



Chapter 10 - Personnel

Section 1020 - Allegations of Misconduct Policy

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ALLEGATIONS OF MISCONDUCT POLICY

MN RULES 6700.2200 through 6700.2600

I. PURPOSE

The purpose of this policy is to inform all employees and the public of procedures for reporting, receiving, investigating and disposition of complaints regarding the conduct of licensed peace officers of the Grand Rapids Police Department. The provisions of this policy are applicable only to the investigation and the disposition of allegations of administrative misconduct. This policy does not apply to a criminal investigation.

This policy is to also provide guidance in conducting misconduct investigations requested by other government entities

II. POLICY

It is the policy of the Grand Rapids Police Department to accept and to fairly and impartially investigate all complaints of misconduct to determine the validity of allegations; and to impose any corrective actions that may be justified in a timely and consistent manner.

III. DEFINITIONS

For the purpose of this policy, the terms set forth below are defined as follows:

A. *Administrative Investigation:* An internal investigation conducted in response to a complaint with the goal of determining whether an employee engaged in misconduct.

B. *Chief Law Enforcement Officer* means the chief of police, sheriff, state law enforcement director or designee. Within this model policy, the chief law enforcement officer will be referred to as CLEO.

C. *Law Enforcement Officer* means an individual who holds a peace officer license in the State of Minnesota. Within this model policy, a law enforcement officer will be referred to as LEO.

D. *Complainant* means a person who submits a complaint to the Agency or CLEO alleging misconduct by an agency member.

E. *Complaint* means allegation(s) of misconduct against any Department member that, if true, would constitute a violation of department policy. Misconduct allegations or complaints may be generated internally or by the public. Inquiries about Department

member conduct or performance that, if true, would not qualify as a violation may be handled informally by a supervisor and shall not be considered a complaint. These may generally include clarifications regarding policy, procedures or the Department's response to specific incidents.

F. Member means all voluntary and compensated personnel of the agency.

G. Discipline means any of the following or combination thereof:

1. Oral Reprimand
2. Written Reprimand
3. Suspension
4. Demotion
5. Discharge

H. Unfounded means there is no factual basis for the allegation. The act or acts alleged did not occur.

I. Exonerated means a fair preponderance of the evidence established that either:

1. the agency member named in the complaint was not involved in the alleged misconduct; or
2. the act(s) that provided the basis for the complaint occurred; however, the investigation revealed that such act(s) were justified, lawful or proper.

J. Not Sustained means the investigation failed to disclose sufficient evidence to prove or disprove the allegations made in the complaint.

K. Sustained means a fair preponderance of the evidence obtained in the investigation established that the LEO's actions constituted misconduct.

L. Policy Failure means that the complaint revealed a policy failure. The allegation is factual and the LEO(s) followed proper agency procedure, however, that procedure has proven to be deficient.

M. Respondent means an individual who is the subject of a complaint investigation.

N. Misconduct means:

1. a violation of an agency policy or procedure governing conduct of agency members;
2. conduct by a peace officer that would be a violation of POST Standards of Conduct per Minn. Rules 6700.1600

O. Policies and Procedures mean the administrative rules adopted by the agency regulating the conduct of agency members.

P. Receiving Authority means the entity who receives and is required to investigate the complaint when the subject of the complaint is a CLEO.

IV. PROCEDURE

A. ACCEPTANCE AND FILING OF COMPLAINTS

1. Complaint forms must be made available through agency personnel, at City Hall, and online. Each Shift Sergeant shall be responsible for inquiries regarding the complaint process.
2. Complaints may be received either in person, over the telephone, in writing, or via the internet. A complainant may remain anonymous. The complainant should be advised that remaining anonymous may affect the investigation of the complaint.

