
Personnel Complaints

1020.1 PURPOSE AND SCOPE

The purpose of this procedure is to provide guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members and employees of this office (Minn. R. 6700.2200).

Regardless of the source of an allegation of misconduct, all such matters will be investigated pursuant to state or local law and any applicable collective bargaining agreement. The investigation should be completed within six months of the discovery of the allegation or within a reasonable time thereafter based upon the complexity or conditions of the investigation.

The Office investigates all complaints alleging a violation of law.

Additional guidance, provisions, changes or additions may be contained in the collective bargaining agreement.

1020.1.1 PERSONNEL COMPLAINTS DEFINED

Personnel complaints consist of any allegation of misconduct or improper job performance against any office employee that, if true, would constitute a violation of office policy, federal, state or local law. Misconduct allegations or complaints may be generated internally or by the public.

Inquiries about employee 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 Office's response to specific incidents.

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the complaining party is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused employee. Informal complaints need not be documented on a personnel complaint form and the responsible supervisor shall have the discretion to handle the complaint in any manner consistent with this policy.

Formal - A matter in which the complaining party requests further investigation or which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of a rank greater than the accused employee or referred to the Division Commander depending on the seriousness and complexity of the investigation.

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 Division Commander, such matters need not be documented as personnel complaints, but may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

1020.1.2 DEFINITIONS

Complainant - A person claiming to be the victim or witness of misconduct by a deputy.

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Investigation - An administrative investigation, conducted by the Office, of alleged misconduct by a deputy that could result in punitive action.

Investigator - An agent or employee of the Office who is assigned to conduct an investigation.

Punitive Action - A disciplinary suspension, indefinite suspension, demotion in rank, reprimand, termination or any combination of those actions.

Formal Statement - Means the questioning of an employee in the course of obtaining a recorded, stenographic, or signed statement to be used as evidence in a disciplinary proceeding against the employee (Minn. Stat. § 626.89 Subd. 1 (b)).

1020.2 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1020.2.1 AVAILABILITY OF COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public lobby and on the Goodhue County Sheriff's Office website. Forms may also be available at other government offices and facilities. Personnel Complaint forms in languages other than English may also be provided as determined necessary or practicable.

Each Shift Sergeant shall be responsible for monitoring public satisfaction or inquiries regarding the personnel complaint process and shall forward to the Division Commander any suggestions for improvement or changes.

1020.2.2 SOURCE OF COMPLAINTS

Complaints will be accepted from the following:

- (a) A Office employee becoming aware of alleged misconduct shall immediately notify a supervisor.
- (b) A supervisor receiving a complaint from any source alleging misconduct of an employee which, if true, could result in disciplinary action.
- (c) Anonymous complaints and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (d) A complaint received by the Minnesota POST Board alleging a violation of a statute or rule that the board is empowered to enforce (Minn. R. 6700.1600).

1020.2.3 ACCEPTANCE OF COMPLAINTS

All written complaints will be courteously accepted by any employee and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed verbally either in person or by telephoning the Office and will be accepted by any supervisor. If a supervisor is not immediately available to take a verbal complaint, the receiving employee shall obtain contact information sufficient for the supervisor to re-contact the complainant. The supervisor upon recontact of the complainant shall complete and submit the personnel complaint form as appropriate.

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Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained. The following should be considered before taking a complaint:

- (a) Complaints shall not be prepared unless the alleged misconduct or job performance is of a nature which, if true, would normally result in disciplinary action.
- (b) When an uninvolved supervisor or the Shift Sergeant determines that the reporting person is satisfied that his/her complaint required nothing more than an explanation regarding the proper/improper implementation of Office policy or procedure, a complaint need not be taken.
- (c) When the complainant is intoxicated to the point where his/her credibility appears to be unreliable, identifying information should be obtained and the person should be provided with a personnel complaint form to be completed and submitted at a later time. However, if the intoxicated person insists on filing the complaint, the complaint shall be taken and properly processed.
- (d) Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint.

