

Inver Grove Heights Police
Policy Manual

Subject:

Personnel Complaints



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I. PURPOSE:

This policy provides guidelines for the reporting, investigation, and disposition of complaints regarding the conduct of employees of the Inver Grove Heights Police Department (MN Rule 6700.2200). This policy shall not apply to any questioning, instruction, informal verbal admonishment or other routine or unplanned contact of an employee in the normal course of duty, by a supervisor or any other employee, nor shall this policy apply to a criminal investigation.

II. POLICY:

The Inver Grove Heights Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its employees.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any memorandum of understanding.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

III. OBJECTIVES:

A. Protection of the Employee: Every employee has an absolute right to be protected against false allegations of criminal activity or misconduct. This can only be accomplished using a structured, confidential investigation that is thorough and impartial. If a complaint made against an officer is knowingly false, the Department may seek criminal charges against the person(s) responsible for the false report; MN Statute 609.505 Subd. 2. Reporting police misconduct.

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- B. Protection of the Police Department: The Police Department is evaluated and judged by the conduct of its employees. It is imperative that the entire organization not be subjected to public censure because of an individual employee.
- C. Protection of the Public: The public has every right to expect efficient, impartial public service. Any misconduct by the Department or its employees must be detected, investigated, and appropriate measures taken to correct it.

IV. **DEFINITIONS:**

Administrative Hearing: (Loudermill Hearing) A meeting involving the employee, union representation of the employee if desired, and the responsible authority of the final discipline, the Chief of Police in collaboration with the City Administrator and City Council in cases of involuntary termination.

Administrative Leave: Paid leave which does not indicate an employee is guilty of misconduct.

Complaint: An allegation of misconduct or improper job performance on the part of an employee that, if true, would constitute a violation of department policy or federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

1. Personnel complaints shall be classified in one of the following categories:
 - a) **Informal** - A matter in which the complainant is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused employee.
 - b) **Formal** - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused employee or referred to an internal affairs investigator, depending on the seriousness and complexity of the investigation.
 - c) **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 assigned supervisor or investigator, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

Concern: An allegation, for which an employee would only receive counseling or training.

1. “Concerns” alleging unresponsive service, poor communications or violations of Department policy, which do not constitute a crime, a breach of civil rights, serious or repeated infractions may be handled by the employee’s direct supervisor. The supervisor must gather enough information to determine the facts and determine a finding and an appropriate course of action. All concerns are documented in writing and placed in the employee’s file. Sustained concerns are then incorporated into the employee’s next regular evaluation. “Concerns” which cannot be sustained are to be discarded. The Department’s policy and procedure coordinator will initiate efforts to revise policies if the finding is a policy failure.

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2. “Concerns” could also be inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule, may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

Coaching: The responsibility and authority of a supervisor to counsel an employee when a more serious or ongoing performance problem is encountered. Counseling information should be documented and retained by the unit leader.

Disciplinary Action: Verbal reprimand, written reprimand, suspension, demotion, or termination.

Disposition: The course of action taken after determining the finding. Dispositions, in order of severity, include; counseling, training, verbal reprimand, written reprimand, suspension, demotion, termination.

Final Discipline: Final discipline occurs in accordance with MN Statute 13.43, Subd. 2(b): A final disposition occurs when the government entity makes its final decision about the disciplinary action, regardless of the possibility of any later proceedings or court proceedings. Final disposition includes a resignation by an individual when the resignation occurs after the final decision of the government entity, or arbitrator. In the case of arbitration proceedings arising under collective bargaining agreements, a final disposition occurs at the conclusion of the arbitration proceedings, or upon the failure of the employee to elect arbitration within the time provided by the collective bargaining agreement. Except for the written arbitration decision, a disciplinary action does not become public data if an arbitrator sustains a grievance and reverses all aspects of any disciplinary action.

Finding: May include a determination that an allegation is unfounded, the employee is exonerated, the allegation is not sustained, the actions occurred but is the result of policy failure, or the allegation is sustained.

Formal Statement: A recorded interview of an employee taken as part of an administrative investigation which could result in discipline regarding the employee.

