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## Personnel Complaints

### 1019.1 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.

#### 1019.1.1 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 the Sheriff or Chief Deputy 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 Sheriff or Chief Deputy, 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.

#### 1019.1.2 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)).

### **1019.2 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS**

#### 1019.2.1 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).

#### 1019.2.2 ACCEPTANCE OF COMPLAINTS

All written complaints will be courteously accepted by any employee and promptly given to the Sheriff or Chief Deputy. Only written complaints will be accepted for follow up investigation. 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.

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 Sheriff 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.

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- (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 directed to submit a written complaint 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.

### 1019.2.3 COMPLAINT DOCUMENTATION

When a complaint is reported 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. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

### 1019.3 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 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 Sheriff is notified as soon as practicable.
- (b) A supervisor receiving or initiating any formal complaint shall ensure that a written complaint form has been completed as fully as possible. The original complaint form will then be directed to the Sheriff of the accused employee.
  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.

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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, department personnel shall orally report the matter to the employee's Sheriff or the Sheriff of Chief Deputy, 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 Personnel Department and the Sheriff for direction regarding his/her role in investigation and/or addressing the complaint.

### **1019.4 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.

#### **1019.4.1 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.
- (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 a 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) 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.

### **1019.5 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

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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.

### **1019.6 ADMINISTRATIVE INVESTIGATION WITH THE EMPLOYEE**

All Allegations will be assigned to the Sheriff or Chief Deputy for investigation. 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, or a person who has any personal involvement regarding the alleged misconduct.
- (b) 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 offduty, the employee shall be compensated (Minn. Stat. § 626.89, Subd. 7).

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- (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.
- (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).

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- (p) An employee's photograph will not be released unless allowed by law (Minn. Stat. § 626.89, Subd. 12).

### 1019.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Sheriff or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
  - 1. The original complaint form will be directed to the Sheriff of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
  - 2. 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 member's Sheriff or the Sheriff, who will initiate appropriate action.
- (b) Responding to all complaints in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
  - 1. Follow-up contact with the complainant should be made within 24 hours of the Office receiving the complaint.
  - 2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Sheriff.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Chief Deputy and Sheriff are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Personnel Department and the Sheriff for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the Sheriff, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (h) Investigating a complaint as follows:

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1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
  2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused member are followed.
  - (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

### 1019.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by the Sheriff or Chief Deputy or other assigned individual, the following shall apply to members covered by the Peace Officer Discipline Procedures Act (Minn. Stat. § 626.89):

- (a) Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty (Minn. Stat. § 626.89, Subd. 7). If the member is off-duty, he/she shall be compensated.
- (b) Unless waived by the member, interviews of an accused member shall be at the Big Stone County Sheriff's Office or at a place agreed upon by the accused member (Minn. Stat. § 626.89, Subd. 4).
- (c) No more than two interviewers should ask questions of an accused member.
- (d) Prior to any interview, a member should be informed of the nature of the investigation.
  1. The member shall be given a copy of any written complaint signed by the complainant (Minn. Stat. § 626.89, Subd. 5).
- (e) All interviews should be for a reasonable period and the member's personal needs should be accommodated (Minn. Stat. § 626.89, Subd. 7).
- (f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
  1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Garrity* advisement. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
  2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.



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- (h) The interviewer shall record all interviews of members and witnesses. The member may also record the interview. A complete copy or transcript of the interview must be made available to the member upon written request without charge or undue delay. If the member has been previously interviewed, a copy of that recorded interview shall be provided to the member prior to any subsequent interview (Minn. Stat. § 626.89, Subd. 8).
- (i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative or attorney present before or during the interview (Minn. Stat. § 626.89, Subd. 9). When a member requests a representative or attorney, no interview may be taken until a reasonable opportunity is provided for the member to obtain that person's presence. However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (j) All members shall provide complete and truthful responses to questions posed during interviews.
- (k) No member may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation.
- (l) Before a formal statement is taken, the member 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).
- (m) A member may not be required to produce financial records (Minn. Stat. § 626.89, Subd. 11).
- (n) A member's photograph will not be released unless allowed by law (Minn. Stat. § 626.89, Subd. 12).