1020.2.4 COMPLAINT DOCUMENTATION

When a personnel complaint form is completed in person, the complainant should legibly write a detailed narrative of his/her complaint. If circumstances indicate that this is not feasible, the complaint may be dictated to the receiving supervisor. In an effort to ensure accuracy in any complaint, it is recommended that a recorded statement be obtained from the reporting party. A refusal by a party to be recorded shall not alone be grounds to refuse to accept a complaint. Whether handwritten or dictated, the complainant's signature should be obtained at the conclusion of the statement. The complainant should be provided with a copy of his/her own original personnel complaint.

Formal complaints of alleged misconduct not reported in person shall be documented by a supervisor on a personnel complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

A supervisor shall document informal complaints as a supervisor or Shift Sergeant log entry.

1020.3 INITIAL SUPERVISOR RESPONSIBILITIES

A supervisor who becomes aware of alleged misconduct or receives a formal complaint shall take reasonable steps to prevent aggravation of the situation.

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the employee's immediate supervisor. Unless the supervisor was involved in or witnessed the

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alleged incident. The Sheriff or authorized designee may, however, direct that another supervisor investigate it. The supervisor shall be responsible for the following:

- (a) A supervisor receiving a formal complaint involving allegations of a potentially serious nature shall ensure that the Shift Sergeant, Division Commander and Sheriff are notified as soon as practicable.
- (b) A supervisor receiving or initiating any formal complaint shall ensure that a personnel complaint form has been completed as fully as possible. The original complaint form will then be directed to the Division Commander of the accused employee, via the chain of command, who will forward a copy of the complaint to the Sheriff, will take any appropriate action and/or forward the complaint to the Division Commander for further action.
 - 1. During the preliminary investigation of any complaint, the supervisor should make every reasonable effort to obtain names, addresses and telephone numbers of additional witnesses.
 - 2. If injuries to the complainant are part of the complainant's allegation, immediate medical attention, if appropriate, should be provided and photographs of alleged injuries as well as accessible areas of non-injury should be taken.
 - 3. 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 employee's Division Commander or the Sheriff, who will initiate appropriate action.
- (c) A supervisor dealing with an accused employee shall ensure that the procedural rights of the employee are followed pursuant to state and federal law.
- (d) When the nature of a personnel complaint relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination, the supervisor receiving the complaint shall promptly contact the Department of Human Resources and the Sheriff for direction regarding his/her role in investigation and/or addressing the complaint.

1020.4 ASSIGNMENT TO ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature or when circumstances practically dictate that it would impose an unreasonable risk to the Office, the employee, other employees or the public, a supervisor may temporarily assign the accused employee to inactive duty pending completion of the investigation or the filing of administrative charges.

1020.4.1 ADMINISTRATIVE LEAVE

An employee placed on administrative leave may be subject to the following guidelines:

- (a) An employee placed on administrative leave shall continue to receive regular pay and benefits pending the imposition of any discipline.

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- (b) An employee placed on administrative leave may be required by a supervisor to relinquish any badge, Office identification, assigned weapon(s) and any other Office equipment.
- (c) An employee placed on administrative leave may be ordered to refrain from taking any action as an Office employee or in an official capacity. The employee shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (d) An employee placed on administrative leave may be temporarily reassigned to a different shift, generally within normal business hours, during the pendency of the investigation and the employee may be required to remain available for contact at all times during such shift and report as ordered.
- (e) It shall be the responsibility of the assigning supervisor to promptly notify the employee's Division Commander and the Sheriff.
- (f) At such time as any employee placed on administrative leave is returned to full and regular duty, the employee shall be returned to his/her regularly assigned shift with all badges, identification card and other equipment returned.

1020.5 ALLEGATIONS OF CRIMINAL CONDUCT

Where an employee of this Office is accused of potential criminal conduct, a separate supervisor or assigned investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation and/or any prosecution.

The Sheriff shall be notified as soon as practicable when an employee is formally accused of criminal conduct. In the event of serious criminal allegations, the Sheriff may request a criminal investigation by an outside law enforcement or prosecutorial agency be conducted parallel to the administrative investigation.

An employee accused of criminal conduct shall be provided with all rights and privileges afforded to a civilian under the state and federal constitutions and the employee may not be administratively ordered to provide any information to a criminal investigator.

