

Medina Police Department

Subject: Allegations of Misconduct Complaint Acceptance / Discipline		Policy Number: 4170	Complaint / Discipline 4170
Reference: Chief's Directive, Labor Agreement		Pages: 12	
Personnel: Sworn and Non-Sworn Personnel			
Issue Date: 01-01-1992	Revised Date: 11-17-2020	Review Date: As Needed	

4170.1 – PURPOSE

The purpose of this policy is to ensure the integrity of the Medina Police Department by establishing procedures for prompt and just disposition of all complaints and disciplinary actions made against the Medina Police Department and its personnel.

4170.2 – SCOPE

This policy shall apply to the receipt, recording, investigation, and disposition of complaints against the Medina Police Department and allegations of misconduct involving personnel of the Medina Police Department.

4170.3 – POLICY

1. It is the policy of the Medina Police Department to receive and investigate all complaints against the Medina Police Department or its personnel in a manner that will assure the community of prompt corrective action when police department personnel conduct themselves improperly, while also protecting police department personnel from unwarranted criticism pursuant to the discharge of official duties. Complaints against the Medina Police Department or allegations of misconduct may be reported from any course: internal or external; non-criminal or criminal in nature.
2. A relationship of trust and confidence between department members and the community they serve is essential for effective law enforcement. Law enforcement officers must be free to exercise their best judgement and to initiate enforcement action in a lawful and impartial manner without fear and reprisal. While at the same time they must meticulously respect individual rights.
3. This complaint procedure is intended to provide corrective action when a department member conducts himself or herself improperly, and to protect him or her from unwarranted criticism when he or she discharges his or her duties in the proper manner.
4. Any person who believes that a Medina Police Department officer acted improperly is encouraged to bring the complaint to the department's attention.

5. The Medina Police Department will make every effort to ensure that no adverse consequences occur to any person or witness who brought a complaint or provided information in any investigation of a complaint.
6. Complaints shall be handled in a prompt, just, open, and expeditious manner in accordance with these procedures. Summaries of the complaint process, and copies of these procedures shall be made available to the public upon request.

4170.4 - DEFINITION OF TERMS

For the purpose of this policy and procedure, the terms defined have the meanings given them.

Chief: Means the Chief of Police, or the City Administrator when a complaint is made against the police chief.

Complainant: Means the person or group who files a complaint with the Medina Police Department alleging misconduct by a member(s) or the department officer who accepts believable facts relating to alleged misconduct by a member from an anonymous person.

Complaint: Means a statement, which is made to the Chief of Police in writing, in person, or by phone that allege misconduct.

Exonerated: Means a fair preponderance of the evidence established either that:

- 1: The act, or acts, complained of did not occur;
- 2: The member(s) named in the complaint were not involved in the alleged misconduct;
- 3: That the act or acts which provided the basis for the complaint occurred however, the investigation revealed that such act or acts were justified, lawful, and proper; or
- 4: That such act or acts do not adversely reflect upon the Medina Police Department or the member's ability to perform his or her duties within the department.

Infraction: Means violation of any department policy or procedure defining transgressions that are not major violations.

Major Violations:

- 1: Any criminal offense;
- 2: The use of unnecessary or excessive force;

- 3: Abuse of authority;
- 4: Conduct which violates a person's civil rights;
- 5: Abusive or insulting language or conduct which is derogatory of a person's race, religion, sex, national origin, or sexual preference;
- 6: Intimidation of or recrimination toward a complainant or witness involved in any complaint proceeding.

Member: Means all peace officers and civilian department employees whether full-time, part-time, or temporary.

Misconduct: Means any infraction or major violation committed by a member which adversely reflects upon the department or the member's ability to perform his or her duties within the department.

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

Policies and Procedures: Means the administration acts promulgated by the Chief of Police regulating conduct of members.

Sustained: Means a fair preponderance of the evidence obtained in the investigation established that the accused member's actions constituted misconduct.

4170.5 - PROCEDURE FOR INITIATING COMPLAINT

Anyone who is not a member of the Medina Police Department and has personal knowledge of the facts giving rise to the complaint or has reliable hearsay information may file a complaint.

Any Medina Police Department member who has personal knowledge of misconduct shall file a complaint according to these procedures.

The Chief of Police or the officer on-duty shall be available at all times for taking complaints. Upon receiving any complaint, the Chief of Police shall immediately initiate an Initial Complaint Report and assign a case file number.