Misconduct: An action or omission by an employee that is not in conformance to laws, City/ Department policies, or union contracts.

Non-Disclosure Order: A written order prohibiting discussion of the incident under investigation with other Department employees, except for Union representatives, clergy, attorneys, physicians, or counselors.

Training: The responsibility and authority of a supervisor to recommend and/or arrange training to correct more serious or ongoing employee performance problems. Arrangements for training should be made by a supervisor.

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V. SOURCES OF COMPLAINTS:

- A. Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- B. Any employee becoming aware of a complaint and/or alleged misconduct shall immediately notify a supervisor.
- C. Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- D. Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- E. Tort claims and lawsuits may generate a personnel complaint.
- F. The Minnesota Board of Peace Officer Standards and Training (POST) may refer complaints alleging a violation of a statute or rule that the board is empowered to enforce (MN Statute 214.10, Subd. 10).
- G. Any person making a complaint may be accompanied by an attorney or another representative, including at the time the complaint is made.
- H. Any person wishing to file a complaint against the Chief of Police should be referred to the City Administrator for investigation by an outside agency.

VI. AVAILABILITY AND ACCEPTANCE OF COMPLAINTS:

- A. Availability of Complaint Forms
 - 1. Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the department website. Forms may also be available at other City facilities.
 - 2. Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.
 - 3. Although written complaints on the Department's personnel complaint form are preferred, a complaint may come in any form, including in writing, by email, in person or by telephone.
- B. Acceptance
 - 1. All employees are required to explain the complaint procedure to citizens upon request.
 - 2. All complaints will be courteously and professionally accepted by any employee and promptly given to the appropriate supervisor. If a complaint is received orally, such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving employee shall forward the complaining person's contact information to the involved person's immediate supervisor or commander, along with any offered information, as soon as possible. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

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- a) The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.
4. It is not the responsibility of the employee receiving the complaint to gather further details. It is not appropriate to refer the complaining party to contact the supervisor or commander. Once the complaining individual has contacted the Department, it is the Department's responsibility to follow through with the processing of the complaint.
5. Complainants should be invited to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary. Under no circumstances will receipt of a complaint w\be denied due to the unwillingness or inability of the complainants to report in person.
6. **Employees receiving a complaint are prohibited from discussing the matter with anyone other than the individual to whom the complaint is referred and the person assigned to investigate the complaint.**

C. Complaint Copies

1. After a complaint is filed, the accepting supervisor or employee should sign the document, keep a copy for the department and provide a copy to the complainant.

VII. SUPERVISOR RESPONSIBILITIES:

- A. A supervisor who becomes aware of an allegation shall take reasonable steps to prevent aggravation of the situation. The responsibilities of supervisors include, but are not limited to:
 1. Resolving those personnel allegations that are a concern as soon as practically possible.
 - a) Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
 - b) If the allegation is resolved and no further action is required, the supervisor will document it appropriately and forward it to the Chief of Police or designee.
 - c) Forwarding an unresolved allegation to the Chief of Police or designee, who will determine whether to contact the complainant or assign the complaint for investigation.
 2. Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
 - a) 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 Chief of Police or designee, who will initiate appropriate action.

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- b) In circumstances where the complaint involves allegations of a potentially serious nature, the Chief of Police shall be notified via the chain of command as soon as practicable.
3. Ensuring interviews of the complainant are generally conducted during reasonable hours with reasonable notice.
4. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
5. Ensuring immediate medical attention is provided, and photographs of alleged injuries and accessible uninjured areas are taken, when appropriate.
6. Ensuring that the procedural rights of the accused employee are followed.

VIII. COMPLAINT DETERMINATION GUIDELINES:

- A. Command Staff will review all complaints received and will assess whether to initiate an internal investigation.
- B. Once the decision has been made to initiate an internal investigation, a determination must be made whether the investigation is criminal or strictly an administrative investigation. An infraction which cannot be handled as a concern yet does not constitute a potential crime requires an administrative investigation. **If an employee becomes the subject of a criminal investigation, no administrative investigation will occur until the criminal investigation is finalized.**
- C. The conduct and disposition of the investigation depend on its classification. Information gained in an administrative investigation cannot be used in criminal proceedings. Information gathered in a criminal investigation can be used in an administrative investigation. Therefore, the criminal investigation is conducted first, followed by the required administrative investigation.
- D. The immediate supervisor of the accused employee may be assigned as the primary responsibility for the investigation of a complaint. Unless the supervisor is the complainant or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the complaint and/or alleged misconduct. The Chief of Police or designee may direct that another supervisor, investigator, or command staff member investigate the complaint.