No information or evidence administratively compelled from an employee may be provided to a criminal investigator.

Any law enforcement agency is authorized to release information concerning the arrest or detention of a peace officer which has not led to a conviction. However, no disciplinary action, other than paid administrative leave, shall be taken against the accused employee based solely on an arrest or crime report. An independent administrative investigation shall be conducted based upon the allegations in the report in accordance with Office policy.

1020.6 ADMINISTRATIVE INVESTIGATION WITH THE EMPLOYEE

Investigations of a minor nature may be assigned to the employee's supervisor provided the supervisor was not involved as a witness or an alleged participant in the incident. Allegations that

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are more serious will be assigned to the Division Commander for investigation. Whether conducted by a supervisor or an assigned member of the Division Commander, the following procedures shall be followed with regard to the accused employee(s) in compliance with the Peace Officer Discipline Procedures Act (Minn. Stat. § 626.89):

- (a) The Investigator shall not be a person who is the complainant, the ultimate decision maker regarding disciplinary action, or a person who has any personal involvement regarding the alleged misconduct.
- (b) Not less than five days before an investigator begins the initial interrogation, the Office must:
 - 1. Provide the employee the name and rank of the officer in charge of the investigation and the officers who will conduct any interrogation.
 - 2. Provide the employee the date, time and place of interrogation or hearing.
 - 3. Provide the employee in writing a summary of alleged misconduct and a description of the nature of the investigation.
 - 4. Provide the employee a copy of the signed complaint (Minn. Stat. § 626.89, Subd. 5).
- (c) An investigator may not interrogate or take a formal statement of an employee unless the complainant verifies the complaint in writing.
- (d) Interviews of accused employees shall be conducted during reasonable work hours of the employee and, if the employee is off-duty, the employee shall be compensated (Minn. Stat. § 626.89, Subd. 7).
- (e) Off-duty interviews should only be conducted based on the seriousness of the investigation and other factors requiring that time is of the essence.
- (f) A formal statement will be taken at the employee's usual place of work or at a place agreed upon by the accused employee. An investigator may not interview an employee at that person's home without the employee's prior permission (Minn. Stat. § 626.89, Subd. 4).
- (g) No more than two interviewers should ask questions of an accused employee to prevent confusion or misunderstandings.
- (h) All interviews shall be for a reasonable period or duration. The employee's personal needs shall be accommodated (Minn. Stat. § 626.89, Subd. 7).
- (i) No employee shall be subjected to offensive or threatening language nor shall any promises, rewards or other inducements be used to obtain answers. Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively or be subject to discipline for insubordination. Nothing administratively ordered may be provided to a criminal investigator.

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- (j) The interviewer shall 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 shall be provided upon request or prior to any subsequent interview (Minn. Stat. § 626.89, Subd. 8).
- (k) Before a formal statement is taken, the employee shall be advised in writing or on the record that admissions made may be used as evidence of misconduct or a basis for discipline (Minn. Stat. § 626.89, Subd. 10).
- (l) If the allegations involve potential criminal conduct, the employee 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.
- (m) All employees whose formal statement is taken shall have the right to have a representative or attorney of his/her choosing during any interrogation (Minn. Stat. § 626.89, Subd. 9). To maintain the integrity of each individual employee's statement, involved employees shall not consult or meet with representatives or attorneys collectively or in groups prior to being interviewed.
- (n) All employees shall provide complete and truthful responses to questions posed during interviews.
- (o) An employee 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).
- (p) An employee's photograph will not be released unless allowed by law (Minn. Stat. § 626.89, Subd. 12).

1020.6.1 ADMINISTRATIVE SEARCHES

An employee of this Office may be administratively ordered to submit to a blood, breath or urine test for alcohol and drugs consistent with the organization's drug and alcohol testing procedure.

Employees shall have no expectation of privacy when using telephones, computers, radios or other communications provided by the Office.

Assigned lockers and storage spaces may only be administratively searched in the employee's presence, with the employee's consent, with a valid search warrant or where the employee has been given reasonable notice that the search will take place.

