

## 230.00 Disciplinary Procedures

See [General Order 304.00 Internal Affairs Unit](#) and General Orders 230.07 through 230.30:

- [230.07](#) Immediate Disciplinary Procedures
- [230.09](#) Employee's Duty to Report Misconduct
- [230.10](#) Police-Civilian Internal Affairs Review Commission (P.C.I.A.R.C.)
- [230.11](#) Employee's Rights
- [230.12](#) Civil Service Rules -- Discipline
- [230.13](#) Conduct Unbecoming a Peace Officer
- [230.20](#) Department Rules of Conduct
- [230.30](#) Drug and Alcohol Screening

### **I. Purpose:**

The purpose of this order is to ensure the integrity of the police department by establishing procedures for handling complaints and disciplinary actions against members of the department. These procedures will assure the prompt and thorough investigation of incidents to clear the innocent, establish guilt, and facilitate suitable disciplinary action. This order is based on the premise that discipline is the function of command, and a well-disciplined force is a force which voluntarily and ungrudgingly conforms to all rules and orders.

### **II. Scope of This Order:**

The department shall investigate all complaints lodged against it or its employees. Incidents which are to be handled in accordance with the provisions of this order include, but are not limited to, alleged or suspected violations of statutes, civil service rules and regulations, ordinances, the department's rules, policies or orders by members (sworn and civilian, including temporary employees) of the police department.

The incidents include those reported by the public, observed and reported by members of the department, those referred by the City of Saint Paul Office of the Mayor or the Saint Paul City Council, and those designated by the NAACP agreement as complaint intake sites.

Reporting and recording procedures shall be in compliance with [Minnesota Statute 626.89, Peace Officer Discipline Procedures Act](#) and/or [City of Saint Paul Civil Service Rules](#).

### **III. Individual Responsibility:**

Each member of the department will perform the duties and assume the obligation of their rank in the investigation of complaints or allegations of misconduct against members of the department, and will cooperate fully with personnel of the internal affairs unit (IAU) and/or any other member of the department conducting such investigation.

- Employees may be required to submit to a medical or laboratory examination, at the department's expense, when the examination is specifically directed and narrowly related to a particular internal investigation being conducted by the department.
- As part of an internal affairs investigation an employee may be required to be photographed and/or to participate in a line-up. Photographs shall not be publicly released without the written consent of the employee. Photographs may, however, be displayed to a prospective witness as part of an investigation. ([Minnesota Statute 626.89, Peace Officer Discipline Procedures Act](#))
- When a financial disclosure statement is material to the investigation, an officer cannot be required to produce or disclose personal financial records without a valid search warrant or subpoena. ([Minnesota Statute 626.89 Subd. 11](#))

#### **IV. Department Responsibilities -- Privacy Statement:**

The department shall take reasonable steps to protect the accused employee from contact with the news media without their consent. Neither the home address nor a photograph of the accused employee shall be released without the officer's consent.

All documents concerning complaints of employee misconduct shall be considered as internal personnel information. No private documents may be removed from the internal affairs office by any person without express consent of the chief of police, the IAU commander, or on the written order of a court of competent jurisdiction. Release of information shall comply with the Minnesota Data Practices Act.

#### **V. Receipt of Complaints:**

Complaints shall be accepted from any source, whether made in person, by mail, or over the telephone. Complaints will be formalized in compliance with [Minnesota Statute 626.89, Peace Officer Discipline Procedures Act](#) which states:

“An officer's formal statement may not be taken unless there is filed with the employing or investigating agency a written complaint signed by the complainant stating the complainant's knowledge, and the officer has been given a summary of the allegations. Complaints stating the signer's knowledge also may be filed by members of the law enforcement agency. Before an administrative hearing is begun, the officer must be given a copy of the signed complaint.”

Complaints will generally be received by contacting the IAU. In cases when non-supervisory personnel receive knowledge of a complaint, the complainant should be immediately referred to the appropriate unit supervisor or internal affairs office. It is the personal responsibility of any police person receiving knowledge of a complaint to ensure that the complainant makes immediate contact with someone who will record the complaint. If there is no supervisor or internal affairs staff available, a watch commander will receive and formalize the complaint.