If the person filing the complaint sets forth specific believable facts relating to the alleged misconduct and the person wishes to remain anonymous, the officer receiving the information shall then become the complainant. If the Chief of Police has reason to believe that the complaint is unfounded, the chief shall have the authority to require the person to identify himself or herself. If the person refuses to do so, the chief may refuse to initiate a complaint and shall advise the anonymous person of that fact.

After a complaint is filed, the receiving member shall sign the document, give or mail a copy to the complainant, and furnish a copy to the Chief of Police. The Chief of Police will forward a

copy of the document to the accused member, only after it is determined that the complaint does not allege a criminal violation and the notification will not impede a criminal investigation.

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.

4170.6 - PROCEDURE FOR INVESTIGATION OF THE COMPLAINT

Upon receipt of the Initial Complaint Report, the Chief of Police shall make an initial determination whether the facts alleged warrant a formal investigation. In making this determination, the chief may meet informally with the complainant, accused member, or any potential witness. If the chief decides that an investigation is not warranted, the disposition of the complaint shall be either not sustained or exonerated. The complainant will be notified of this decision and the basis for determination. Also, the accused member will be notified. If the complainant supplies additional information within 30 days of the determination, the chief may reverse this decision.

If the Chief of Police determines that a formal investigation should be conducted, he or she shall investigate the complaint or assign the appropriate person(s) to investigate the complaint. The investigation may be assigned to an external agency where there is potential for criminal charges resulting from the investigation or in any other situation where the Chief of Police believes that an external investigation is appropriate.

The person investigating the complaint shall, as soon as possible, inform the complainant of his or her name, office phone number, and status of the complaint.

The person investigating the complaint shall thoroughly investigate all allegations contained in the complaint and any other potential misconduct discovered in the course of the investigation. If the investigation uncovers potential misconduct by another member, the investigator shall initiate a complaint against that member.

All members, including the accused member, shall cooperate with the investigation. Failure to do so may be basis for disciplinary action.

The investigator shall do a report which shall contain all relevant information, organized into the three following categories:

- A: Allegations: This section shall consist of an itemized summary of the acts of misconduct alleged in the complaint. Reference shall be made to those rules, procedures, orders, statutes, or constitutional provisions that would be violated if the allegations are taken as true.

- B: Investigation: This section shall consist of a chronological summary of the investigation, including all pertinent facts obtained through interviews with the complainant, accused members and all available witnesses. Written statements, descriptions and analysis of any physical evidence, and all other relevant information shall be included.
- C: Conclusions: This section shall include the investigator(s) findings, conclusions as to whether any misconduct occurred, and the underlying reasons for the findings and conclusions. These conclusions shall not be binding on the Chief of Police, if the investigation is by someone other than the chief.

The investigation shall be concluded within thirty (30) days of the filing of the complaint, unless for good cause an extension is granted by the Chief of Police. The complainant shall be informed of any extension of time and the accused member shall also be informed if he or she was informed pursuant to this policy.

4170.7 - FORMAL STATEMENTS

If a formal statement is taken from a member, the formal statement must be taken at the Medina Police Department, at the facility of the investigating agency, or at a place agreed to by the investigating individual and the investigated officer.

The officer's formal statement may not be taken unless there is a formal written complaint filed with the Medina Police Department or the investigating agency has 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 Medina Police Department.

Sessions at which formal statements are taken must be of reasonable duration and must give the officer reasonable periods for rest and personal necessities. When practicable, sessions must be held during the officer's regularly scheduled work shift. If the session is not held during the officer's regularly scheduled work shift, the officer must be paid by the Medina Police Department, at the officer's current compensation rate for time spent attending the session.

A complete record of the session at which a formal statement is taken must be made by electronic recording. Upon written request of the officer whose statement is taken, a complete copy or transcript must be made available to the officer without charge or undue delay. The session may be tape recorded by the investigating officer and by the officer under investigation.

An officer whose formal statement is being taken has the right to have an attorney or union representative of the officer's choosing present during the session. When a request under this subdivision is made, no formal statement will be taken until a reasonable opportunity is provided for the officer to obtain the presence of the attorney or union representative.

Before an officer's formal statement is taken, the officer shall be advised in writing or on the record that admissions made in the course of the formal statement may be used as evidence of misconduct or as a basis for discipline.

4170.8 - INVESTIGATION REVIEW AND DISPOSITION

Upon completion of the investigation, the Chief of Police or designee shall submit his or her report, the case file and all investigative notes to the Chief of Police. If the Chief of Police determines the investigation was not adequate, he or she will reorder the further investigation. If the Chief of Police determines the investigation was adequate, the chief shall make one of the following dispositions: Exonerated, Not Sustained, or Sustained.

