
Personnel Investigations and 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 Shelter Island Town 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 Shelter Island Town Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members. The rights of the employee, as well as those of the public, must be preserved, and any investigation or hearing arising from a complaint must be conducted in an open and fair manner with the truth as its primary objective.

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.

No complaint shall be ignored or referred to another agency or authority as a substitute for this department's involvement. This procedure is to be used when a complaint is made against a member of the Department, not the Department or "system" in general.

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 Chief of Police 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 Internal Affairs, depending on the seriousness and complexity of the investigation.

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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, 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.

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

1010.4.2 ACCEPTANCE

Any person wishing to make a personnel complaint shall be promptly referred to a supervisor. However, all complaints will be courteously accepted by any department member and promptly given to the Chief of Police. 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.

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.

[Shelter Island Town Police Department Procedures Manual: RECEIPT OF COMPLAINTS](#)

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1010.5 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented on a [Civilian Complaint 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 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 Chief of Police or the authorized designee should audit the log.

Civilian Complaint records shall be maintained in a secure and confidential manner by the Chief of Police.

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 Chief of Police or the authorized designee may direct that another supervisor investigate any complaint. Civilian complaints investigations will be conducted by an officer of superior rank to the subject officer. A complaint made against a sergeant will be directed to the Chief of Police, a complaint made against the Chief of Police will be directed to the Police Commission.

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. The original complaint form will be directed to the Sergeant of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
 2. 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 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.

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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 Chief of Police.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Chief of Police is notified as soon as practicable.
- (e) Promptly contacting the Chief of Police 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) Forwarding unresolved personnel complaints to the Sergeant, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (h) 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.
- (i) Ensuring that the procedural rights of the accused member are followed.
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

[Shelter Island Town Police Department Procedures Manual: SERGEANT RESPONSIBILITIES](#)

1010.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES UNDER CIVIL SERVICE LAW
Whether conducted by a supervisor or a member of the SCPD Internal Affairs Unit, the following applies to employees covered by Civil Service Law (Civil Service Law § 75):

- (a) Interviews of an accused employee shall 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 shall be at the Shelter Island Town 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.
- (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.

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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 a certified or recognized union representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
1. The employee shall be informed in advance and in writing of the right to representation.
 2. If the employee is unable to find representation within a reasonable time, the interview will proceed.
- (j) All employees shall provide complete and truthful responses to questions posed during interviews.
- (k) No employee may be compelled to submit to a psychological stress evaluator examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Labor Law § 735).

1010.6.3 ADMINISTRATIVE INVESTIGATION PROCEDURES OTHER EMPLOYEES

- (a) Whether conducted by a supervisor or a member of the SCPD Internal Affairs Unit, the following applies to employees:
- (b) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty unless the exigencies of the investigation dictate otherwise. If the employee is off-duty, he/she shall be compensated.
- (c) Unless waived by the employee, interviews of an accused employee shall be at the Shelter Island Town Police Department or other reasonable and appropriate place.
- (d) No more than two interviewers should ask questions of an accused employee.
- (e) Prior to any interview, an employee should be informed of the nature of the investigation.

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- (f) All interviews should be for a reasonable period and the employee's personal needs should be accommodated.
- (g) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (h) 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.
- (i) 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.
- (j) 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 shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (k) All employees shall provide complete and truthful responses to questions posed during interviews.
- (l) No employee may be compelled to submit to a psychological stress evaluator examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Labor Law § 735).

1010.6.4 NOTICE OF CHARGES

Any charges brought against an employee shall be in writing and within the time frame prescribed by law (Civil Service Law § 75; Second Class Cities Law § 137; Town Law § 155; Village Law § 8-804).

1010.6.5 ADMINISTRATIVE INVESTIGATION FORMAT

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

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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.

1010.6.6 DISPOSITIONS

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

Substantiated - The facts clearly support the allegations.

Unsubstantiated - Allegation cannot be resolved by investigation because sufficient evidence is not available to conclusively prove or disprove the alleged conduct.

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.

- (a) Allegation of false arrest wherein no arrest occurred.
- (b) Allegation of excessive force wherein no force was used.
- (c) Allegation of an improper verbal exchange (e.g., rudeness, cursing) and there was no contact between the complainant and the alleged officer(s) involved.

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

- (a) Allegations of false arrest wherein a legal, proper, and necessary arrest did occur.
- (b) Allegations of excessive force wherein legal, proper, and necessary force was used.
- (c) Allegations of an improper verbal exchange (e.g., rudeness, cursing) wherein a proper verbal exchange did occur, consistent with department guidelines, but the alleged misconduct did not.

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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1010.6.7 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 60 days from the date of discovery by an individual authorized to initiate an investigation.

1010.6.8 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 and vehicles, 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 FINANCIAL DISCLOSURE

Upon order from the Chief of Police, members shall submit a full written financial disclosure statement in connection with a complaint in which this information is material to an investigation. Such disclosure shall be used only for an internal investigation and shall not be released to the public by the Department.

