

PIERZ POLICE DEPARTMENT

Policy Name: Allegations of Misconduct	
Policy Number: Section 34	Adoption Date: October 12, 2015
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Minnesota Rules, Chapters 6700.2200 through 6700.2600

POLICY

It is the policy of the Pierz Police Department that any person who believes that a member of the Pierz Police Department has acted improperly may bring a complaint to the chief law enforcement officer's attention pursuant to the following procedure.

DEFINITIONS

Chief Law Enforcement Officer: The Chief of Police, Sheriff, State Law Enforcement Director, or a designee. Within this model policy, the chief law enforcement will be referred to as CLEO.

Complainant: A person who submits a complaint to the CLEO alleging misconduct by an agency member.

Complaint: A statement, which is made to or by a CLEO in writing, which alleges misconduct.

Member: All voluntary and compensated personnel of the agency.

Discipline: Oral reprimand, written reprimand, suspension, demotion, or discharge.

Exonerated: A fair preponderance of the evidence established either that:

1. The act, or acts complained of, did not occur
2. The agency member named in the complaint was not involved in the alleged misconduct
3. The act(s) that provided the basis for the complaint occurred; however, the investigation reveals that such act(s) were justified, lawful, or proper.

Not Sustained: The investigation failed to disclose sufficient evidence to prove or disprove the allegations made in the complaint.

Sustained: A fair preponderance of the evidence obtained in the investigation established that the accused person's actions constituted misconduct.

Formal Statement: The questioning of any agency member in the course of obtaining a recorded, stenographic, or signed statement to be used as evidence in a disciplinary proceeding against the agency member.

Respondent: Any agency member, whether full time, part time, temporary, or voluntary, against whom a complaint has been filed.

Misconduct: Types of misconduct:

1. A violation of any agency policy and procedure governing conduct of agency members
2. The use of unnecessary or excessive force
3. The conviction of any criminal offense
4. Abuse of authority
5. Conduct which violates a person's civil rights
6. Abusive or insulting language or conduct which is derogatory of a person's race, religion, sex, national origin, or sexual preference
7. Sexual harassment as that term defined under Minnesota law
8. Intimidation or retribution toward a complainant or witness involved in any complaint proceeding

Policies and Procedures: The administrative rules adopted by the agency regulating the conduct of agency members.

Shall / Will: As used herein, that the action is mandatory.

May: That the action is permissible.

Receiving Authority: That person who receives the complaint when the subject of the complaint is a CLEO.

PROCEDURE

A. Initiating a Complaint

1. Anyone who has personal knowledge of facts or who has reliable hearsay information may file a complaint. Any agency member who has personal knowledge of misconduct shall file a complaint according to the procedures stated herein.
2. Any agency member shall self-report to the CLEO and to the Peace Officer Standards and Training Board any action, inaction, or condition of that agency member which the agency member reasonably believes would constitute grounds for disciplinary action under any of the Peace Officer Standards and Training Board's regulatory provisions.
3. Upon receiving a complaint against a member within the agency, the CLEO receiving the complaint shall immediately have the complainant

complete a Citizen's Complaint Form (CCF) and assign an administrative case number. The complaint will not be considered filed until the complainant signs the CCF.

4. If the person making a complaint sets forth specific believable facts supporting an allegation of misconduct, but wishes to remain anonymous, the CLEO receiving the complaint may, at the CLEO's sole discretion, permit the complainant to remain anonymous. In this instance the CLEO shall sign the complaint as the complainant. If the CLEO has reason to believe that the complaint is unfounded, the CLEO shall have the authority to require an anonymous complainant to identify himself/herself. If that complainant refuses to do so, the CLEO may refuse to accept a complaint and shall advise the anonymous person of that fact.
5. After a CCF is filed, the CLEO shall sign the document keeping a copy for the agency and giving or mailing a copy to the complainant. The CLEO will forward a copy of the document to the respondent, only after it is determined that the complaint does not allege a criminal violation and the notification will not impede a criminal investigation.
6. A complainant may be accompanied by an attorney or other appropriate representative at the time a complaint is filed or at any other stage of the process.
7. Any complaint made against a Chief of Police shall be initially made to the City Administrator, City Manager, or Mayor. Upon receiving a complaint the receiving authority shall immediately have the complainant complete a CCF and assign an administrative case number. The complaint will not be considered until the complainant signs the CCF.
8. The City Administrator, City Manager, or Mayor should refer investigations of alleged misconduct against a CLEO to an outside law enforcement agency or criminal justice agency.

