

FRIDLEY POLICE

GENERAL ORDER

SUBJECT: Internal Investigation	DATE OF ISSUE	NUMBER:
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I. POLICY

It is the policy of the Fridley Police Department that any person who believes that an employee of the Fridley Police Department acted improperly may bring a complaint to the Public Safety Director's attention pursuant to the following procedure.

II. DEFINITIONS

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

Director

The Public Safety Director (or designee) or the City Manager when a complaint is made against the Public Safety Director.

Reviewing Officer

A Division Commander or other person that may be designated by the Public Safety Director.

Complainant

A person who submits a complaint to the department alleging misconduct by an agency member; or the department supervisor who accepts believable facts relating to alleged misconduct by an employee from an anonymous person.

Complaint

A statement, which is made to a department supervisor, in writing, in person, or by phone which alleges misconduct.

Member

All voluntary and compensated personnel of the agency.

Employee

All peace officers and civilian department employees whether full-time, part-time, or temporary.

Infraction

A violation of any department policy and procedure defining transgressions not listed under misconduct.

Discipline

- A. Oral reprimand, or
- B. Written reprimand, or
- C. Suspension, or
- D. Demotion, or
- E. Discharge.

Exonerated

A fair preponderance of the evidence established either that:

- A. The act, or acts complained of, did not occur; or
- B. The agency member named in the complaint was not involved in the alleged misconduct; or
- C. The act(s) that provided the basis for the complaint occurred; however, the investigation reveals that such act(s) were justified, lawful or proper, or
- D. That such act (s) does not adversely reflect upon the department or the employee's ability to perform duties within the department.

Not Sustained

The investigation failed to disclose sufficient evidence to prove or disprove the allegations made in the complaint.

Sustained

A fair preponderance of the evidence obtained in the investigation established that the accused person's actions constituted misconduct.

Formal Statement

The questioning of an agency member in the course of obtaining a recorded, stenographic, or signed statement to be used as evidence in a disciplinary proceeding against the agency member.

Respondent

Any agency member, whether full-time, part-time, temporary or voluntary, against whom a complaint has been filed.

Misconduct

- A. A violation of any agency policy and procedure governing conduct of agency members; or
- B. The use of unnecessary or excessive force; or
- C. The conviction of any criminal offense; or
- D. Abuse of authority; or
- E. Conduct which violates a person's civil rights; or
- F. Abusive or insulting language or any conduct which is derogatory of a person's race, religion, sex, national origin or sexual preference; or
- G. Sexual harassment as that term is defined under Minnesota Statutes § 363A.03 subd. 43; or
- H. Intimidation or retribution toward a complainant or witness involved in any complaint proceeding.
- I. Conduct by a peace officer that would be a violation of POST Standards of Conduct per Minn. Rules 6700.1600

Policies and Procedures

The general orders and rules adopted by the agency regulating the conduct of agency members.

Shall/Will

As used herein, that the action is mandatory.

May

The action is permissible.

III. PROCEDURE

A. Initiating a Complaint

1. Anyone who has personal knowledge of facts or who has reliable hearsay information may file a complaint. Any agency member who has personal knowledge of misconduct shall file a complaint according to the procedures stated herein.
2. Any agency member shall report to their supervisor action, inaction, or condition of that agency member which the agency member reasonably believes would constitute grounds for disciplinary action under any of the Peace Officer Standards and Training Board's regulatory provisions.
3. Upon receiving a complaint against a member within the agency, the department supervisor receiving the complaint may have the complainant complete an Internal Complaint Form (ICF). The complaint will not be considered filed until the complainant signs the ICF.
4. If the person making a complaint sets forth specific believable facts supporting an allegation of misconduct, but wishes to remain anonymous, the department supervisor receiving the complaint may, at the supervisor's sole discretion, permit the complainant to remain anonymous. In this instance the supervisor shall sign the complaint as the complainant. If the supervisor has reason to believe that the complaint is unfounded, the supervisor shall have the authority to require an anonymous complainant to identify himself/herself. If that complainant refuses to do so, the supervisor may refuse to accept a complaint and shall advise the anonymous person of that fact.
5. After an ICF is filed, the supervisor will forward the completed ICF along with any additional information to the Division Commander who will become the reviewing officer. The Reviewing Officer will assign an Internal Complaint Control Number and forward a copy of the document to the accused employee, only after it is determined that the complaint does not allege a criminal violation and the notification will not impede a criminal investigation.
6. A complainant may be accompanied by an attorney or other appropriate representative at the time a complaint is filed or at any other stage of the process.

