

MINNEOTA POLICE DEPARTMENT

NUMBER: M101-06 PAGES: 18

EFFECTIVE DATE: **March 04, 2018** *(This order supersedes all previous releases.)*

SUBJECT: COMPLAINT AGAINST AN EMPLOYEE

1.0 PURPOSE:

The purpose of this General Order is to establish departmental procedures for the initiation, investigation and resolution of complaints concerning violations of Department policy or allegations of misconduct against members of the Minneota Police Department.

2.0 POLICY:

It shall be the policy of the Minneota Police Department to investigate all allegations of misconduct, which cannot be resolved upon receipt. Allegations of misconduct may be reported from any source, internal or external.

3.0 INTRODUCTION:

- 3.1** A relationship of trust and confidence between Department members and the community they serve is essential for effective law enforcement. Those in law enforcement must be free to exercise their best judgment and to initiate enforcement action in a lawful and impartial manner without fear of reprisal. At the same time, they must scrupulously respect individual rights.
- 3.2** The complaint procedure outlined in this General Order is intended to provide corrective action when a member acts improperly and to protect the member from unwarranted criticism in discharging duties properly.
- 3.3** Any person who believes that a law enforcement act is improper is encouraged to bring the complaint to the department's attention.
- 3.4** Any member having a complaint against another member of the department for any violation of the rules shall make a written statement directly to the Chief of Police. Any member of the department feeling aggrieved at the treatment or orders of a superior, or any member wishing to call attention to any matter of police business, or to make any suggestion for the improvement of services shall utilize the Chain of Command.

MINNEOTA POLICE DEPARTMENT

NUMBER: M101-06 PAGES: 18

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3.5 The Department will make every effort to ensure that no adverse consequences occur to any person or witness who brings a complaint or provides information in any investigation of a complaint.

3.6 Complaints shall be handled in a prompt, just and expeditious manner in accordance with these procedures. Copies of this General Order shall be made available to the public upon request.

4.0 COMPLAINT INITIATION PROCEDURE:

4.1 State law provides that officers shall not be subject to disciplinary action by the department unless their actions constitute one of the following:

4.1.1 A violation of state, local or federal law;

4.1.2 Conduct unbecoming an officer;

4.1.3 Incompetence;

4.1.4 A violation of written or verbal departmental rules, policy, procedures, or orders;

4.1.5 Nonfeasance.

4.2 Supervisor's Role

4.2.1 The primary responsibility for maintaining and reinforcing officer conformance with the standards of conduct of this department shall be with the officer and the first line supervisors.

4.2.2 Supervisors shall familiarize themselves with the officers in their units, and closely observe their general conduct on a daily basis.

4.2.3 Supervisors should remain alert for indications of behavioral problems or changes that may affect an officer's normal job performance. The supervisor should document such information.

MINNEOTA POLICE DEPARTMENT

NUMBER: M101-06 PAGES: 18

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- 4.3 Any person wishing to make a complaint of misconduct against a member of the Department, may report their request to any department member. A supervisor may be summoned to explain the process if requested, or be referred to the Police Department. The member in contact with the complainant shall give a complaint package to the complaining party. The complainant shall be dealt with in a prompt manner. Unnecessary delays and referrals shall be avoided. All members shall process the complaint involved as expeditiously as possible. If an interpreter is needed a supervisor will be called.
- 4.4 Upon receipt of a complaint, the Chief of Police, or his/her designee shall make every effort to promptly resolve the issue. If it is determined that misconduct occurred, and a formal investigation is not warranted, the Chief of Police will document in writing what disciplinary or remedial action was taken, or the procedure set forth in Section 6.0, paragraphs 6.3 through 6.9, may be applied.
- 4.5 If a formal investigation is warranted, the Chief of Police will assign a control number and investigating officer to the complaint. The Chief of Police may assign an outside agency to the investigation.
- 4.6 The Chief of Police shall inform the accused member that an investigation has been initiated and the name of the investigating officer, unless such notification would impede or adversely affect the investigation.
- 4.7 The Chief of Police shall promptly notify the complainant that an investigation has been initiated.
- 4.8 The Chief of Police may suspend the investigation when the facts or circumstances make it apparent that it is appropriate.