IX. ADMINISTRATIVE LEAVE:

- A. When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused employee to continue to work would adversely affect the mission of the Department, the Chief of Police or designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:
 1. May be required to relinquish any department badge, identification, assigned weapons, and any other department equipment.

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2. Shall be required to continue to comply with all policies and lawful orders of a supervisor.
3. 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.

X. CRIMINAL INVESTIGATION:

- A. The Chief of Police shall be notified as soon as practicable when an employee is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.
- B. It is the responsibility of the assigned investigator to notify the affected employee in writing that they are the subject of an internal criminal investigation. Out of consideration for the employee, notification, in person, will be attempted prior to the employee receiving written notification. Due to the confidentiality of the investigation voicemail phone messages are not allowed. Notification must include a statement of the allegation, identity of the assigned investigator, notice of the employee's rights, and a non-disclosure order. The notification must be made before the employee's statement is taken. Notification may be delayed if it will compromise the investigation.
- C. If there is probable cause to make a custodial arrest, serious consideration must be given to placing the employee on administrative leave, regardless of whether or not an arrest is made. Allegations of a serious nature where probable cause to arrest does not exist may still require that the employee be placed on administrative leave. The decision to place an employee on administrative leave rests with the Chief of Police or designee.
- D. In order to protect the accused, all internal criminal investigations should be conducted promptly and as confidentially as reasonably possible. The Chief of Police or designee shall be advised of progress and developments in the investigation.
- E. The investigation must be conducted within the same Constitutional parameters as any other criminal investigation. The employee is presumed innocent until evidence proves otherwise.
- F. Prior to questioning, if the employee is being detained, they must be advised of their Miranda rights. If the employee is not being detained, they must be advised that they are free to leave and that no disciplinary action will result from their refusal to answer questions. If the employee under investigation is ordered to complete a report on the incident, it is not a voluntary statement and cannot be used in a criminal proceeding. When the investigation is criminal, the employee has the right to be represented by counsel but has no right to union or other representation.
- G. Any search or seizure of evidence must be in accordance with current case law. Search warrants should be seriously considered to ensure the admissibility of the evidence seized. Consideration should be given to sealing the search warrant when it is filed. Exception: Perishable evidence that is to be used later in an administrative

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investigation can be seized from the employee or from City property. Evidence obtained in this manner generally cannot be used for criminal prosecution.

- H. Physical and photo lineups may be conducted within current court guidelines. Caution should be taken to avoid using other police officers, uniformed or plain clothes, in a lineup with a Department employee.
- I. If a delay would harm the investigation, after consultation with command staff, the supervisor receiving the complaint should begin the investigation.
- J. All statements must be recorded on the appropriate report forms. Audio statements should be taken whenever possible and must meet the Scales requirement.
- K. In all instances of alleged criminal activity where charges may result, the investigator must inform and frequently consult with the appropriate prosecuting authority. The need to inform and consult with the prosecution takes precedence over confidentiality.
- L. Upon completion of the investigation, the case is reviewed by the appropriate prosecutor. The charging decision, or decision not to charge, is made by the prosecutor. If it is discovered that the investigation was the result of an intentional false report of a crime, the Department in consultation with the prosecutor will determine whether the reporting person should be criminally charged.
- M. If the prosecutor brings formal charges and the charge is potentially license disqualifying against the officer, the Department shall notify the Minnesota Board POST of the pending case.
- N. All criminal investigations are followed by an administrative investigation. Where an employee is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Personnel conducting the criminal and administrative investigations shall not discuss the investigation until after the completion of the criminal investigation.
- O. An employee accused of criminal conduct shall be provided with all rights afforded to a civilian. The employee should not be administratively ordered to provide any information in the criminal investigation.
- P. The Inver Grove Heights Police Department will release information in accordance with the MN Government Data Practices Act.