3. A complainant may be accompanied by an attorney or other representative at the time a complaint is filed or at any other stage of the process.
4. Employees must provide assistance to individuals who express the desire to lodge complaints against any employee of this agency.
5. The complainant must be advised of the procedures for submitting the complaint and provided with a copy of their submitted complaint.
6. The complainant should be asked to verify by signature if the complaint is a complete and accurate account. If the complainant elects not to sign, this fact must be documented and the complaint processed according to procedure.
7. The Chief of Police or Captain will forward a copy of the written complaint to the respondent only after it is determined that the complaint does not allege a criminal violation and the notification will not impede a criminal investigation.
8. A Chief of Police or Receiving Authority may delegate the duties and responsibilities required of a CLEO by this policy to an appropriate designee(s).
9. All written complaints will be accepted and forwarded to the appropriate supervisor. If no supervisor is available to accept the complaint, the reporting individual shall be referred to a Department supervisor and provided with a date and time in which that supervisor will be available to discuss the complaint. When, in the opinion of the supervisor, the complaint rises to the level in which an investigation should take place, the supervisor will forward the complaint a Captain.
10. Any complaint made against a chief of police must initially be made to the city administrator or mayor.
11. The city administrator or mayor must refer investigations of alleged misconduct against a CLEO to an outside law enforcement agency or criminal justice agency that has no discernible conflict of interest.

B. INVESTIGATION OF A COMPLAINT

1. INITIAL SUPERVISOR RESPONSIBILITIES

In general, the initial responsibility for the investigation of a complaint shall rest with the Department member's immediate supervisor, unless the supervisor was involved in the alleged incident. The Assistant Chief of Police may direct that another supervisor or other appropriate entity investigate the complaint. They shall be responsible for the following:

- (a) A supervisor receiving a formal complaint involving allegations of a serious nature shall notify the Assistant Chief of Police as soon as practicable.
- (b) The original complaint form will be forwarded to a Captain.

If injuries to the complainant are part of the allegation, immediate medical attention, if appropriate, should be provided and photographs of alleged injuries should be taken.

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 a Captain.

2. Upon receipt of the complaint, the Captain must make an initial determination as to whether or not the facts alleged require an administrative investigation. If the Captain decides that an investigation is not required, the disposition of the complaint must be cleared as "unfounded", "not sustained", or "exonerated." The complainant and the respondent will be notified of this decision and the basis for determination. If the complainant supplies additional information within thirty (30) days of that initial determination, the Chief of Police may reverse this decision and order an administrative investigation.
3. If the Chief of Police or Captain determines an administrative investigation is required, an appropriate designee will be assigned to investigate the complaint. When the Chief of Police or Captain believes an external investigation is appropriate or when the Chief of Police is the subject of the complaint, the investigation will be assigned to an external agency that has no discernible conflict of interest.
4. The investigator must inform the complainant of his or her name, business phone number and the status of the complaint as soon as possible after being assigned the investigation.
5. The investigator must thoroughly investigate all allegations contained in the complaint and any other potential misconduct discovered in the course of the investigation. If the investigation reveals potential misconduct by another agency member, the investigator must report that fact to the Chief of Police or, in the case of a complaint against a Chief of Police, the city administrator or mayor.
6. All agency members must cooperate with the investigation. When the respondent is a licensed peace officer, the investigation must comply with the requirements of MN STAT 626.89 and acts amendatory thereto.
7. The investigator must prepare a report that contains all relevant information organized into the following three (3) sections:
 - *Allegations*: An itemized summary of the acts of misconduct alleged in the complaint. Reference must be made to those rules, procedures, orders, statutes, or constitutional provisions that would be violated if the allegations are taken as true.
 - *Investigation*: A chronological summary of the investigation including all pertinent facts obtained through interviews with the complainant, accused agency member(s), and all available witnesses. Written statements, descriptions and analysis of any physical evidence, and all other relevant information must be included.
 - *Conclusions*: The investigator's findings and conclusions as to whether any misconduct occurred and the underlying reasons for the findings and conclusions.
8. The investigation must be completed within thirty (30) days of the filing of the complaint unless the Chief of Police or Captain determines there is good cause to grant an extension. The complainant and respondent must be informed of any extension.

C. 1020.4 ASSIGNMENT TO ADMINISTRATIVE LEAVE

The Shift Sergeant shall have the authority to assign a Department member to temporary administrative leave with pay for the

duration of the member's shift when the supervisor believes the alleged violation is serious and it is necessary to preserve public trust or the safety of the community and the department.