If the complaint is received and processed by internal affairs staff, a complaint package will be mailed to the complainant. The contents of the package ensure compliance with [Minnesota Statute 626.89, Peace Officer Discipline Procedures Act](#).

Should any complainant allege that the improper conduct is ongoing or that evidence of the conduct is presently available, the officer receiving the complaint is responsible for ensuring that immediate steps are taken to investigate the ongoing nature of the complaint and/or to recover any physical evidence. If the allegation is one of excessive force, if practical, photographs of injuries will be taken.

If the complaint is against an assistant chief or chief of police, the complaint should be made to the City of Saint Paul's Human Resources Department at 25 West 4<sup>th</sup> St. #200, City Hall Annex, St. Paul, MN 55012. The City of Saint Paul Human Resources Department should refer investigations of alleged misconduct to an outside law enforcement agency or criminal justice agency.

## **VI. Investigation of Complaints:**

### **Internal Affairs investigations:**

The IAU, upon receipt of a complaint form, shall as soon as possible after receipt contact complainants and initiate a [complaint intake sheet](#). If during an original complaint intake interview or during this contact a complaint can be resolved through an explanation of rules or procedures to the complainant's satisfaction, the case shall be closed and so noted.

Internal affairs will investigate complaints of excessive force, use of firearms to include inappropriate use of those firearms, discrimination, and other cases as directed by the chief of police. The IAU commander reserves the right to investigate those cases normally handled at the division command level.

An investigation of a complaint will adhere to the following provisions for the taking of an accused officer's formal statement in accordance with the Peace Officer Disciplinary Procedures Act ([Minnesota Statute 626.89](#)):

- Formal statements from officers under investigation must be taken at a department location or other place agreed to by the investigating officer and the investigated officer.
- Formal statements, when practicable, must be taken during the officer's regular work shift. If taken at other times, the officer is to be paid at the officer's usual compensation rate for time spent at the session.
- A formal statement may not be taken unless there is a written complaint and the officer is provided with a summary of the allegations.
- Before a formal statement is taken, the officer shall be advised that admissions made in the course of the formal statement may be used as evidence of misconduct or as a basis for discipline. But those statements cannot be used against the employee in any criminal proceeding. (See Internal Affairs Warning)
- A complete record of the sessions at which a formal statement is taken must be made by electronic recording and/or in writing. A complete copy of the recording or a transcript must be made available to the officer.
- The officer providing a formal statement has a right to have an attorney and/or union representative present during the session. The officer may request the presence of an attorney and/or union representative at any time before or during the session. When a

request for such representation is made, no formal statement may be taken until a reasonable opportunity is provided for the officer to obtain the presence of an attorney and/or union representative.

An investigator shall be assigned to conduct an investigation of the complaint and assemble the necessary material. Such material will normally include:

- Physical evidence (including photos of victims alleging excessive use of force -- if possible).
- Statements and/or interviews from all witnesses.
- Statements and/or interviews from all parties of specialized interest, such as doctors, employers, parents, etc.
- Investigative aids, such as police reports, activity data, complaint number information, medical reports, etc.

In non-criminal cases after the gathering of preliminary investigation data, the internal affairs office shall notify the accused employee in writing of the fact that a complaint has been made and the exact nature of the complaint. A detailed report on the matter shall be required and an appointment for questioning may be established that, whenever possible, occurs during the employee's normal working hours. If not, the sworn employee must be paid their current compensation rate for the time spent attending the session.

Before questioning by internal affairs, the employee shall be advised that failure to answer questions will result in disciplinary action, but that the employee's answers and the fruits of these answers cannot be used against the employee in any criminal proceeding. The employee shall be given a copy of the "Internal Affairs Warning." If, at any time during the questioning session the employee becomes a suspect in a serious criminal act, the administrative questioning shall end, and the employee shall be so informed and read the Miranda warnings (if any interrogation is to continue). The case shall then be referred to the chief of police. Otherwise, the employee shall be expected to answer questions or submit materials to the investigator when so directed. The employee shall always be given an opportunity to respond to the complaint.