The Chief of Police may withhold issuing a disposition until any related criminal charges are resolved. The complainant shall be informed of this decision and the accused shall also be informed if he or she was informed pursuant to this policy.

If the complaint is either exonerated or not sustained, the Chief of Police shall immediately notify the complainant and the accused member of the disposition.

If the complaint is sustained, the Chief of Police shall take appropriate disciplinary action. Such action shall be based on the investigative reports and the accused member's record or service and shall be in conformance with any applicable collective bargaining agreement, contract, or other rules or regulations relating to discipline or members. The disciplinary action may include counseling, remedial education, an oral reprimand, a written reprimand, suspension with or without pay, demotion or discharge.

After selecting the appropriate disciplinary action, the Chief of Police will issue a finding of fact, which shall minimally contain the following information:

- 1: A summary of the act or acts constituting misconduct and the specific statutes, policies, regulations and procedures violated;
- 2: A description of the disciplinary or remedial action taken to prevent recurrence of the misconduct; and
- 3: Any additional information as the Chief of Police may find applicable to accurately document the disposition.

Prior to the implementation of remedial and/or disciplinary actions, the accused member shall be provided with a copy of the finding of fact. The Chief of Police or designee shall review it with the accused member and explain the reasons for the action.

The complainant, if requested, shall also be given a copy of the finding of fact.

Either the complainant or the accused member may within 15 days after notification of the disposition, request the chief, for good cause, to reopen the investigation. The disposition shall be final upon expiration of the 15-day period if there is not a request for reconsideration. If a request for reconsideration is made, the disposition shall become final upon a decision on such request or the completion of any additional actions directed by the Chief of Police.

Notwithstanding the foregoing, the investigation may be reopened by the Chief of Police at any time if substantial new evidence is discovered which is relevant to the complaint.

When a sustained disposition is final, the accused member may appeal the disposition according to the member's collective bargaining agreement or if applicable, through the Veteran's Preference Act.

The Chief of Police may suspend an accused member with pay at any time during the investigation of a complaint.

The procedure shall not preclude other disciplinary procedures for misconduct not initiated by citizen complaint.

4170.9 - MAINTENANCE AND DISCLOSURE OF DATA

Disclosure to the complainant, accused member, or the public, of data collected, created, received, or maintained in connection with this policy and procedures shall be governed by the Minnesota Government Data Privacy/ Practices Act.

All data collected, created, or received by the Medina Police Department in connection with this policy and procedures shall be maintained in accordance with the Medina Police Department Retention Schedule.

The placement of the disposition report or other data in an employee's personnel file shall be governed by applicable collective bargaining agreements and/or personnel policy.

Upon any sustained allegation in reference to a Brady/Giglio issue, the Chief of Police shall notify the prosecutor. (See attached memorandum of understanding.)

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.

4170.10 - EMERGENCY SITUATIONS

The Chief of Police has the authority to impose emergency suspension, until the next business day, upon a member of the Medina Police Department when it appears that such action is in the best interest of the department. Any person so suspended shall be instructed to report to the Chief's office the next business day, unless circumstances require special action. Discretion will be exercised in the application of this authority. Care must be taken to ensure that critical assignments are not left uncovered as a result of this action. The Chief of Police also has the prerogative of correcting, admonishing, or reprimanding an employee whenever suspension is not warranted due to the circumstances of the incident.

4170.11 - ORAL WARNING

An oral warning is a verbal recommendation to a member to correct a violation of a department rule, regulation or procedure. Normally no further action is required.

4170.12 - ORAL REPRIMAND

An oral reprimand is a verbal order to a member to correct a violation of a rule, regulation, or procedure, which is then placed in writing in the member's personnel file for a designated period of time, not less than 90 days.

4170.13 - WRITTEN REPRIMAND

The written reprimand is the sustained findings of a complaint or actions of an officer where more than oral warning, but less than a suspension, is determined to be the necessary action. A written reprimand is submitted in duplicate. One copy is directed to the officer and the second copy is placed in the officer's personnel file.

4170.14 - APPLICATION OF ORAL WARNING, ORAL REPRIMAND, AND WRITTEN REPRIMAND

This procedure provides for immediate disciplinary action against those officers who fail to conform to department standards of conduct and appearance.

Incidents to be covered by this provision include, but are not limited to the following:

- A: Failure to comply with the Uniform Rules and Regulations
- B: Failure to report back-in-service immediately upon completion of an assignment.
- C: Failure to properly care for or use department equipment.
- D: Taking excessive time for lunch.
- E: Failure to provide prompt, courteous service.
- F: Failure to perform assigned tasks.
- G: Failure, while on-duty, to give full attention to the prevention of crime, by:
 - 1: Lounging on post,
 - 2: Visiting with other officers other than for the exchange of information related to their assignments
 - 3: Parking in locations and in such manner as to serve no useful purpose in preventing crime.

