposition of Complaints

1. The supervisor or internal affairs investigator assigned to conduct the investigation shall review all investigative findings and complete a report to include one of the following classifications:

- a) **Sustained** – Investigation indicates that some or all of the acts of misconduct were committed by the employee.
 - b) **Misconduct Not Based On Original Complaint** – Investigation indicates misconduct not alleged in the original complaint.
 - c) **Not Sustained** - Investigation discloses insufficient evidence to clearly prove or disprove the allegations made by the complainant.
 - d) **Exonerated** – Investigation discloses that an incident occurred but the actions of the employee were lawful and proper.
 - e) **Unfounded** – Investigation indicates the acts alleged did not occur or were not committed by an employee of this Department.
2. The supervisor or internal affairs investigator assigned to conduct the investigation shall forward this report to the appropriate Division Commander that assigned the investigation.
 3. The Division Commander shall review the investigative report to ensure that a complete and impartial investigation has been conducted and that the findings of the investigator are supported by the facts of the investigation. Upon approval of the Division Commander the report shall be forwarded to the Chief of Police for review and a disciplinary decision.
 4. All employee misconduct complaints shall be confidential, and all reports shall be retained in a locked file cabinet located in the Administrative Suite.
 - a) These files shall be kept secured at all times, and access limited to personnel authorized by the Chief of Police to access these files.
(PLEAC 2.3.3)
 5. The Chief of Police shall make the determination of the appropriate disciplinary action necessary to preserve the integrity of the Department in accordance with the Code of Conduct and Code of Discipline.
(PLEAC 2.3.1 d)

E. Adjudication of Complaints

1. In determining the appropriate adjudication of an investigation, the following standards of equity shall be applied to the specific event investigated:

- a) The seriousness of the offense as it relates to the nature and extent of damage, or potential damage, or future liability to the Department and Township.
 - b) The deterrent effect (i.e. message) that needs to be conveyed to other members of the Department to prevent similar infractions or to ensure those similar infractions will not occur or be tolerated.
 - c) The degree of employee culpability (i.e. fault), if any, and the employee's attitude about acknowledging wrongdoing and making a commitment to improving. This includes the employee's cooperation in the investigation and resolution process.
 - d) The employee's previous disciplinary and performance records including, but not limited to time between offenses, the nature of other offenses, work productivity, attendance, cost of supervision, types of performance errors, and the like.
 - e) The employee's experience and training level.
2. Progressive discipline theory holds that the level of disciplinary action taken against an employee should be commensurate with the standards of equity as expressed above. Discipline can progress incrementally from the lowest to the highest level; be reversed if infractions show improvement over previous infractions; and, depending on the circumstances, steps can be skipped, particularly if the offense creates a serious result or liability for the Department. Each case will be reviewed on a case-by-case basis. The steps comprising the progressive discipline process consist of:
- a) Counseling/Corrective Training - This is the least intrusive step in the progressive discipline system; however, it may be skipped if warranted by the standards of equity. Counseling or assigned corrective training may occur verbally and be reduced to writing later for documentation purposes. Documenting a counseling session does not make it a reprimand
 - b) Reprimand - A reprimand is typically the second step in the progressive discipline system; however, it may be skipped if warranted by the standards of equity. Reprimands are serious events and are used to impress on the employee the need for change, before affecting an employee's pay.
 - c) Suspension - A suspension is very serious in nature and occurs when an employee fails to respond positively to lesser forms of corrective action, or the nature of the

offense is serious enough to warrant skipping lower levels of discipline. This means that the offense is serious enough that corrective counseling or a written reprimand would send the wrong message to others or is likely to have little or no effect on the employee's conduct or behavior

(1) An employee may be suspended without pay for any single offense or for multiple offenses arising out of the same incident. The length of the suspension shall take into consideration the standards of equity.

d) Termination - Implicit in a termination decision is a reasonable assumption that the employee's job cannot or should not be saved. Termination may be appropriate in circumstances such as:

(1) For violations of policy such as fighting, theft, falsifying reports, harassment, and the like;

(2) When it is determined that an unreasonable risk of negligent retention is at issue or when the employee continually fails to accept the responsibility to bring about an effective and lasting change in an area of deficient conduct, behavior, or performance.

F. Prevention of Employee Misconduct

1. Every employee of the Department has a personal responsibility for, and will be held strictly accountable for, adherence to the Department's code of conduct, directives, rules, regulations, policies and procedures.
2. The Department has the responsibility for, and will provide to each employee, sufficient and proper training, supervision and policy guidance to ensure that all employees are apprised of the demands and requirements of the Department with regard to employee conduct, duties and responsibilities.
3. The Department shall take all reasonable measures to ensure that employees are assigned only duties and responsibilities in which they have the requisite knowledge, skills, abilities and training.
4. The primary responsibility for maintaining and reinforcing employee conformance with the standards of conduct of the Department shall be with employees and first-line supervisors.
5. Supervisors shall familiarize themselves with the employees in their unit and closely observe their general conduct and appearance on a daily basis.

6. Superiors should remain alert to indications of behavioral problems or changes that may affect an employee's normal job performance and document such information where deemed relevant.
7. Where a supervisor perceives that an employee may be having or causing problems, the supervisor should assess the situation and determine the most appropriate action.
8. A supervisor may recommend additional training to refresh and reinforce an employee's skills, abilities or understanding of Department policy, rules and regulations.
9. Counseling may be used by the employee's direct supervisor, Division Commander or the Chief of Police to determine the extent of any personal or job problems that may be affecting performance, and to offer assistance and guidance.
10. The supervisor shall document all instances of counseling or additional training used to modify an employee's behavior.

BY ORDER OF THE CHIEF OF POLICE