In cases where preliminary investigation indicates the likelihood of an ongoing criminal act on the part of the employee, the internal affairs office shall refer such complaint and/or investigation to the chief of police. Such investigation may then be conducted as a criminal investigation with the appropriate criminal charging decisions made by the county and/or city attorney. When a complaint may be treated as either a criminal or department policy violation, the complainant will be so advised by the internal affairs office and the complainant will be asked if they wish to have the department investigate the incident as a criminal or departmental matter, and the matter, along with the wishes of the complainant, referred to the chief of police. The final determination of all such matters shall be the chief of police.

Upon completion of an investigation, the internal affairs investigator shall prepare a summary memo detailing the investigation and proposing a disposition, along with reasons for the proposed disposition. Dispositions are: Unfounded, Exonerated, Not

Sustained, Sustained, Policy Failure, or Commended. The entire file, including the summary memo shall be forwarded to the police-civilian internal affairs review commission (P.C.I.A.R.C.) for review and recommendation.

**Divisional Inquiry (External Complaints):**

If an investigation is necessary, all complaints, other than those investigated by internal affairs personnel, shall be forwarded from the internal affairs office to the accused employee's commanding officer, who in turn shall ensure that the appropriate unit supervisor investigate the allegation of misconduct.

Supervisors shall interview the complainant, all witnesses, and the accused employee, as well as review all relevant reports, activity information, dispatch information, etc. Interviewing of an accused sworn officer will be done in accordance with the Peace Officer Discipline Procedures Act. Before questioning by a supervisor, the employee shall be advised that failure to answer questions will result in disciplinary action, but that the employee's answers and fruits of these answers cannot be used against them in any criminal proceeding. (See [Internal Affairs Warning Form](#)) The supervisor shall then submit to the unit commander all investigatory files along with a final report summarizing the matter and a recommendation as to investigative findings. A recommendation is one of the following:

- **Unfounded:** Allegation is false or not factual.
- **Not Sustained:** Insufficient evidence to prove or disprove the incident.
- **Exonerated:** Incident occurred but it was lawful and proper.
- **Sustained:** Allegation is supported by sufficient evidence to justify reasonable conclusion of guilt.
- **Policy Failure:** The allegation is factual. The officer followed proper departmental procedures, which have been proven to be faulty.
- **Commended:** Either the allegation was false or the officer's actions were lawful and proper, AND the officer demonstrated an exceptional level of behavior or service.

The commander will make a determination of the appropriate complaint disposition as unfounded, exonerated, not sustained, sustained, policy failure, or commended. The commander shall prepare a memo summarizing the investigation and their decision and send the entire file to the internal affairs unit.

**VII. Review by Division Deputy Chief:**

Commanding officer's recommendation: Upon receipt of an investigation from the IAU commander in which the commander makes a recommendation for a disposition of sustained, the deputy chief shall review the investigative file, summary reports, proposed findings and recommendations. If the deputy chief concurs with the reports and recommendations, they shall prepare a memorandum of concurrence and forward summary of findings to the chief of police.

If the deputy chief, after reviewing the entire file, disagrees with the proposed findings and recommendations, they shall prepare a memorandum detailing the reasons for their non-concurrence and new recommendations for findings and/or appropriate discipline. The entire

file shall then be forwarded to the chief of police for final determination and/or action. The deputy chief shall not require or ask that a proposed finding or recommendation of the unit commander be changed to comply with the deputy chief's final report.

If the deputy chief, after reviewing the entire file, finds that the investigation is inadequate in any way, they shall prepare a report stating their findings and return the file to the originating unit or commander. Said report should be as detailed as possible and, whenever appropriate, request specific information necessary to make the investigation complete.