5.0 COMPLAINT INVESTIGATION PROCEDURE:

- 5.1 The primary responsibility for the completion of the investigation of the complaint lies with the assigned investigating officer.
- 5.2 The investigator should thoroughly and impartially investigate the complaint and any other potential misconduct discovered in the course of the investigation. If the investigation uncovers potential non-criminal misconduct or violations of department General Orders, the Chief of Police shall initiate a complaint against that member. If a formal recorded statement will be taken and/or a disciplinary

MINNEOTA POLICE DEPARTMENT

NUMBER: M101-06 PAGES: 18

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hearing will occur, a signed complaint stating the knowledge of potential misconduct will be filed with the Chief of Police.

- 5.3 If the complaint is to be handled as a criminal matter, the investigation will be conducted in a manner consistent with normal criminal investigation procedures. The Chief of Police may assign an outside agency to investigate the criminal matter. A member questioned about committing a crime in a criminal investigation shall not be disciplined or discharged for refusal to answer questions or to give a formal statement and shall be informed of this in writing. (See Appendix A.)
- 5.4 In non-criminal internal investigation interviews, members are required to answer questions and give statements. Members who refuse to supply information during an internal investigation may be subject to discipline for such refusal.
- 5.5 When a member is required to give a formal recorded statement that may be used as evidence in a disciplinary proceeding against the member, the following procedure will be followed:
 - 5.5.1 A signed, written complaint must be on file with the Chief of Police as provided for in Section 4.1 before a formal statement can be taken.
 - 5.5.2 The member will be given a written summary of the allegations before a formal statement is taken.
 - 5.5.3 The member will be given the disciplinary warning before a formal statement is taken. (See Appendix C.)
 - 5.5.4 The member will be given the "Tennessee Warning" before being asked to supply private or confidential information. (See Appendix B.)
 - 5.5.5 Sessions in which a formal statement is taken will be of reasonable duration and will give the member reasonable periods for rest and personal necessities. When practical, sessions will be held during the member's regularly scheduled work shift. If the session is not held during the member's regularly scheduled work shift, the member will be paid at the member's current compensation rate for time spent during the session.

MINNEOTA POLICE DEPARTMENT

NUMBER: M101-06 PAGES: 18

EFFECTIVE DATE: March 04, 2018 *(This order supersedes all previous releases.)*

SUBJECT: COMPLAINT AGAINST AN EMPLOYEE

- 5.5.6** A complete electronic recording will be made of the session in which the formal statement is taken.
- 5.5.7** A session in which a formal recorded statement is taken may be tape recorded by the member under investigation.
- 5.5.8** Upon written request of the member whose formal recorded statement is taken, a complete copy or transcript will be made available to the member without charge or undue delay.
- 5.5.9** The member whose formal statement is taken has the right to have an attorney or union representative of the member's choosing present during the session. The member may request the presence of an attorney or union representative at any time before or during the session. When a request under this sub-paragraph is made, no formal statement will be taken until a reasonable opportunity is provided for the member to obtain the presence of the attorney or union representative.
- 5.5.10** The formal statement will be taken at the Minneota Police Department or at a place agreed to by the investigator and the member under investigation.
- 5.6** No member will be required to produce or disclose the member's personal financial records, except pursuant to a valid search warrant or subpoena.
- 5.7** There may be no public release of photographs of members without the written permission of the member, except that a photograph of a member may be displayed to a prospective witness as part of the investigation.
- 5.8** Information concerning the investigation shall not be discussed with anyone except staff assigned to the investigation or persons who have information concerning the case. Members interviewed are directed not to discuss the case with anyone except the assigned investigator, the union representative, or the attorney.
- 5.9** Upon completion of the investigation, the assigned investigator shall submit to the Chief of Police a report and supportive material containing the following information organized in the following manner:

MINNEOTA POLICE DEPARTMENT

NUMBER: M101-06 PAGES: 18

EFFECTIVE DATE: March 04, 2018 *(This order supersedes all previous releases.)*

SUBJECT: COMPLAINT AGAINST AN EMPLOYEE

- 5.9.1** Allegations: This section shall consist of an itemized summary of the acts of misconduct alleged in the complaint. Reference shall be made to those rules, procedures, orders or statutes that would be violated if the allegations are taken as true.
- 5.9.2** Investigation: This section shall consist of a chronological summary of the investigation and interviews with the complainant, accused member and all available witnesses. Written statements, description and analysis of the physical evidence and all other relevant information shall be included.
- 5.9.3** Conclusions: This section shall include the investigator's findings, conclusions as to whether any misconduct occurred, and the underlying reasons for the findings and conclusions.
- 5.9.4** Classification: Based upon the facts and conclusions, each allegation in the complaint shall be classified in one of the following ways:
 - 5.9.4.1** Sustained: The allegation is supported by sufficient evidence.
 - 5.9.4.2** Not Sustained: Insufficient evidence to prove or disprove the allegation.
 - 5.9.4.3** Exonerated: The incident occurred but it was lawful and proper.
 - 5.9.4.4** Unfounded: The allegation is false or not factual.
- 5.10** The assigned investigator shall complete the investigation and submit the required report and documents to the Chief of Police as soon as possible within 30 days of the complaint. The Chief of Police may grant extensions.

MINNEOTA POLICE DEPARTMENT

NUMBER: M101-06 PAGES: 18

EFFECTIVE DATE: March 04, 2018 *(This order supersedes all previous releases.)*

SUBJECT: COMPLAINT AGAINST AN EMPLOYEE

6.0 COMPLAINTS AND REVIEW DISPOSITION:

- 6.1** The Chief of Police shall review the investigator's report and supportive materials, determine if the classifications of the allegations in the complaint are appropriate, and alter them if necessary.
- 6.2** If the allegations in the complaint are found to be Unfounded, Exonerated, or Not Sustained, a notification signed by the Chief of Police will be sent to the persons involved.
- 6.3** The Chief of Police may hold a hearing before a complaint is declared Sustained or before a determination is made on what disciplinary or remedial action to take. The Chief of Police may require the complainant, investigating officer, accused member, witnesses or other persons to appear.
- 6.4** Before a formal hearing is begun, the member must be given a copy of the signed complaint on file with the Chief of Police.
- 6.5** Upon request, the Department shall provide the member with a list of witnesses that the Department expects to testify at the administrative hearing and the substance of the testimony. The member is entitled to copies of any witness statements in the possession of the Department and is entitled to a copy of the Department's investigative report, provided that any references in a witness statement or investigative report that would reveal the identity of confidential informants may not be disclosed, except upon order of the Chief of Police or other person presiding over the administrative hearing for good cause shown.
- 6.6** If the complaint is sustained, the Chief of Police shall take appropriate disciplinary action.
- 6.7** After selecting appropriate disciplinary action, the Chief of Police will issue an Employee Disciplinary Notice, which will include a Findings of Fact, which shall contain the following information:
 - 6.7.1** A summary of the act(s) constituting misconduct and the specific rules, procedures, orders or statutes violated.

MINNEOTA POLICE DEPARTMENT

NUMBER: M101-06 PAGES: 18

EFFECTIVE DATE: March 04, 2018 *(This order supersedes all previous releases.)*

SUBJECT: COMPLAINT AGAINST AN EMPLOYEE

6.7.2 A description of the disciplinary or remedial action taken to prevent recurrence of the conduct.

6.7.3 Any additional information the Chief of Police finds applicable to accurately document the disposition.

6.8 Prior to the implementation of remedial and/or disciplinary actions, the accused member shall be provided with a copy of the Employee Disciplinary Notice. The Chief of Police and/or appropriate Supervisor shall review it with the member and explain the reasons for the action. A copy of the Employee Disciplinary Notice shall be put in the member's personnel file.

6.9 The person making the complaint shall be notified of the conclusion of the investigation and the fact that appropriate administrative action was taken.