The Chief of Police, in consultation with the City Administrator, may assign a Department member to extended administrative leave with or without pay while an investigation is being conducted when the Chief believes the alleged violation is serious and it is necessary to preserve public trust or the safety of the community and the department.

D. 1020.4.1 ADMINISTRATIVE LEAVE

A Department member placed on administrative leave may be subject to the following guidelines:

(a) A Department member placed on administrative leave may be required by a supervisor to relinquish any badge, Department identification, radio, vehicle, assigned weapon(s) and any other Department equipment.

(b) A Department member placed on administrative leave may not take any official action as a Department member. The member shall be required to continue to comply with all policies and lawful orders of a supervisor, including obtaining permission to work other outside employment if on paid administrative leave.

E. ALLEGATIONS OF CRIMINAL CONDUCT

Where a department member is accused of criminal conduct, any criminal investigation will normally but not necessarily be completed to the point of a charging decision by a prosecutor prior to the start of an investigation regarding policy violations. If during a policy violation investigation, it becomes apparent that a criminal investigation should be conducted, the policy violation investigation, at the discretion of a Captain or the Chief of Police, may be paused.

The Chief of Police may, at any time, request that an outside law enforcement agency or other appropriate entity conduct a criminal investigation or policy violation investigation involving the alleged misconduct of a Department member.

F. INVESTIGATION OF DEPARTMENT POLICY VIOLATIONS

If the complaining party who alleges a violation of department policy completes a complaint form, signing same, the Department member will be provided with a copy prior to a formal investigative interview.

(a) Interviews of accused Department members shall be conducted during reasonable work hours (Minn. Stat. § 626.89, Subd. 7).

(b) A formal statement will be taken at the employee's usual place of work or at a place agreed upon by the accused Department member. An investigator may not interview a Department member at the member's home without the member's permission (Minn. Stat. § 626.89, Subd. 4).

(c) The investigator and/or the Department member may record the interview. If the Department member has been previously interviewed, a copy of that recorded interview shall be provided upon request or prior to any subsequent interview (Minn. Stat. § 626.89, Subd. 8).

(d) Before a formal statement is taken, the Department member will be informed that admissions made may be used as evidence of misconduct.

(e) If the allegations involve potential criminal conduct, the Department member shall be advised of his/her constitutional rights. This admonishment shall be given administratively whether the employee was advised of these rights during any separate criminal investigation.

(f) All Department members whose formal statement is taken shall have the right to have a labor representative or attorney present.

(g) Department members shall provide complete and truthful responses to questions posed during interviews.

(h) A Department member may not be compelled nor requested to submit to a polygraph examination or be required to produce financial records (Minn. Stat. § 626.89, Subd. 11).

(i) A Department member's photograph shall only be released in accordance with Minnesota law. (Minn. Stat. § 626.89, Subd. 12).

G. ADMINISTRATIVE SEARCHES

A Department member may be administratively ordered to submit to a blood, breath or urine test for alcohol and drugs consistent with the City/Police Department's drug and alcohol testing procedure.

Department members shall have no expectation of privacy when using cabinets, vehicles, telephones, computers, radios or other communications provided by the Department or in assigned lockers and storage spaces.

H. ADDITIONAL INVESTIGATION, REVIEW AND DISPOSITION

1. Upon completion of the investigation, the investigator must submit the report, case file and all investigative notes to the Chief of Police or Captain. The Chief of Police or Captain may require additional investigation or make one of the following decisions:
 - Unfounded
 - Exonerated
 - Not Sustained
 - Sustained
 - Policy Failure

2. If the decision is "unfounded," "exonerated," "not sustained" or "policy failure" the Chief of Police or Captain must immediately notify the complainant and the respondent of the decision.

3. If the complaint is "sustained" the Chief of Police or Captain will:
 - Issue findings of fact including a summary of the acts constituting misconduct and the specific statutes, policies, regulations and procedures violated; and
 - Take appropriate remedial and/or disciplinary action.
 - Advise the complainant of any public information regarding the disposition
4. Prior to the implementation of remedial and/or disciplinary action the respondent will be provided with a copy of the findings of fact. The Chief of Police, Captain and/or designee must review the findings of fact with the respondent and explain the reasons for the remedial and/or disciplinary action.