1010.9 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. Any employee 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 employee may be required to remain available for contact at all times during such shift, and will report as ordered.
- (d) May be on leave without pay for no more than 30 days (Civil Service Law § 75; Law § 8-804).
- (e) During the period of leave an officer shall not wear any part of a department uniform or carry any police equipment.

Emergency Administrative Leave

A supervisor in charge of a shift may impose an emergency administrative from duty against a subordinate when it appears that such action is in the best interest of the Department. A

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subordinate receiving an emergency administrative leave and the supervisor imposing the leave shall report to the Chief of Police on the next day unless otherwise directed.

1010.10 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, notification to the Suffolk County District Attorney's Office (SCDA) will be made. Investigators from the SCDA's Office 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.

The Shelter Island Town 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.

1010.11 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

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

1010.11.1 SERGEANT RESPONSIBILITIES

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

The Sergeant 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 Sergeant 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 Sergeant 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

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 Sergeant for further investigation or action.

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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 appropriate cases the Chief of Police may dispose of violations of department policy, procedure, orders or instructions by Command Discipline Process. Others cases where Command Discipline cannot be applied or the accused declines the Command Discipline process or recommendations, the Chief of Police shall be forward the findings and recommendations for discipline to the Police Commission.

[Shelter Island Town Police Department Procedures Manual: CHIEF OF POLICE RESPONSIBILITIES](#)

[Shelter Island Town Police Department Procedures Manual: COMMAND DISCIPLINE](#)

[Shelter Island Town Police Department Procedures Manual: DISCIPLINARY PROCEDURES](#)

[Shelter Island Town Police Department Procedures Manual: CIVILIAN DISCIPLINE](#)

1010.11.3 POLICE COMMISSION RESPONSIBILITIES

The Police Commission has the power pursuant to the Civil Service Law §75, section 155 of the Town Law, the respective collective bargaining agreement, or other applicable, to discipline an officer by one of the following penalties, or agreed to by the Police Commission and the officer, a combination of these penalties:

- (a) Reprimand.
- (b) Fine.
- (c) Suspension, with or without pay.
- (d) Dismissal.
- (e) Reduction in grade and title.

The employee shall be given an opportunity to respond in writing to the Police Commission within 10 days of receiving the notice. Upon a showing of good cause by the employee, the Police Commission may grant a reasonable extension of time for the employee to respond.

Once the employee has completed his/her response, or if the employee has elected to waive any such response, the Police Commission shall consider all information received in regard to the recommended discipline. The Police Commission shall designate a hearing officer, in writing, when there is a recommendation for disciplinary action or termination of an employee. Upon completion of the hearing, the Police Commission shall review the record of the hearing and recommendations of the hearing officer and shall render a timely written decision to the employee and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Police Commission has issued a written decision, the discipline shall become effective.

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1010.11.4 POLICE COMMISSION DISCIPLINE OF CIVILIAN MEMBERS OF THE DEPARTMENT

The Police Commission has the power to discipline a civilian member of the Department by one of the following penalties, or if agreed to by the Police Commission and the civilian member, a combination of these penalties:

- (a) Reprimand
- (b) Fine
- (c) Suspension, with or without pay
- (d) Dismissal
- (e) Reduction in grade and title

Civilian members of the Department are disciplined in accordance with the Civil Service Law § 75, and section 155 of the Town Law.

1010.11.5 HEARING BY HEARING OFFICER

The hearing shall be conducted by the designated hearing officer as provided in Civil Service Law § 75 or as otherwise provided in the applicable collective bargaining agreement or personnel rules. The hearing officer shall make a record of the proceedings.

The employee, upon request, may be represented by counsel, or by a representative of a recognized or certified employee organization. The employee shall be allowed to summon witnesses on his/her behalf. Judicial rules of evidence do not apply.

The hearing officer shall consider all information received in regard to the recommended discipline and shall forward his/her recommendations to the Chief of Police.

If the employee is found guilty, a copy of the charges, the employee's written response to the charges, a transcript of the hearing and the determination shall be retained by the Department. A copy shall be filed with the civil service commission having jurisdiction over the employee. A copy shall also be provided to the employee upon request without charge.

1010.11.6 HEARING BY TOWN BOARD

A hearing shall be conducted by the Town Board or as prescribed by the rules and regulations of the Town Board as provided in Town Law § 155.

The employee shall be entitled to five days' notice of the hearing and have an opportunity to be heard in his/her defense. The employee has the right to a public hearing and to be represented by counsel (Town Law § 155).

1010.11.7 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.

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1010.12 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.

1010.13 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.

1010.14 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 Civil Service Law § 76, any collective bargaining agreement and/or personnel rules.

1010.15 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a reprimand, withholding of salary, extra hours, suspension without pay or termination of employment. The employee has the right to appeal using the procedures established by Town Law § 155.

1010.16 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. However, any of these individuals released for misconduct should be

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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 maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.