XI. ADMINISTRATIVE INVESTIGATION:

- A. Allegations of misconduct will be administratively investigated as follows (MN Rule 6700.2200)
- B. Administrative investigations shall follow the Peace Officer Discipline Procedures Act; MN Statute 626.89.
- C. 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

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enforce. Any such misconduct allegation or complaint assigned to this department shall be completed and a written summary submitted to the POST Board's executive director within 30 days of the order for inquiry (MN Statute 214.10, Subd. 10).

- D. Administrative investigations may be requested to be done by an outside agency anytime the Chief of Police determines an external investigation is appropriate.
 - 1. This department should not conduct an investigation when the Chief of Police is the subject of the complaint. An external investigation should be requested through the City Administrator.
- E. Administrative investigations are conducted for alleged non-criminal misconduct which cannot be handled as a concern, and subsequent to criminal prosecutions, or the decision not to prosecute.
- F. It is the responsibility of the assigned investigator to notify the affected employee in writing that they are the subject of an internal administrative investigation along with a summary of the complaint allegations. Notification must include a notice of the investigation, identity of the assigned investigator, notice of the employee's right to representation, a reference to the employee's labor contract, the rule, law, policy, etc. that is alleged to have been violated and a non-disclosure order. The notification must be made before the employee's formal statement can be taken. Notification may be delayed if it will compromise the investigation.
 - 1. When an employee requests a representative or attorney, no interview may be taken until a reasonable opportunity is provided for the employee to obtain that person's presence. However, to maintain the integrity of each individual's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- G. In order to protect the accused, all administrative investigations must be conducted as confidentially as possible.
- H. The Department must have a written, signed complaint prior to taking an employee's formal statement. Any Employee can sign the complaint. A supervisor receiving or taking a complaint will sign the complaint of behalf of the complainant if the matter is not formally resolved as a concern. An investigation need not be delayed awaiting a signed complaint. The only delay necessary is in the taking of the subject employee's formal statement.
- I. Constitutional guarantees associated with criminal investigations do not generally apply to administrative investigations. The employee is presumed innocent until a preponderance of evidence proves otherwise. All employees shall be treated with respect and dignity.
- J. Notification of a formal interview shall be in writing from someone in the involved employee's chain of command, this "Order to Appear," notifies the employee of the date, time and location of the interview. Notification will include advising the employee of their right to union or legal representation. Prior to interviewing the employee, the employee must read and/or be read the Garrity/Tennessee Advisory in



its entirety. The Garrity portion of the advisory notifies the employee that they are required to provide all job-related information requested and that the information from the interview cannot be used in a criminal proceeding. (The statement is not voluntary which prevents it from being used in a criminal proceeding.) Following a Garrity Advisory, failure to answer the questions is considered gross insubordination and may result in disciplinary action up to, and including termination. The Tennessee portion of the advisory informs the employee of the persons that may have access to the information provided during this compelled interview. The investigator is required to audio tape any formal statement taken.

1. 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.
 2. The investigator records all interviews with employees and witnesses.
 3. The employee may also record the interview.
 4. A complete copy or transcript of the interview must be made available to the employee upon written request without charge or undue delay. If the employee has been previously interviewed, a copy of that recorded interview will be provided to the employee prior to any subsequent interview, if requested.
- K. An employee's formal statement should be taken at a Department facility whenever possible. When not taken at a Department facility the location must be agreed upon by both the investigator and the employee.
- L. When possible, an employee's formal statement should be taken during scheduled work hours. The session at which the statement is taken should be of reasonable duration and provide the officer with reasonable periods of rest and personal necessity.
1. No more than two interviewers should ask questions of an employee during a formal statement.
 2. No employee should 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 and may be subject to discipline for failing to do so.
- M. Rules of evidence generally do not apply to administrative investigations. The employee must provide all germane evidence requested. Refusal to do so constitutes gross insubordination and may result in disciplinary action up to, and including termination.
- N. While not preferred, the employee can be ordered to participate in a lineup. Photo lineups may also be used. Other Department employees should not be used in physical or photo lineups, unless absolutely necessary.
- O. An accused employee may be placed on paid administrative leave by the Chief of Police or designee at any time during the investigation process.