1020.6.2 ADMINISTRATIVE INVESTIGATION FORMAT

Investigations of personnel complaints shall be detailed, complete and essentially follow this format:

Introduction - Include the identity of the employee(s), the identity of the assigned investigator(s), the initial date and source of the complaint.

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Synopsis - Provide a very brief summary of the facts giving rise to the investigation.

Summary Of Allegations - List the allegations separately, including applicable policy sections, with a very brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence As To Each Allegation - Each allegation should be set forth with the details of the evidence applicable to each allegation, and include comprehensive summaries of employee 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 and documents) should be attached to the report.

1020.7 DISPOSITION OF PERSONNEL COMPLAINTS

Each allegation shall be classified with one of the following dispositions based on a finding of fact and considering the totality of circumstances:

Unfounded - When the investigation discloses that the alleged act(s) did not occur or did not involve Office personnel. Additionally, complaints that are determined to be frivolous will fall within the classification of unfounded.

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

Not Sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct. Evidence in a sustained complaint will be weighed by a preponderance of the factual evidence.

If an investigation discloses misconduct or improper job performance which was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

1020.8 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint shall proceed with due diligence. Recognizing that factors such as witness availability and the complexity of allegations will affect each case, every effort should be made to complete each investigation and impose any disciplinary action within a reasonable period following receipt.

Investigations should be completed within three months of the date the Office becomes aware of the allegation whenever possible. Upon notification of needed time extension the Sheriff or his designee may approve extending the time period to six months or longer in situations when the investigation reasonably requires such an extension.

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If the nature of the allegation dictates that confidentiality is necessary to maintain the integrity of the investigation, the involved employee need not be notified of the pending investigation unless and until the employee is interviewed or formally charged.

Upon completion, the report should be forwarded to the Sheriff through the chain of command of the involved employee.

The Sheriff may accept or modify the classification and recommendation for disciplinary action contained in the report.

Notice to the complaining party shall be provided as soon as practicable following final disposition and be consistent with the provisions of the Minnesota Government Data Practices Act (Minn. Stat. § 13.43 Subd. 2(b)).

1020.8.1 POST ADMINISTRATIVE INVESTIGATIONS

The Minnesota POST Board may require an administrative investigation based upon a complaint alleging a violation of a statute or rule that the board is empowered to enforce. Any such misconduct allegation or complaint assigned to this office shall be completed and a written summary submitted to the POST executive director within 30 days of the order for inquiry (Minn. Stat. § 214.10 Subd. 10).

1020.8.2 WITHDRAWN COMPLAINTS

If the complainant withdraws their complaint or refuses to further cooperate with the administrative investigation, then the investigation may be closed as incomplete.

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.

1020.9 CONFIDENTIALITY OF PERSONNEL FILES

All active investigations of alleged misconduct and personnel complaints shall be considered confidential and maintained separately from peace officer personnel files. The contents of such files shall not be revealed to other than the involved employee or authorized personnel, except pursuant to lawful process, such as Minn. R. 6700.2500. Data in closed files shall be treated as private or public data depending on whether discipline was imposed upon the employee.

All records of investigations shall be securely maintained for no less than the periods established by the organization's records retention schedule.

1020.9.1 SUSTAINED COMPLAINTS

Before being placed in the peace officer's file, the employee will have an opportunity to read and initial the comment or document. If the peace officer submits a written response, the response will be attached to the comment or document (Minn. Stat. § 626.89, Subd. 13).

If punitive action is taken, the employee or a representative authorized by the employee may, except as otherwise prohibited by federal or state law, review any administrative or investigative

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file maintained by the office that relates to the investigation, including any recordings, notes, transcripts of interviews and documents.

Sustained complaints shall be maintained in the employee's personnel file for the prescribed period. Complaints which are unfounded, exonerated or not sustained shall be maintained by the Division Commander apart from the employee's personnel file.

1020.9.2 REMOVAL OF COMPLAINT

Upon request, an employee may review any administrative file that does not relate to a current investigation.

If an employee identifies a complaint or allegation that should be removed from his/her personnel file because either the time period has expired or it is an improper document, the employee will write an office memorandum specifically asking for the item to be removed and the reasons for removal.