B. The Investigation of a Complaint

1. Upon receipt of the CCF, the CLEO shall make an initial determination whether the facts alleged requires a formal investigation. If the CLEO decides that an investigation is not required, the disposition of the investigation is not required. The disposition of the complaint shall be either "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 days of that initial determination, the CLEO may reverse this decision and order a formal investigation.

2. If the CLEO determines that a formal investigation is required, an appropriate person will be assigned to investigate the complaint. When the CLEO believes an external investigation is appropriate and when the CLEO is the subject of the complaint, the investigation will be assigned to an external agency.
3. The CLEO may suspend a respondent with pay at any time during the investigation of a complaint.
4. The investigator shall, as soon as possible after being assigned the investigation, inform the complainant of his/her name, business phone number, and the status of the complaint.
5. The investigator shall 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 shall report the fact to the CLEO.
6. All agency members shall cooperate with the investigation. When the respondent is a licensed peace officer, the investigation shall comply with the requirements of MN Statutes, Section 626.89 and acts amendatory thereto.
7. The investigator shall prepare a report which will contain all the relevant information organized into the following three categories:
 - a. **Allegations:** An itemized summary of the acts of misconduct alleged in the complaint. Reference shall be made to those rules, procedures, order, statutes, or constitutional provisions that would be violated if the allegations are taken as true.
 - b. **Investigation:** A chronological summary of the investigation, including all pertinent facts obtained through interviews with the complainant, accused agency member, and all available witnesses. Written statements, descriptions, and analysis of any physical evidence, all other relevant information shall be included.
 - c. **Conclusions:** The investigator's findings, conclusions as to whether any misconduct occurred, and the underlying reasons for the findings and conclusions.
8. The investigation shall be completed within thirty days of the filing of the complaint, unless for good cause the CLEO grants an extension. The complainant and respondent shall be informed of any extension of time granted.

C. Additional Investigation, Review, and Disposition

1. Upon completion of the investigation, the investigator shall submit the report, case file, and all investigative notes to the CLEO. The CLEO may require additional investigation or make one of the following decisions: “exonerated”, “non sustained”, or “sustained”.
2. The CLEO may postpone making a decision until any related criminal charges are resolved. The complainant and respondent shall be informed of this decision.
3. If the decision is “exonerated” or “not sustained”, the CLEO shall immediately notify the complainant and the respondent of this decision.
4. If the complaint is “sustained” the CLEO will:
 - a. Issue findings of fact including a summary of the acts constituting misconduct and the specific statutes, policies, regulations, and procedures violated
 - b. Take appropriate remedial and/or disciplinary action
5. Prior to the implementation of remedial and/or disciplinary action, the respondent and the complainant will be provided with a copy of the findings of fact. The CLEO and/or appropriate person shall review the findings of fact with the respondent and explain the reasons for the remedial and/or disciplinary action.
6. The investigation may be re-opened by the CLEO at any time if substantial new evidence is discovered concerning the complaint.
7. When a “sustained” disposition is final, the respondent may appeal the decision pursuant to the rules and laws governing the accused member’s employment.
8. CLEO’s will accept appeals from complainants as appropriate if received within twenty days of final disposition.

D. Maintenance and Disclosure of Data

1. Disclosure to the complaint and respondent of data collected, created, or received by the agency in connection with this policy and procedures shall be maintained 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 shall 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 shall 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.