B. Investigating a Complaint

1. Upon receipt of the Internal Complaint Form (ICF), the Reviewing Officer shall make an initial determination whether the facts alleged requires a formal investigation. If the Reviewing Officer decides that an investigation is not required, the disposition of the complaint shall be either “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 Reviewing Officer may reverse this decision and order a formal investigation.
2. If the Reviewing Officer determines that a formal investigation is required, an appropriate person will be assigned to investigate the complaint. When the Reviewing Officer believes an external investigation is appropriate the investigation will be assigned to an external agency.
3. The Public Safety Director may suspend a respondent with pay or modify work hours or duty assignments at any time during the investigation of a complaint.
4. The investigator shall, as soon as possible after being assigned the investigation, inform the complainant of his or her name, business phone number, and the status of the complaint.
5. The investigator shall 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 shall report that fact to the Reviewing Officer.
6. All agency members shall cooperate with the investigation. When the respondent is a licensed peace officer, the investigation shall comply with the requirements of MN Statutes, Section 626.89 and acts amendatory thereto.
7. The investigator shall prepare a report which will contain all relevant information organized into the following three (3) sections:
 - a. Allegation(s): an itemized summary of the acts of misconduct alleged in the complaint. Reference shall be made to those rules, procedures, order, statutes, or constitutional provisions that would be violated if the allegations are taken as true.
 - b. Investigation: a chronological summary of the investigation, including all pertinent facts obtained through interviews with the

complainant, accused agency member and all available witnesses. Written statements, descriptions and analysis of any physical evidence, and all other relevant information shall be included.

c. Conclusion(s): the investigator's findings, conclusions as to whether any misconduct occurred, and the underlying reasons for the findings and conclusions.

8. The investigation shall be completed within a reasonable amount of time from the filing of the complaint.

C. Additional Investigation, Review, and Disposition

1. Upon completion of the investigation, the investigator shall submit the report, case file, and all investigative notes to the Reviewing Officer. The Reviewing Officer may require additional investigation or make one of the following decisions: "exonerated", "not sustained", or "sustained". The Director will review the file and direct such action as appropriate.
2. The Director may postpone making a decision until any related criminal charges are resolved. The complainant and respondent shall be informed of this decision.
3. If the decision is "exonerated" or "not sustained", the Reviewing Officer shall immediately notify the complainant and the respondent of the decision.
4. If the complaint is "sustained" the Director shall take appropriate disciplinary action: Such action shall be based on the investigative report and the accused employee's record of service and shall be in conformance with any applicable collective bargaining agreement, contract, or other rule or regulation relating to discipline of employees. The remedial or disciplinary action may include counseling, remedial education, an oral reprimand, a written reprimand, suspension with or without pay, demotion, or discharge.
5. After selecting the appropriate remedial or disciplinary action, the Director will:
 - a. issue findings of fact including a summary of the acts constituting misconduct and the specific statutes, policies, regulations and procedures violated; and
 - b. take appropriate remedial and/or disciplinary action to prevent recurrence of the misconduct

- c. add any additional information as the Director may find applicable to accurately document the disposition.
6. Prior to the implementation of remedial and/or disciplinary action, the respondent and the complainant will be provided with a copy of the findings of fact. The Director and/or appropriate person shall review the findings of fact with the respondent and explain the reasons for the remedial and/or disciplinary action.
7. The investigation may be re-opened by the Reviewing Officer at any time if substantial new evidence is discovered concerning the complaint.
8. When a “sustained” disposition is final, the respondent may appeal the disposition pursuant to the rules and law governing the accused member's employment.
9. The Complainant shall be given a copy of the Findings of Fact.
10. The Director may accept appeals from complainants or the accused employee if received within fifteen (15) days after notification of the final disposition. The disposition shall be final upon expiration of the 15 day period if there is no request for reconsideration. If a request for reconsideration is made, the disposition shall become final upon a decision on such request or the completion of any additional actions directed by the Director. Notwithstanding the foregoing, the investigation may be reopened by the Director at any time if substantial new evidence is discovered which is relevant to the complaint.
11. This policy procedure shall not preclude other disciplinary procedures for misconduct not initiated by citizen complaint.

D. Criminal Complaint

1. If the complaint received will result in criminal prosecution if substantiated, it will be forwarded directly to the Public Safety Director who will then assume the direction of the investigation. Sections D, E, and F will not apply and the investigation will be conducted in a manner consistent with normal criminal investigation procedures. If there is a cause to effect the arrest of the accused, this information will immediately be communicated to the Public Safety Director or designee.

E. Maintenance and Disclosure of Data

1. Disclosure to the complaint and respondent of data collected, created, or received by the agency in connection with this policy and procedures shall

be maintained 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 shall be maintained in accordance with the agency's "Record Retention Schedule".
3. Access to data collected, created, or received in connection with this policy and procedure may only be authorized by the Director or the agency's Data Practices "Responsible Authority", and as provided by Chapter 13, the "Minnesota Government Data Practices Act", or valid court order.

F. Cooperation with an Investigation by an Outside Agency

1. Whenever a member becomes a witness in another agency's investigation, that member shall upon direction of the Public Safety Director cooperate in the other agencies investigation.

G. 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 the Public Safety Director or their designee 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. The Public Safety Director or their designee 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.