1020.10 POST INVESTIGATION PROCEDURES

1020.10.1 REPRIMANDS

Any employee wishing to formally appeal a reprimand must submit a written request to his/her Division Commander within 30-days of receipt of the reprimand or as provided for in the collective bargaining agreement. The Division Commander will then assign the appeal to an uninvolved supervisor of at least one rank above the rank of the supervisor issuing the original reprimand.

Absent a written stipulation to the contrary, the employee will be provided with an evidentiary hearing before the assigned, uninvolved supervisor within 30 days or as provided in the collective bargaining agreement.

Reprimands may only be placed in an employee's personnel file after it is received by the employee (see generally Minn. Stat. § 626.89, Subd. 13).

1020.10.2 DIVISION COMMANDER RESPONSIBILITIES

Upon receipt of any completed misconduct or personnel investigation, the Division Commander of the involved employee shall review the entire investigative file, the employee's personnel file and any other relevant materials. The Division Commander may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

- (a) Prior to forwarding recommendations to the Sheriff the Division Commander may return the entire investigation to the assigned detective or supervisor for further investigation or action.
- (b) When forwarding any written recommendation to the Sheriff, the Division Commander shall include all relevant materials supporting the recommendation. Actual copies of an employee's existing personnel file need not be provided and may be incorporated by reference.

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1020.10.3 RESPONSIBILITIES OF THE SHERIFF

Upon receipt of any written recommendation for disciplinary action, the Sheriff shall review the recommendation and all accompanying materials. The Sheriff may modify any recommendations and/or may return the file to the Division Commander for further investigation or action. Once the Sheriff is satisfied that no further investigation or action is required by staff, the Sheriff shall determine the amount of discipline, if any, to be imposed. In the event that disciplinary action is recommended, the Sheriff shall provide the employee with written notice of the following information:

- (a) Specific charges set forth in separate counts, describing the conduct underlying each count.
- (b) A separate recommendation of proposed discipline for each charge.
- (c) A statement that the employee has been provided with or given access to all of the materials considered by the Sheriff in recommending the proposed discipline.
- (d) An opportunity to respond orally or in writing to the Sheriff within five days of receiving the notice.
 - 1. Upon a showing of good cause by the employee, the Sheriff may grant a reasonable extension of time for the employee to respond.
 - 2. If the employee elects to respond orally, the presentation shall be recorded by the Office. Upon request, the employee shall be provided with a copy of the recording.

1020.11 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 Sheriff 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) This response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative and/or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses (Minn. Stat. § 626.89, Subd. 9).
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Sheriff to consider.
- (d) In the event that the Sheriff elects to cause further investigation to be conducted, the employee shall be provided with the results of such subsequent investigation prior to the imposition of any discipline.

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- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Sheriff on the limited issue(s) of information raised in any subsequent materials.
- (f) Once the employee has completed his/her response or, if the employee has elected to waive any such response, the Sheriff shall consider all information received concerning the recommended discipline. The Sheriff shall thereafter render a timely written decision to the employee imposing, modifying or rejecting the recommended discipline. In the event of a termination, the final notice of discipline shall also inform the employee of the reason(s) for termination and the process to receive all remaining fringe and retirement benefits.
- (g) Once the Sheriff has issued a written decision, the discipline shall become effective subject to the collective bargaining agreement or other rights of the employees, such as those under the Veteran's Preference Act.

1020.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that an employee tenders a written retirement or resignation prior to the imposition of discipline, it shall be noted in the file. The tender of a retirement or resignation by itself shall not serve as grounds for the termination of pending discipline.

1020.13 DISCIPLINARY ACTION AGAINST PROBATIONARY EMPLOYEES

In the event that a probationary employee is terminated for misconduct, unsatisfactory performance or the failure to meet Office standards, the employee shall have no right to appeal, except for an employee covered by the Veterans' Preference Act. A probationary employee covered by the Veterans' Preference Act is additionally entitled to written notice of the charges and the intent to terminate, suspend or demote, and his/her right to request a hearing within 60 days of receipt of the notice. Failure to request the hearing in the time specified waives the right to the hearing and all other legal remedies. Any hearing shall be held in compliance with law (Minn. Stat. § 197.46).