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- P. The Chief of Police or designee shall be continually informed on the progress of the investigation by the investigator.
- Q. Upon completion of the investigation, a summary is provided to the person pre-determined to conduct the administrative hearing.

XII. ADMINISTRATIVE SEARCHES:

- A. Assigned lockers, storage spaces, and other areas, including desks, offices and vehicles, city emails, the city provided computers and phones, may be searched.
- B. Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

XIII. ADMINISTRATIVE INVESTIGATION SUMMARY:

- A. Formal investigation summaries of personnel complaints shall be thorough, complete and essentially follow this format:
 - 1. Introduction - Include the identity of the employees, the identity of the assigned investigators, the initial date and source of the complaint.
 - 2. Synopsis - Provide a summary of the facts giving rise to the investigation.
 - 3. Summary - List the allegations separately, including applicable policy sections, with a summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.
 - 4. Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of employee and witness statements. Other evidence related to each allegation should also be detailed in this section.
 - 5. Conclusion - The investigator's findings, conclusions as to whether any misconduct occurred and the underlying reasons for the finds and conclusions.
 - 6. Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.
- B. Dispositions
 - 1. Each allegation/violation shall be classified individually with one of the following dispositions:
 - a) Unfounded - When the investigation discloses that each allegation/violation did not occur or did not involve employees. Complaints that are determined to be frivolous will fall within the classification of unfounded.
 - b) Exonerated - When the investigation discloses that each allegation/violation occurred but that each allegation/violation was justified, lawful and/or proper.
 - c) Not sustained - When the investigation discloses that there is insufficient evidence to sustain each allegation/violation occurred or fully exonerate the employee.

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- d) Sustained - When the investigation discloses sufficient evidence to establish that each allegation/violation occurred and that it constituted misconduct or improper job performance based on the preponderance of the evidence.
2. If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action about any additional allegations.
3. The Chief of Police may authorize that any investigation be re-opened any time substantial new evidence is discovered concerning any allegation/violation outlined in the complaint.

C. Completion of Investigations

1. Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence to complete the investigation promptly.
2. Notice to the complaining party shall be provided as soon as practicable following final disposition and be consistent with the provisions of the Minnesota Government Data Practices Act (MN Statute 13.43 Subd. 2; MN Rule 6700.2200).
3. Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review and include their comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

D. Division Commander Responsibilities

1. Upon receipt of any completed formal investigation, the Division Commander of the involved employee shall review the entire investigative file, the employee's personnel file, and any other relevant materials.
2. The Division Commander may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.
3. Prior to forwarding recommendations to the Chief of Police, the Division Commander may return the entire investigation to the assigned investigator or supervisor for further investigation or action.
4. When forwarding any written recommendation to the Chief of Police, the Division Commander shall include all relevant materials supporting the recommendation. Actual copies of an employee's existing personnel file need not be provided and may be incorporated by reference.
5. Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Division Commander for further investigation or action.

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XIV. PRE-DISCIPLINE ADMINISTRATIVE HEARING:

- A. The purpose of the pre-discipline administrative hearing is to maintain the integrity of the complaint investigation process. It allows the employee an opportunity to provide a voluntary statement (orally or written) regarding the misconduct or improper job performance to the responsible authority, the Chief of Police, before a final discipline decision on the proposed **demotion, layoff, or termination** is made.
1. If the employee elects for an opportunity to respond orally or in writing to the Chief of Police, it shall be done within five business days of receiving the notice.
 - a) Upon a showing of good cause by the employee, the Chief of Police may grant a reasonable extension of time for the employee to respond.
 - b) If the employee elects to respond orally, the presentation shall be recorded by the Department. Upon request, the employee shall be provided with a copy of the recording.
 - B. The employee may have an opportunity to review the investigative summary prior to imposition of any recommended discipline. The employee shall consider the following:
 1. The response is not intended to be an adversarial or formal hearing.
 2. 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.
 3. The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
 - C. In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
 - D. The employee may thereafter have the opportunity to respond further orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.
 - E. The final discipline decision is made after the opportunity to make a statement is offered to the employee and if the information provided by the employee was investigated or it did not warrant further investigation.

