

MEDINA POLICE DEPARTMENT GENERAL ORDER

ORDER NO: 2020-050

SUBJECT: Civilian Personnel Complaints

EFFECTIVE DATE: September 9, 2020

RESCINDS ORDER NO:

DISTRIBUTION: Sworn Police Personnel

PURPOSE: A police officer must be able to act independently and make decisions within the bounds of the authority granted to him. He must be free to exercise his or her best judgment to initiate action in a reasonable, lawful and impartial manner without fear of reprisal, yet meticulously observe the rights of all people. It is therefore, the purpose of this order to:

- A. Create a climate of proper relationship between the public and its police, fostered by confidence and trust.
 - B. To establish procedures for handling complaints and disciplinary actions against members and employees of the Medina Police Department.
- I. **POLICY:**
- A. Discipline is a function of command; therefore; prompt and thorough investigations will be made of all allegations of misconduct so that facts can be established and appropriate action taken either to clear the innocent or discipline the guilty. Corrective action must be timely to be effective.
 - B. All violations of statutes, ordinances, rules, regulations or orders require progressive disciplinary action. The motive of the offender will be taken into consideration in fixing appropriate punishment, i.e., whether there was a dishonest, immoral or selfish motive or whether the violation resulted inadvertently from a human frailty such as ignorance, forgetfulness, oversight, or the pressures of domestic life complicated by misfortune.
 - C. Department personnel will be protected against false allegations through complete and impartial investigations.
 - D. Department personnel who have committed serious acts of misconduct or who have demonstrated that they are unfit to serve as law enforcement officers, will be removed to protect the department, the public and their fellow employees.

E. Internal investigations can be conducted by a Sergeant, Lieutenant, and/or Chief of Police. If a civilian complaint is filed with a Sergeant and/or Lieutenant the Chief of Police will have oversight regarding the investigation.

F. Investigations of all allegations of:

- a. The use of excessive force.
- b. Violations of civil rights.
- c. Complaints of misconduct.

Will be conducted by a Sergeant, Lieutenant, and/or the Chief of Police

II. PROCEDURE:

A. Duties of Medina Police Department Personnel Receiving Complaints.

1. Members below the rank of Sergeant or non-sworn employees who are made aware of a personnel complaint alleging employee misconduct will immediately notify a supervisor.
2. A supervisor who receives a complaint directly or has been summoned to take a complaint shall:
 - a. If a complaint is procedural or a policy issue in nature, explain the procedure/policy to the complainant. If after explanation / conciliation is completed the complainant is satisfied and the matter resolved, no report is necessary.
 - b. If the complaint is associated with an arrest, advise the complainant that said complaint will not be address until the disposition of the case; unless there is a blatant violation of one's civil rights and/or an obvious use of excessive force.
 - c. If the matter is not resolved the supervisor, shall advise the complainant that a Civilian Personnel Complaint Form can be downloaded from the Village of Medina Web page under the Police Department Section. (Attachment A).
 - i. The complainant shall be advised to fill out the form and to include in that form their name, address, phone numbers, and information that pertains to the complaint; the allegations.

- ii. The complainant should also be advised that any videos, photos, witnesses, etc. should be provided.
- iii. The complainant will need to be advised to deliver the completed complaint form to the Medina Police Department or the Village of Medina Clerk's Office to be time stamped and forward to a ranking supervisor in the Medina Police Department for investigation.

B. Investigation of Complaints - Internal investigations will be conducted once completed, time stamped, complaint forms are received by ranking supervisors. The following guidelines should be followed:

1. Contact all complainants and witnesses as soon as possible without undue inconvenience.
2. Make sure all pertinent information regarding the allegations has been obtained; videos, photos, statements, offender's information, etc.
3. Advise the accused that a civilian personnel complaint has been filed against them and to have them fill out a Special Report (Attachment B). Such Special Report is an account of the accused perspective of the incident. Depending on the investigation further questioning may occur with union counsel present.
4. Complete the investigation as soon as possible (within ten (10) business days of the received complaint). If complainant has been arrested and the complaint is associated with the arrest completion of the investigation should be done as soon as possible after the disposition of the case (within ten (10) business days of the disposition of the case)
5. A response to the civilian personnel complaint form should be filled out by the investigating supervisor. (Attachment C) and submitted to the Chief of Police for review.
6. Upon completion of the investigation, as part of the response, classify the findings as:
 - a. **Unfounded** - investigation indicates the act complained of did not occur.
 - b. **Exonerated** - investigation indicates that act occurred but that it was justified, lawful and proper.
 - c. **Not sustained** - investigation discloses insufficient evidence to prove or disprove clearly the allegation made.

- d. Sustained** - investigation disclose that the act complained of did occur and does amount to misconduct. **(The response will advise the complainant that administrative action will be taken in regards to the misconduct.)**
- 7. A copy of the response to the personnel complaint, and a copy of the complaint should be delivered directly or by mail to the complainant. The complainant should be advised that if they are not in agreement with the response that they can follow up with the Mayor of the Village of Medina.
- 8. A copy of the personnel complaint and response should be forward to the Mayor of the Village of Medina.

III. LEGAL NOTICE:

Civil Rights Law § 50-a - police disciplinary records within the scope of New York's Freedom of Information Law, found in Public Officers Law §§ 84-90.

- A. Under the amendments to FOIL, "law enforcement disciplinary records" means any record created in the furtherance of a law enforcement disciplinary proceeding, including: (a) the complaints, allegations and charges against an employee; (b) the name of the employee complained of or charged; (c) the transcript of any disciplinary trial or hearing, including any exhibits; (d) the disposition of any disciplinary proceeding; and (e) the final written opinion or memorandum supporting the disposition and discipline imposed, including the factual findings, analysis of conduct and appropriate discipline.
- B. The Medina Police Department will redact the following information from law enforcement disciplinary records prior to disclosure: (a) a police officer, peace officer, firefighter or firefighter/paramedic's medical history (unless related to misconduct); (b) any home addresses, personal telephone numbers, personal cell phone numbers and personal email addresses, including information about a complainant or any other person named in a law enforcement disciplinary record; (c) any social security numbers; and (d) the use of an employee assistance program, mental health service or substance abuse assistance service by a police officer, peace officer, firefighter or firefighter/paramedic, unless such use is mandated by a law enforcement disciplinary proceeding that may otherwise be disclosed.

- C. The Medina Police Department will redact police disciplinary records pertaining to technical infractions. A technical infraction is defined as “a minor rule violation...solely related to the enforcement of administrative departmental rules that (a) do not involve interactions with members of the public, (b) are not of public concern, and (c) are not otherwise connected to such person’s investigative, enforcement, training, supervision, or reporting responsibilities.”

By Order Of:

Chad Kenward
Chief of Police