

# Crookston Police Department

321 West Robert • Crookston, MN 56716 • (218) 281-3111 • (218) 281-1410 (fax)

<b>Allegations of Misconduct</b>	<b>POLICY # 150</b>
AUTHORIZED BY: Darin Selzler, Chief of Police	ISSUE DATE February 01, 2001
DISTRIBUTION: All Personnel: Email, Electronic Posting to CPD Central	EFFECTIVE DATE Immediate
REFERENCE(S): MN Rule 6700.2200 – 6700.2600 Title VII, Civil Rights Act, 1964 Current LELS Contract	MODIFICATION DATE September 19, 2022

## I. PURPOSE

The purpose of this policy is to inform all employees and the public of procedures for reporting, receiving, investigating and disposition of complaints regarding the conduct of licensed peace officers of the Crookston Police Department. The provisions of this policy are applicable only to the investigation and the disposition of allegations of administrative misconduct. This policy does not apply to a criminal investigation.

## II. POLICY

It will be the policy of the Crookston Police Department to investigate all complaints of alleged officer misconduct. The complaint procedure is intended to provide a means for corrective action when a department member conducts himself or herself improperly and to protect members from unwarranted criticism and allegations when discharging his or her duty properly. All complaints of misconduct will be accepted and handled in a prompt, open, fair, and impartial manner. The department will make every effort to ensure that no adverse consequences befall any person or witness because of bringing a complaint or providing information in support of a complaint.

## III. SCOPE

This policy applies to all members of the Crookston Police Department, sworn and civilian, whether on or off duty. Corrective action may be taken if an investigation indicates actions that constitute one or more of the following:

1. Conviction of any criminal offense
2. Conduct, which violates a persons Civil Rights
3. Any violation of written or verbal departmental rules, policy, procedure, or orders.
4. Conduct unbecoming an officer.
5. Incompetence.
6. Nonfeasance.
7. Abusive or insulting language or conduct that is derogatory and displays bias based on a person's race, religion, sex, national origin, sexual preference or orientation, age, physical or mental disability, marital status, status with regard to public assistance, or membership or activity in any lawful organization or group.
8. Sexual harassment as defined in Title VII of the Civil Rights Act of 1964. "Deliberate or repeated behavior of a sexual nature by one employee to another (or employee to a non-employee) that is unwelcome, unasked for, or rebuked by the other employee (or non-employee)".
9. Intimidation or retribution toward a complainant or witness involved in any complaint proceeding.

## IV. DEFINITIONS

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

- A. **Administrative Investigation:** An internal investigation conducted in response to a

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- complaint with the goal of determining whether an employee engaged in misconduct.
- B. **Chief Law Enforcement Officer** means the chief of police, sheriff, state law enforcement director or designee. Within this model policy, the chief law enforcement officer will be referred to as CLEO.
  - C. **Law Enforcement Officer** means an individual who holds a peace officer license in the State of Minnesota. Within this model policy, a law enforcement officer will be referred to as LEO.
  - D. **Complainant** means a person who submits a complaint to the Agency or CLEO alleging misconduct by an agency member.
  - E. **Complaint** means a statement alleging behavior that constitutes misconduct.
  - F. **Member** means all voluntary and compensated personnel of the agency.
  - G. **Discipline** means any of the following or combination thereof (See current LELS Contract Article 13 for further details):
    - a. Oral Reprimand
    - b. Written Reprimand
    - c. Suspension
    - d. Demotion
    - e. Discharge
  - H. **Unfounded** means there is no factual basis for the allegation. The act or acts alleged did not occur.
  - I. **Exonerated** means a fair preponderance of the evidence established that either:
    - 1. The agency member named in the complaint was not involved in the alleged misconduct; or
    - 2. the act(s) that provided the basis for the complaint occurred; however, the investigation revealed that such act(s) were justified, lawful or proper.
  - J. **Not Sustained** means the investigation failed to disclose sufficient evidence to prove or disprove the allegations made in the complaint.
  - K. **Sustained** means a fair preponderance of the evidence obtained in the investigation established that the LEO's actions constituted misconduct.
  - L. **Policy Failure** means that the complaint revealed a policy failure. The allegation is factual, and the LEO(s) followed proper agency procedure, however, that procedure has proven to be deficient.
  - M. **Respondent** means an individual who is the subject of a complaint investigation.
  - N. **Misconduct** means:
    - 1. a violation of an agency policy or procedure governing conduct of agency members.
    - 2. conduct by a peace officer that would be a violation of POST Standards of Conduct per Minn. Rules 6700.1600
  - O. **Policies and Procedures** mean the administrative rules adopted by the agency regulating the conduct of agency members.
  - P. **Receiving Authority** means the entity who receives and is required to investigate the complaint when the subject of the complaint is a CLEO.

## IV. PROCEDURES

### A. Receiving a Complaint

1. Any member of the Department may receive initial contact regarding an allegation of misconduct. If the complainant is willing to provide the information the member receiving the complaint will take the name, address and telephone number of the complainant and immediately forward that to a supervising officer. If the complainant is unwilling to provide that information the member receiving the initial complaint will provide the complainant with the name of the supervising officer and the first available time in which the complainant can contact the supervising officer directly. If the complaint is against a supervisory officer the complainant shall be referred directly to the Chief of Police.