XV. RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE:

- A. In the event that an employee tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

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XVI. POST-ADMINISTRATIVE HEARING DISCIPLINE:

- A. Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the final discipline decision. In the event discipline is imposed, the finding and disposition are documented in the employee's file. The information and its release are controlled by Data Practices.
- B. Discipline
1. Generally, disciplinary action should be progressive; however, depending on the conduct, circumstances, and need for corrective action, one or more of the following courses of action should be taken.
 - a) Disciplinary action taken may be accompanied by appropriate training.
 2. No disciplinary order or written reprimand may be included in the employee's personnel file unless the employee has been given a copy and the appeals process has been exhausted or expired.
 3. Disciplinary action may include, but is not limited to (MN Rule 6700.2200):
 - a) **Verbal reprimand:** Supervisors have the responsibility and authority to issue a verbal reprimand, reduced to writing, for a more serious breach of conduct or after counseling and training have failed to correct performance or behavioral problem. A written report documenting the verbal reprimand shall be maintained in the employee's personnel file.
 - b) **Written reprimand:** Supervisors have the responsibility and authority to recommend a written reprimand for a serious breach of conduct or after counseling, training, or verbal reprimand have failed to correct performance or behavioral problem. Supervisors have the authority to issue a written reprimand. The signed written reprimand shall be placed in the employee's personnel file permanently.
 - a) **Suspension:** Division Commanders following consultation with the Chief of Police have the right to suspend employees up to thirty (30) working days within one calendar year for serious breaches or when other actions have failed. All material relating to a suspension action shall remain in the employee's personnel file permanently.
 - b) **Demotion:** The Chief of Police has the ability to recommend a demotion of employees if warranted. Demotion may occur when an employee fails to meet the standards expected at a higher classification. The employee's performance is such that dismissal is unwarranted, yet other forms of disciplinary action, i.e., reprimand or suspension without pay will not solve the problem. A demotion must be recommended by the city administrator and be confirmed by the city council. The written notice of demotion shall be permanently included in the employee's personnel file.
 - c) **Termination:** The Chief of Police has the ability to recommend the termination of employees if warranted. Terminations are in accordance with

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labor contracts, City and Department policy, and current case law. The termination shall be permanently included in the employee's personnel file.

XVII. POST-DISCIPLINE APPEAL RIGHTS:

- A. Non-probationary employees have the right to appeal any disciplinary action. The employee has the right to appeal using the procedures established by any collective bargaining agreement and/or personnel rules (MN Rule 6700.2200).
- B. Employees covered by the Veterans Preference Act are entitled to written notice of the right to request a hearing within 60 days of receipt of the notice of intent to terminate, suspend or demote. Failure to request the hearing in the time specified waives the right to the hearing and all other legal remedies. Any hearing shall be held in compliance with the law (MN Statute 197.46).

XVIII. PROBATIONARY EMPLOYEES AND OTHER EMPLOYEES:

- A. Non-represented and probationary employees and employees 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 (MN Statute 197.46). However, any of these individuals released for misconduct shall be afforded an opportunity solely to clear their names through a hearing, before the City Council in accordance with City code.
- B. Any probationary period may be extended at the discretion of the Chief of Police 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.

XIX. RETENTION OF PERSONNEL INVESTIGATION FILES:

- A. All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Files Policy.
- B. Confidentiality of Personnel Files
 - 1. All active investigations of personnel complaints and/or alleged misconduct shall be considered confidential and maintained separately from peace officer personnel files. The contents of such files shall not be revealed to other than the involved employee or authorized personnel, except pursuant to lawful processes, such as MN Rule 6700.2500. Data in closed files shall be treated as private or public data depending on whether discipline was imposed upon the employee.
- C. Letters of Discipline and Reprimands
 - 1. Letters of discipline and reprimands may only be placed in an employee's personnel file after they are received by the employee (see generally MN Statute 626.89, Subd. 13).