7.0 APPEAL PROCEDURE:

Department members may appeal the disciplinary action taken according to the choice of remedies that are applicable to the Department member.

APPENDIX A

You are hereby informed that you are the subject of a criminal investigation. In particular, you are being investigated for the following matter:

You have the right to refuse to answer questions or give a statement about this matter. If you exercise that right you shall not be disciplined or discharged from employment for your refusal to answer questions or give a statement.

I have read and understand the above information. After being so informed, I have decided to proceed as follows:

_____ Agree to answer questions and give a statement concerning the above matter.

_____ Refuse to answer questions or give a statement concerning this matter.

DATE

TIME

SIGNATURE OF MEMBER

WITNESS

APPENDIX B

TENNESSEN WARNING

At this time you are about to be asked to supply private or confidential information about yourself before supplying such information, you are hereby informed of the following:

- A. You are being asked to supply this information to assist in the investigation of alleged employee misconduct. The information you supply will be used to determine if such misconduct did, in fact, occur. If it is determined that misconduct occurred, it would be used to determine what, if any, disciplinary or remedial action should be taken.
- B. You are advised that you are required to supply the requested information as part of your employment responsibilities.
- C. If you supply the requested information it may be used as a basis for taking disciplinary or remedial action. Additionally, you may be required to testify about it at later hearings. If you refuse to supply the requested information, you may be subject to disciplinary action for such refusal.
- D. You are advised that the following persons or entities may be authorized by law to receive this data:
 - Involved Supervisors and Administrators
 - Labor Union Representatives
 - Arbitrators and Administrative Hearing Examiners
 - A Law Enforcement Agencies
 - State and Federal Courts
 - Human Rights Agencies
 - Your Authorized Representative
 - Minnesota Department of Economic Security
 - Minnesota Department of Labor and Industry
 - Minnesota Department of Employee Relations
 - Veterans Preference Board
 - Personnel Department
 - Attorneys representing any of the above individuals or entities

This is to certify that I have read and understand the above-mentioned information. As a result, I have decided to proceed as follows:

_____ Agree to supply the requested private or confidential information.

_____ Refuse to supply the requested private or confidential information.

DATE

TIME

SIGNATURE OF MEMBER

WITNESS

APPENDIX C

DISCIPLINARY WARNING

In accordance with Minnesota Statute 626.89, you are hereby informed that you are required to give a formal recorded statement. Admissions made in the course of the formal statement may be used as evidence of misconduct or as a basis for discipline.

DATE

TIME

SIGNATURE OF MEMBER

WITNESS

CONFIDENTIAL

MINNEOTA POLICE DEPARTMENT - ADMINISTRATIVE USE ONLY - ALLEGATION OF EMPLOYEE MISCONDUCT

1. DATE AND TIME REPORTED	2. RECEIVED BY (EMPLOYEE NAME)	3. ☐ IN PERSON 4. ☐ BY TELEPHONE 5. ☐ OTHER	4. PERSONNEL INVESTIGATIONS NUMBER
5. DATE AND TIME OCCURED	6. LOCATION OF OCCURRENCE		7. CONNECTING CASE REPORT NUMBER
8. REPORTING PARTY'S NAME		SEX	DOB:
ADDRESS:		TELEPHONE	
RESIDENCE:		RESIDENCE:	
BUSINESS:		BUSINESS:	
9. SPECIFIC ALLEGATION (IN BRIEF)			
10. EMPLOYEE (S) NAME		EMPLOYEE (S) NAME	
A.		B:	
C:		D:	
11. WITNESSES			
NAME	SEX	DOB	ADDRESS
A.			RES: BUS:
B.			RES: BUS:
C.			RES: BUS:

12. NARRATIVE: GIVE DETAILS OF ALLEGATION AND/OR STATEMENT OF THE REPORTING PARTY. INTERVIEWER'S REMARKS.

13. NOTIFICATION OF ALLEGATION RECEIVED:

TO COMPLAINANT: (DATE) _____ BY: _____ TO COMPLAINANT: (DATE)_____ BY: _____

TO EMPLOYEE: (DATE) _____ BY: _____ TO EMPLOYEE: (DATE) _____ BY: _____

15. SUPERVISOR INTERVIEWING (SIGNATURE)	16. TIME SPENT ON INTERVIEW (TENTHS OF HOURS):	17. REPORTING PARTY'S SIGNATURE (OPTIONAL)
18. SUPERVISOR ASSIGNED:	19. DATE/TIME ASSIGNED	20.DATE/TIME COMPLETED 21 PAGES