- 4: Talking in public, or privately, degrading other officers or talking derogatory toward the Medina Police Department.
- 5: Misuse of department equipment or supplies.

When a greater penalty is justified, either because of the circumstances or because of the offender's past record, the procedures outlined in this policy for complaint investigations will be followed.

Action under this section will not eliminate recommendation for a more severe penalty, when such punishment is being used to cover conduct warranting a more severe penalty or dismissal. If a greater penalty results, any preliminary punishment served will be taken in account in fixing the large penalty.

4170.15 - EMPLOYEES MAY BE RELIEVED OF DUTY

An officer charged or indicted for a criminal offense will be relieved of duty pending the outcome of the criminal proceedings.

An officer found to be lacking the physical or psychological fitness for duty may be relieved of duty until such time as the employee is fit to resume his or her duties.

If, due to the sensitive nature of the allegation or incident being investigated, it is in the best interest of the employee and/or the department, the employee may be relieved of duty.

If an employee is relieved of duty under this section, the employee will be relieved of duty with full pay and benefit.

“Departmental Letterhead”

TO WHOM IT MAY CONCERN:

THE MEDINA POLICE DEPARTMENT AND THE CITY OF MEDINA WELCOME YOUR VALID COMPLAINT AND CRITICISM. IF YOU WISH TO FILE A VALID COMPLAINT AGAINST THE MEDINA POLICE DEPARTMENT, OR ANY OF ITS MEMBERS OR YOU WISH TO OFFER ANY CRITICISM OF PROCEDURES, YOU MAY DO SO BY COMPLETING THIS FORM, OR BY APPEARING IN PERSON AT THE OFFICE OF THE CHIEF OF POLICE.

EACH COMPLAINT OR CRITICISM WILL BE INVESTIGATED THOROUGHLY AND THE APPROPRIATE ACTION WILL BE TAKEN, WHEN WARRANTED BY THE FACTS OBTAINED. YOU WILL BE INFORMED OF THE RESULTS OF THE INVESTIGATION UPON ITS COMPLETION.

PLEASE BE ADVISED THAT ALL INDIVIDUALS, ASSOCIATED WITH THE CITY OF MEDINA, WHO NEED TO HAVE THE INFORMATION GIVEN BY YOU PURSUANT TO THIS INVESTIGATION SHALL HAVE ACCESS TO THIS INFORMATION, SUBJECT TO CONSTRAINTS IMPOSED BY THE MINNESOTA DATA PRACTICES ACT. FURTHER, IF DISCIPLINARY ACTION IS TAKEN AGAINST AN EMPLOYEE, THIS STATEMENT MAY BE REGARDED AS PUBLIC DATA UNDER THE ACT AND THERE FORE MAY BE ACCESSIBLE TO ANYONE WHO REQUESTS IT.

SINCERELY,

JASON E. NELSON
DIRECTOR OF PUBLIC SAFETY

“DEPARTMENTAL LETTERHEAD”

COMPLAINT REGISTRATION

1: Name of Complainant: DOB:
Address: City: Zip:
Home Phone: Work Phone:

2: Day/Date/Time of Incident: Day: Date: Time:

3: Location of Incident:

4: Name of witnesses and all other persons involved:

Name: DOB:
Address: City: Zip:

Home Phone: Work Phone:
Name: DOB:
Address: City: Zip:

Home Phone: Work Phone:
Name: DOB:
Address: City:
Home Phone: Work Phone:

5: If person(s) arrested, name, address, DOB, phone and charge if known:

Name: DOB:
Address: City: Zip:
Home Phone: Work Phone:
Charge (If Known):

Name: DOB:
Address: City: Zip:
Home Phone: Work Phone:
Charge (If Known):

6: Was a Medina Officer Involved? Yes: No:
Was the officer in Uniform? Yes: No:

What was the officer's badge number?

What was the officer's name, if known?

7: Can you identify the officer? Yes: No:

8: Please describe in your own words the actions or inactions which caused you to file this complaint:

Signature of Complainant: _____

Date: _____

DEPARTMENT USE

Officer Receiving Complaint:

Date:

Initial Complaint Number:

Chief's Signature:

Date Received: _____

Investigation Commenced:

Yes: No:

By:

Investigation Completed:

Date: _____

By:

Department Action Taken:

Letter Sent to Complainant:

Yes:

NO:

Date: _____