#### 1019.6.3 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation shall provide the complainant with periodic updates on the status of the investigation, as appropriate and consistent with the provisions of the Minnesota Government Data Practices Act (MGDP) (Minn. Stat. § 13.43, Subd. 2; Minn. R. 6700.2200).

#### 1019.7 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.

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**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.

### **1019.8 ADMINISTRATIVE LEAVE**

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Office, the Sheriff or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any office badge, identification, assigned weapons and any other office equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

#### **1019.8.1 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).

#### **1019.8.2 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.

### **1019.9 CRIMINAL INVESTIGATION**

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Sheriff shall be notified as soon as practicable when a member is accused of criminal conduct. The Sheriff may request a criminal investigation by an outside law enforcement agency.

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A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

The Big Stone County Sheriff's Office may release information concerning the arrest or detention of any member, including a deputy, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

The Sheriff may postpone making a decision on an administrative investigation until any related criminal charges are resolved. The complainant and involved member should be informed of this decision.

### **1019.9.1 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 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 Sheriff or Chief Deputy apart from the employee's personnel file.

### **1019.9.2 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 a office memorandum specifically asking for the item to be removed and the reasons for removal.

## **1019.10 POST INVESTIGATION PROCEDURES**

### **1019.10.1 REPRIMANDS**

Any employee wishing to formally appeal a reprimand must submit a written request to his/her Sheriff within 30-days of receipt of the reprimand or as provided for in the collective bargaining agreement. The Sheriff 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.

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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).

### 1019.10.2 SHERIFF RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Sheriff shall review the recommendation and all accompanying materials. The Sheriff may modify any recommendation and/or may return the file to the Sheriff 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, that should be imposed. In the event disciplinary action is proposed, the Sheriff shall provide the member with a written notice and the following:

- (a) Access to all of the materials considered by the Sheriff in recommending the proposed discipline.
- (b) 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 member, the Sheriff may grant a reasonable extension of time for the member to respond.
  - 2. If the member elects to respond orally, the presentation shall be recorded by the Office. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Sheriff shall consider all information received in regard to the recommended discipline. The Sheriff shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Sheriff has issued a written decision, the discipline shall become effective.

### 1019.10.3 MINNESOTA POST 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).

The Office shall cooperate with POST's investigation and provide requested information unless (Minn. Stat. § 626.8457):

- (a) There is an active criminal investigation or active criminal proceeding regarding the same incident or misconduct that is being investigated by POST.
- (b) An active internal investigation exists regarding the same incident or misconduct that is being investigated by POST during 45 days from the time the request was made by POST. The Sheriff or the authorized designee shall comply with the request upon completion of the internal investigation or once 45 days has passed, whichever occurs first.

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### 1019.10.4 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Sheriff or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint. Notice must be consistent with the provisions of the MGDG (Minn. Stat. § 13.43, Subd. 2; Minn. R. 6700.2200).

### 1019.10.5 CIVILIAN OVERSIGHT COUNCIL

When applicable, the Sheriff or the authorized designee shall cooperate with the designated civilian oversight council, as appropriate (Minn. Stat. § 626.89, Subd. 17).

### **1019.11 PRE-DISCIPLINE 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) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (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 prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Sheriff on the limited issues of information raised in any subsequent materials.

### **1019.12 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.

### **1019.13 PROBATIONARY EMPLOYEES AND OTHER MEMBERS**

At-will and probationary employees and members other than non-probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy except for employees covered by the Veterans Preference Act (Minn. Stat. § 197.46). However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their names through a liberty interest hearing, which shall be limited to a single appearance before the Sheriff or the authorized designee (Minn. R. 6700.2200).

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Any probationary period may be extended at the discretion of the Sheriff in cases where the individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate.

### **1019.14 REQUIRED REPORTING TO POST**

The Sheriff or the authorized designee shall notify POST of certain deputy personnel events, including but not limited to:

- (a) A termination or resignation of a 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).
- (b) The violation of a required POST model policy identified in Minn. R. 6700.1615 (Minn. R. 6700.1615, Subd. 2).