CONFIDENTIAL

MINNEOTA POLICE DEPARTMENT-ADMINISTRATIVE USE ONLY
ALLEGATION OF EMPLOYEE MISCONDUCT

MEMORANDUM

TO:

FROM

DATE

P. I #:

COMPLAINANT:

EMPLOYEES NAMED:

ALLEGATION:

SECTION I. FINDINGS OF FACTS:

1. UNFOUNDED
2. NOT SUSTAINED
3. SUSTAINED

4 . EXONERATED

COMMENTS :

CITY OF MINNEOTA

MINNEOTA POLICE DEPARTMENT
LAW ENFORCEMENT CENTER
129 E 1st Street
MINNEOTA, MN 56264
PHONE NUMBER: 507-372-2136

Re: Allegation of Employee Misconduct--Personnel Investigation

Please be advised that _____ has made an allegation of unprofessional conduct against you concerning an incident involving him/her. Specifically, he/she alleges

Please be advised that _____ has been assigned to this investigation. If you desire any further information, please contact him.

MINNEOTA POLICE DEPARTMENT

CITY OF MINNEOTA

MINNEOTA POLICE DEPARTMENT
LAW ENFORCEMENT CENTER
129 E 1st Street
MINNEOTA, MN 56264
PHONE NUMBER: 507-372-2136

Re: Findings of Fact - Personnel Investigation

A complaint filed against you involving an incident on _____

At _____, concerning

Recorded on Complaint # _____, has been reviewed by your Supervisor and myself. After a thorough review, it has been determined that the complaint is:

- | | |
|-------|---|
| _____ | Sustained. Disciplinary action will be |
| _____ | Not Sustained. No reference to this matter will be placed in your personnel file. |
| _____ | Exonerated. No reference to this matter will be placed in your personnel file. |
| _____ | Unfounded. No reference to this matter will be placed in your personnel file. |

If you have any questions concerning this disposition, please feel free to contact

MINNEOTA POLICE DEPARTMENT

CONFIDENTIAL

MINNEOTA POLICE DEPARTMENT - ADMINISTRATIVE USE ONLY ALLEGATION OF EMPLOYEE MISCONDUCT INVESTIGATION LOG

OFFICER	DATE	TIME	NAME OF SUBJECT OR CONTACT	HOW CONTACTED PERSON PHONE LETTER	TOTAL TIME SPENT*
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*List in tenths of hours

EMPLOYEE DISCIPLINARY NOTICE

NAME OF EMPLOYEE: _____ DATE: _____

JOB TITLE: _____ DEPARTMENT: _____

ORAL REPRIMAND _____ OR WRITTEN REPRIMAND _____

SUSPENSION FOR _____ DAYS _____ DISCHARGE

IF ORAL REPRIMAND, GIVE DATE, TIME AND PLACE OF REPRIMAND:

The above disciplinary action was taken against you today for:

- ___ Tardiness
- ___ Absenteeism
- ___ Use of excessive force
- ___ Alcoholic Beverage
- ___ Insubordination
- ___ Use of profane or abusive language
- ___ Dishonesty
- ___ Violation of work contract
- ___ Other (describe)
- ___ Leaving district without permission
- ___ Improper handling of prisoners' property or evidence
- ___ Disobedience of an order
- ___ Failure to perform assigned tasks Poor job performance
- ___ Neglect of duty
- ___ Damage or-loss of city property
- ___ Other (describe) _____

Give a statement of the facts causing this action, including the time and place, acts, and names of persons involved:

I delivered a copy of this form to the subject employee on _____

Employee

Department Head or Supervisor

Note: A copy of this notice has been placed in your personnel file.

Distribution: