

Complaint Investigation

211.1 COMPLAINT INVESTIGATION PROCESS

The Sheriff's Office shall review or investigate all complaints or allegations of employee misconduct.

211.2 PURPOSE

To exonerate those employees falsely accused.

To facilitate changes in Office policies and procedures.

To improve employee performance.

To discipline those employees who fall short of the standards expected of all employees.

211.3 DEFINITIONS

Contact: An internal or external complaint/misconduct allegation made against a specific employee(s) that is processed by the immediate supervisor.

Informal Resolution: The process by which the supervisor takes a complaint/misconduct allegation from a contact and, after consultation with the employee, resolves the complaint by explanation.

Sorting Process: A process where a supervisor gathers and examines information related to the complaint/misconduct allegation. The sorting process determines the severity of the allegations and whether a supervisory or administrative review is appropriate.

Minor Violation: A violation of policy or ethics that generally does not result in discipline.

Serious Violation: A violation of policy, ethics, or law that would generally result in discipline or criminal charges.

Supervisory Review: Review of a minor violation by an immediate supervisor to determine the appropriate course of action to resolve the complaint/misconduct allegation.(See 211.13)

Supervisory File: A file kept by the immediate supervisor to document performance issues related to an employee.

Administrative Review: A review of a serious violation by administration to determine the appropriate course of action to resolve the complaint/misconduct allegation.(See 211.13)

Internal Affairs Investigation (I.A.): A complete, neutral, fair, fact-finding investigation.

Formal Complaint: A written allegation, which has been signed by a complainant.

Formal Statement: The questioning of an individual in the course of obtaining a recorded, stenographic, or signed statement to be used as part of the complaint investigation process.

Garrity Warning: An advisory given to the employee prior to a formal statement used for internal purposes only and cannot be used against the employee in a criminal matter.

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Tennessee Warning: An advisory given to employees when the employee is required to give information about themselves.

Loudermill Hearing: In the event of possible termination, an employee has the right to an explanation of the employer's evidence, and an opportunity to present his/her side of the story.

211.4 INITIAL COMPLAINT ALLEGATION

A) Receipt:

The receiving point of all third-party complaint/misconduct allegations involving an employee(s) shall be a supervisor. All complaint allegations received by this Office will be investigated using the guidelines set out in 211.13

B) Immediate action needed:

1) Should any complaint allege that improper conduct is ongoing or evidence of the conduct is available, the supervisor receiving the complaint is responsible for ensuring that immediate steps are taken, which may include:

- (a) investigating the ongoing nature of the complaint;
- (b) recovering physical evidence;
- (c) issuing a documented verbal warning;
- (d) issuing a written warning;
- (e) imposing emergency administrative leave.

2) When emergency administrative leave is imposed, the supervisor shall immediately notify the on-call administrator and document their actions. The employee shall remain available for further work direction from the on-call administrator or the Sheriff.

C) Resolution:

The supervisor receiving a complaint of employee misconduct may attempt to resolve the matter through informal resolution if the circumstances warrant (see 211.13)

D) No Resolution:

If the supervisor cannot resolve the matter through an informal resolution, they will begin the sorting process (see 211.13).

211.5 SUPERVISORY REVIEW

The supervisor shall:

- A) Review the complaint/misconduct allegation;
- B) Identify the employee(s) involved in the incident;
- C) Determine if additional information is needed;
- D) Obtain the employees version of the incident;

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E) Document the appropriate course of action, which includes:

1. Emergency Administrative leave
2. Administrative Review
3. No action taken
4. Performance tracker
5. Informal discussion
6. Coaching/Counseling
7. Training
8. Mediation
9. Immediate discipline – verbal or written warning

F) Retain all documents in the **supervisory file** for one year from the date of the incident.

G) Signed complaints and all related documents will be retained in a complaint file kept by the Chief Deputy.

H) All discipline shall be placed in the employee's personnel file only after they have been received by the employee (Minn Stat. 626.89, Subd. 13).

I) Advise the administrative supervisor.

211.6 ADMINISTRATIVE REVIEW

During the Administrative Review, the complaint/misconduct allegation will be reviewed and sorted into one of the following categories:

- A) Referred back to the Supervisory Review process;
- B) Internal Affairs Investigation;
- C) Disciplinary Sanctions;
- D) No Action Taken.

211.7 INTERNAL AFFAIRS INVESTIGATIONS

A) Serious Policy/Ethical Investigations:

1. During investigation of a complaint/misconduct allegation, all employees will be afforded their legal and due process rights.
2. Formal statements shall take place at a mutually agreed upon time and location
3. A formal statement may not be taken unless there is a signed, formal complaint and the employee is provided with a summary of the allegations.
4. The employee shall be read the Tennessee warning and date and sign the form and be provided a copy upon request.

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5. The employee shall be read the Garrity warning as applicable and date and sign the form and be provided a copy upon request.
6. A complete record of the sessions at which a formal statement is taken must be made by electronic or stenographic means. A complete copy of the audiotape or the transcript must be made available to the employee upon request.
7. The employee has a right to have an attorney, union representative, or personal representative present when giving a formal statement.

B) Criminal Investigations:

When a preliminary investigation indicates the likelihood of an ongoing criminal act or past criminal acts on the part of the employee, a criminal investigation may be conducted. The Office may refer the criminal investigation to an outside agency.

C) Investigation Completed:

The investigator will prepare a summary report of the investigation and recommended finding, and forward it to the Sheriff. The recommended findings:

- 1) **Unfounded:** The complaint/misconduct allegation is false or not factual.
- 2) **Exonerated:** The complaint/misconduct allegation occurred, but was lawful and proper.
- 3) **Not Sustained:** The investigation produced insufficient evidence either to prove or disprove the complaint/misconduct allegation.
- 4) **Sustained:** The complaint/misconduct allegation is supported by the preponderance of credible evidence.

211.8 DISCIPLINARY SANCTIONS

A) Sustained complaints of employee misconduct may result in one of the following sanctions:

- 1) Verbal Warning: A formal action by a supervisor to inform the employee of a minor or first occurrence of a policy violation or misconduct. A verbal warning shall include the unacceptable performance or misconduct, the desired improvement, and the consequences for failing to correct the infractions.
- 2) Written Warning: A formal action by the supervisor, providing official notice of the violation or misconduct, the corrections and time frame expected, and the consequences for failing to correct infractions. The maximum time frame which will be allowed for correction is 12 months.
- 3) Suspension: An employee may be temporarily removed from their assigned position, with or without compensation, seniority or benefits, for a period not to exceed 28 days. The notice of suspension shall be written and notify the employee of the unacceptable behavior or performance, the desired performance, and the consequences if not corrected.
- 4) Demotion: An employee may be demoted to a position of lower classification for which they are qualified for any of the following reasons::

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- (a) when an employee would otherwise be laid off because of position elimination, reclassification, lack of work or funds, or the return to work from authorized leave by another employee to such a position in accordance with the regulations;
- (b) when an employee does not possess the necessary qualifications to provide satisfactory performance in the position, or when removed during probation
- (c) when an employee voluntarily requests such demotion;
- (d) as a result of disciplinary action.

5. Discharge: In cases where corrective and /or disciplinary action has failed to:

- (a) improve unacceptable performance;
- (b) obtain compliance with policies or practices; or
- (c) correct inappropriate conduct, an employee may be discharged for cause consistent with the County Employee Discipline and Discharge Policy.

Under no circumstances shall an employee be discharged without having the Employee Relations Director or designee review the action. The employee shall be placed on paid administrative leave, pending a review of the circumstances, if removal from the work site is necessary.

B) All discipline shall be placed in the employee's personnel file only after they have been received by the employee (Minn Stat. §626.89, §241.026).

211.9 APPEALS OF DISCIPLINARY DECISIONS

An employee may appeal the disciplinary decision according to the collective bargaining agreement, County Rules and Regulations, or other legal options available. The employee shall have the opportunity to review and request copies of the completed investigative file from the Chief Deputy.

211.10 EMPLOYEE PRIVACY

A) The Sheriff's Office shall take reasonable steps to protect an employee who is the subject of, or a witness to, a complaint investigation from contact with the news media without the employee's consent.

B) An employee's photograph or home address will not be released without the employee's informed consent, as defined by the Minnesota Government Data Practices Act.

C) All documents relating to complaints of employee misconduct shall be considered private data, excluding the summary report.

D) The Chief Deputy will maintain the records relating to investigation of complaint/misconduct allegations against employees.

E) No document may be removed from the Chief Deputy's files or office by any person without the consent of the Sheriff, the Chief Deputy, or designee, or pursuant to a court order.

F) Any release of information shall comply with the Minnesota Government Data Practices Act.

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211.11 RETALIATION PROHIBITED

Neither the Sheriff's Office nor Carver County will discharge, discipline, threaten, penalize, or otherwise discriminate against an employee regarding compensation, terms, condition, location, or privileges of employment because the employee:

- A) Reports a violation of the law;
- B) Is requested by a public agency to participate in an investigation; or
- C) Refuses to participate in activity known to violate the law.

211.12 EMPLOYEE RIGHTS

A) False Complaints: It is a gross misdemeanor to knowingly make a false allegation against a peace officer concerning the officer's performance of official duties with the intent to influence or tamper with the officer's performance of their duties. Carver County reserves the right to prosecute such cases, when appropriate.

B) Unfounded Complaints: Complaints designated as unfounded **shall not** be included in an employee's personnel file, and shall not be used in any subsequent disciplinary proceedings or in making promotion decisions.

211.13 MINNESOTA POST BOARD REPORTING REQUIREMENTS

A.) 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.

B.) 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.

C.) Minnesota Stat. 626.8457 Subd. 3 requires Chief Law Enforcement Officers 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.

D.) A Chief Law Enforcement Officer must update data within 30 days of final disposition of a complaint or investigation.

E.) 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.

F.) The Sheriff, or their authorized designee, shall notify the POST Board of a termination or resignation of a licensed deputy who is the subject of an internal or criminal investigation due to alleged misconduct regardless of whether the investigation has been initiated or completed, or whether the deputy was criminally charged (Minn. Stat. § 626.8457, Subd. 4).

G.) The Sheriff, or their designee, shall notify the POST Board of an alleged violation of a POST Board required policy identified in Minn. R. 6700.1615 (Minn. R. 6700.1615, Subd. 2).

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211.14 COMPLAINT INVESTIGATION SORTING PROCESS

See attachment: [Complaint Invesitgation.pdf](#)

211.15 REFERENCE

Minn. State Statute § 181.932

Minn. State Statute § 241.026

Minn. State Statute § 609.505

Minn. State Statute § 626.89

Minn. POST Board Rules 6700

Chapter 13 - Govt. Data Practices

Attachments

Complaint Investigation.pdf