5. The investigation may be re-opened by the Chief of Police or Captain at any time if substantial new evidence is discovered concerning the complaint.

6. When a "sustained" disposition is final the respondent may appeal the disposition pursuant to the rules and law governing the accused member's employment.

I. WITHDRAWN COMPLAINTS

If the complainant withdraws their complaint or refuses to further cooperate with the investigation, then the investigation may be closed. If the nature of the allegations can be sufficiently determined without the assistance of the complainant, then the investigation will proceed and be completed as normal.

J. MAINTENANCE AND DISCLOSURE OF DATA

1. Disclosure to the public, complainant and respondent of data collected, created or received by the agency in connection with this policy and procedure must be governed by the provisions of the MN Government Data Practices Act. Retention of data collected or maintained in connection with this policy must be retained in accordance with the agency's "Record Retention Schedule."
2. All data collected, created or received by the agency in connection with this policy and procedure must be maintained in accordance with the agency's "Record Retention Schedule."
3. The placement of the disposition report or other data in an employee's personnel file must be governed by the agency's personnel policy.
4. Access to data collected, created, or received in connection with this policy and procedure may only be authorized by the Chief of Police or the agency's Data Practices "Responsible Authority," and as provided by Chapter 13, the "Minnesota Government Data Practices Act," or valid court order.

K. CONDUCTING INVESTIGATIONS FOR OTHER GOVERNMENT ENTITIES

A Captain or the Chief of Police may, at their discretion, agree to assign an officer of the Grand Rapids Police Department to conduct a policy violation or criminal investigation at the request of another law enforcement agency. The requesting agency shall specify whether they are requesting an investigation concerning an alleged violation of department policy or possible criminal conduct.

In the case of a policy violation investigation, the requesting entity must provide the Grand Rapids Police Department with the following:

1. A letter, on City or law enforcement agency letterhead, signed by the police chief, city administrator/manager or other city official with authority to do so, requesting the Grand Rapids Police Department conduct a policy violation investigation
2. A copy of that law enforcement agency's policy manual.

At the conclusion of the investigation of a policy violation, the completed investigative report, along with any supporting materials, will be given to the requesting agency.

The role of the Grand Rapids Police Department in conducting the investigation for another agency shall be to:

1. complete a summary of the allegations
2. identify potential violation of department policies
3. gather facts by conducting an investigation

Conclusions and Findings will be the responsibility of the requesting entity, not the Grand Rapids Police Department.

In the case of a criminal investigation, the requesting entity must provide the Grand Rapids Police department:

1. A letter, on City or law enforcement agency letterhead, signed by the police chief, city administrator/manager or other city official with authority to do so, requesting the Grand Rapids Police Department conduct a criminal investigation.

The completed investigation report, along with any evidence gathered, shall be given directly to the prosecutor having jurisdiction

or other prosecutor as designated by the requesting agency. The criminal investigation report shall not be given directly to the law enforcement agency requesting the investigation.

L. POST BOARD REPORTING REQUIREMENTS

1. Under Minn. Rule 6700.1610, a licensed peace officer must self-report to the POST Board any violations of the Standards of Conduct for peace officers listed in Minn. Rule 6700.1600.
2. Any person with knowledge of peace officer misconduct constituting grounds for action under Minn. Stat. chapter 214, or Minn. Rules 6700.1600, may report the violation to the Board.
3. Minnesota Stat. 626.8457 Subd. 3 requires CLEOs to submit individual peace officer public and private data related to allegations of misconduct to the POST Board in "real time" via the POST Board Misconduct Reporting System.
4. A chief law enforcement officer must update data within 30 days of final disposition of a complaint or investigation.
5. Law enforcement agencies and political subdivisions are prohibited from entering into a confidentiality agreement that would prevent disclosure of the data identified in Minn. Stat. 626.8457 Subd. 3 paragraph (b) to the Board. Any such confidentiality agreement is void as to the requirements of this section.