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2. No member of the Department shall in any way attempt to discourage the filing of a complaint against any member of the Department.
3. Complaints may be received either in person, over the telephone, in writing, or via the internet. A complainant may remain anonymous. The complainant should be advised that remaining anonymous may affect the investigation of the complaint.
4. A complainant may be accompanied by an attorney or other representative at the time a complaint is filed or at any other stage of the process.
5. A CLEO or Receiving Authority may delegate the duties and responsibilities required of a CLEO by this policy to an appropriate designee(s).
6. Any complaint made against a chief of police must initially be made to the city administrator, manager or mayor. Any complaint made against a sheriff must initially be made to the county attorney, the county administrator or the board of county commissioners.
7. The city administrator, manager, mayor, county attorney, county administrator or board of county commissioners must refer investigations of alleged misconduct against a CLEO to an outside law enforcement agency or criminal justice agency that has no discernible conflict of interest.
8. If the person filing the complaint sets forth specific believable facts relating to the alleged misconduct and the person wishes to remain anonymous the supervisor receiving the information will then become the complainant. Lacking sufficient believable facts, the supervisor may inform the complainant that without identification the complaint will not proceed. If the complainants still refuse to identify themselves the supervisor may refuse to initiate a complaint and will advise the anonymous person of that fact. The supervisor will notify the Chief of Police of every instance in which a complaint is not initiated under these circumstances.
9. If a formal complaint is initiated the supervisor will provide the complainant with a Crookston Police Department Citizen Complaint Form and will assist the complainant in filling it out. The complainant, the supervisor, or both will sign the form.

## **B. Investigation of a Complaint**

1. Upon receipt of the complaint, the CLEO must make an initial determination as to whether or not the facts alleged require an administrative investigation. If the CLEO decides that an investigation is not required, the disposition of the complaint must be cleared as "unfounded", "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 CLEO may reverse this decision and order an administrative investigation.
2. If the CLEO determines an administrative investigation is required, an appropriate designee will be assigned to investigate the complaint. When the CLEO believes an external investigation is appropriate or when the CLEO is the subject of the complaint, the investigation will be assigned to an external agency that has no discernible conflict of interest.
3. The investigator must inform the complainant of his or her name, business phone number and the status of the complaint as soon as possible after being assigned the investigation.
4. The investigator must 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 must report that fact

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to the CLEO or, in the case of a complaint against a CLEO, the appropriate city administrator, manager, mayor, county attorney, county administrator or board of county commissioners.

5. All agency members must cooperate with the investigation. When the respondent is a licensed peace officer, the investigation must comply with the requirements of MN STATUTE 626.89 and acts amendatory thereto.
6. The investigator must prepare a report that contains all relevant information organized into the following three (3) sections:
  - *Allegations:* An itemized summary of the acts of misconduct alleged in the complaint. Reference must be made to those rules, procedures, orders, statutes, or constitutional provisions that would be violated if the allegations are taken as true.
  - *Investigation:* A chronological summary of the investigation including all pertinent facts obtained through interviews with the complainant, accused agency member(s), and all available witnesses. Written statements, descriptions and analysis of any physical evidence, and all other relevant information must be included.
  - *Conclusions:* The investigator's findings and conclusions as to whether any misconduct occurred and the underlying reasons for the findings and conclusions.
7. The investigation must be completed within thirty (30) days of the filing of the complaint unless the CLEO or Receiving Authority determines there is good cause to grant an extension. The complainant and respondent must be informed of any extension.

## **C. Additional Investigation, Review and Disposition**

1. Upon completion of the investigation, the investigator must submit the report, case file and all investigative notes to the CLEO or Receiving Authority. The CLEO or Receiving Authority may require additional investigation or make one of the following decisions:
  1. Unfounded
  2. Exonerated
  3. Not Sustained
  4. Sustained
  5. Policy Failure
2. The CLEO or Receiving Authority may postpone making a decision until any related criminal charges are resolved. The complainant and respondent must be informed of this decision.
3. If the decision is "unfounded," "exonerated," "not sustained" or "policy failure" the CLEO or Receiving Authority must immediately notify the complainant and the respondent of the decision.
4. If the complaint is "sustained" the CLEO or Receiving Authority will:
  1. Issue findings of fact including a summary of the acts constituting misconduct and the specific statutes, policies, regulations and procedures violated; and
  2. Take appropriate remedial and/or disciplinary action.
  3. Advise the complainant of any public information regarding the disposition
5. Prior to the implementation of remedial and/or disciplinary action the respondent will be provided with a copy of the findings of fact. The CLEO, Receiving Authority and/or designee must review the findings of fact with the respondent and explain the reasons

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for the remedial and/or disciplinary action.

6. The investigation may be re-opened by the CLEO or Receiving Authority at any time if substantial new evidence is discovered concerning the complaint.
7. When a “sustained” disposition is final the respondent may appeal the disposition pursuant to the rules and law governing the accused member’s employment.

## **D. Maintenance and Disclosure of Data**

1. Disclosure to the public, complainant and respondent of data collected, created or received by the agency in connection with this policy and procedure must be governed by the provisions of the MN Government Data Practices Act. Retention of data collected or maintained in connection with this policy must be retained 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 must be maintained in accordance with the agency’s “Record Retention Schedule.”
3. The placement of the disposition report or other data in an employee’s personnel file must be governed by the agency’s personnel policy.
4. Access to data collected, created, or received in connection with this policy and procedure may only be authorized by the CLEO or the agency’s Data Practices “Responsible Authority,” and as provided by Chapter 13, the “Minnesota Government Data Practices Act,” or valid court order.

## **E. 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 CLEOs 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. A chief law enforcement officer 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

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Minnesota. Stat. 626.8457 Subd. 3 paragraph (b) to the Board. Any such confidentiality agreement is void as to the requirements of this section.