#### **VIII. Review and Action by Chief of Police:**

The Chief of Police shall review summary reports, recommendations for discipline and take timely action to conclude the case.

Any disciplinary action to be taken shall be based on the seriousness of the misconduct, the extent of wrongdoing or injury to the victim, and any other relevant information which comes to the attention of the chief of police.

Upon preliminary determination that reduction or discharge is the appropriate discipline, the chief of police shall inform the officer that a meeting to discuss the appropriate discipline is scheduled and that the officer may attend if the officer wishes. When a final decision to suspend, reduce or discharge is made, the officer shall be notified in writing of the decision and of their right to appeal the decision to the civil service commission or grievance arbitration. (See Civil Service Rules and Federation Contract)

The chief of police, and/or their designee, shall whenever they deem it appropriate, review any or all files that have been closed through discipline imposed at the unit or district level or by the deputy chief through a finding of Not Sustained, Exonerated, Unfounded, or Commended. The purpose of this review is to ensure that the standards used to close such cases are being uniformly applied and that the best interests of the department are being upheld.

#### **IX. Sustained Complaints/Disciplinary and Non-Disciplinary Options:**

Sustained complaints may carry the following recommendations:

##### **Decision / Action**

1. **Supervisory Counseling:** An oral warning is a verbal recommendation to correct a member for a violation of a department rule, regulation, or procedure by a supervisor to a subordinate. No further action required. Not considered discipline.
2. **Retraining:** A recommendation that the member be retrained in an area that precipitated or contributed to the cause for complaint against the member. A recommendation for retraining will supplement the other actions available and cannot be a singular disposition. A letter from the chief of police for the deputy chief of the accused will be forwarded to the training unit commander directing them to undertake the retraining measure with recommendations as to the length and content of the retraining period. The training unit commander will advise the deputy chief at the conclusion of the

recommended period whether additional training is necessary and the reasons therefore. Upon completion of the retraining, the training unit commander will forward a letter to the deputy chief of the member describing what action was taken and render an opinion as to the effect on the member's future performance in this area. A copy of this letter will also be forwarded to the internal affairs unit for insertion into the internal affairs unit investigative file for a matter of record.

3. **Oral Reprimand:** An oral reprimand is a verbal order to correct a member for a violation of a department rule, regulation or procedure, which is then reduced to writing. A letter noting the facts of the incident will be inserted in the internal affairs unit investigative file by the internal affairs unit upon receipt.
4. **Written Reprimand:** The written reprimand is the sustained findings of a complaint against an officer where more than an oral reprimand, but less than a suspension, is judged the adequate discipline. A letter noting the facts of the incident will be inserted in the internal affairs unit investigative file by the internal affairs unit upon receipt.
5. **Suspension:** By the chief of police - not to exceed 30 days. A letter noting the facts of the incident will be inserted in the internal affairs unit investigative file by the internal affairs unit and the member's personnel file by the HR unit upon receipt from the chief.

In any form of disciplinary action where that information becomes part of an internal affairs unit investigative file, and personnel file, the officer shall be given a copy of the item that is to become part of their record.

All discipline letters must bear the initials of the deputy chief of the employee's division, and the chief of police, prior to discipline being imposed.

#### **X. Final Action by Internal Affairs:**

1. Upon final disposition of a complaint, the IAU shall be responsible for completing the disposition of complaint report. Thereafter, pursuant to department and unit procedures, the internal affairs commander shall ensure that notice of disposition letter to the complainant(s) is initiated and performance of such other matters necessary to adequately and properly record, document, and retain facts of the complaint, investigation and disposition is completed.
2. Prior to final complaint disposition by the internal affairs office, the commander shall ensure that all files are reviewed for the presence of a final resolution to each department policy or rules violation complained of or discovered.
3. Records retention schedule:
  - A. Internal affairs case files and reports may be destroyed and/or expunged five years after separation of employment for principal officers.
  - B. Internal affairs card (type of complaint, internal affairs file number, complainant name, and final disposition) are retained.

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