



**Park Rapids Police Department
Policy Manual**

Policy No: 015

PROFESSIONAL STANDARDS

Effective Date: November 10, 2016

Special Instructions: Rescinds previous 015 policy Citizen Complaint which was effective November 1, 1997

Distribution: All Employees of the Park Rapids Police Department

Reference: MSS 626.84
Appendix 1 Inquiry Report Form
Appendix 2 Citizen Report Form
Appendix 3 Tennesen Warning (For Citizens)
Appendix 4 Garrity/Tennesen Warning

Re-Evaluation Date:

Historical Updates:

015.0 Purpose

- A. To maintain the community's support and confidence in its Police Department by providing a process that assures responsiveness to citizens' inquiries and complaints.
- B. To create a process for dealing with inquiries and complaints, whether originating internally or externally, that permits Police Department managers to monitor compliance with established Police Department rules, procedures, and norms.
- C. To clarify employees' rights and the due process protection that will be afforded Police Department employees in the investigation of inquiries and complaints.

015.1 Policy

It is the policy of the Park Rapids Police Department that all allegations of employee misconduct or criticism of its services be acknowledged and addressed. To succeed in this endeavor, this order establishes a comprehensive departmental process to respond to such inquiries and complaints. The purpose of this order is to provide citizens with a fair and effective avenue to voice their legitimate grievances against the actions of the Police Department, yet to protect Police Department employees from false charges of misconduct and wrongdoing.

015.2 Definitions

- A. Administrative Hearing means a meeting or nonjudicial arbitration or hearing where the presiding person or group has the authority to recommend, approve or order disciplinary action against an employee with the Department.



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- B. City means the City of Park Rapids, Minnesota.
- C. Chief means the Chief of Police or his/her designee.
- D. Complaint means an inquiry which alleges misconduct on behalf of an employee of the Park Rapids Police Department.
- E. Department and Police Department means the Police Department for the City of Park Rapids, Minnesota.
- F. **Disciplinary Action** means one or more of the following:
 - 1. Oral Reprimand;
 - 2. Written Reprimand;
 - 3. Suspension, with or without pay;
 - 4. Demotion; or
 - 5. Discharge.

The term Disciplinary Action, however, does not include counseling and training provided by an employee's supervisor in methods of performance, whether originating internally or externally, unless the documentation of that activity specifically states it is an Oral or Written Reprimand.

- G. **Employee** means part-time peace officers and peace officers as defined by Minn. Stat. 626.84, Subdivision 1, paragraphs (c) and (d) who are employed by the Police Department.
- H. **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.

Note: The application of Minn. Stat. 626.89 is limited to situations where a "Formal Statement" is taken regarding the alleged misconduct by an employee. The requirements of Minn. Stat. 626.89 are not applicable to situations where informal interviews are held and no recorded or transcribed statements are made, except that all rights to notice, representation and advisory of rights and privileges previously existing by policy, union contracts or personnel rules shall continue to be applicable.

- I. **Inquiry or Inquiries** means a report(s) to the Police Department by a person(s) on the way police services were or were not provided by employees of the Police Department or the specific actions of an employee of the Police Department.
- J. **Misconduct** means an act or omission by an employee of the Park Rapids Police Department which does not conform to prevailing law, Department rules and procedures, personnel rules, and which could result in disciplinary action if sustained.



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- K. **Performance Matter** means specific issues or methods related to the provisions of police services by an employee of the Police Department that are not classified as misconduct due to the following factors:
- The inquiry relates to a minor rule violation;
 - The inquiry is likely to be resolved by training and counseling even if the alleged facts are true
 - There is no know pattern of similar conduct by the employee; and
 - There is no evidence of bad faith or intent to do wrong.
- Minor issues such as attitude, demeanor, courtesy, tardiness, and attendance will be classified in this category.
- L. **Question** means an inquiry that relates to the actual and authorized methods of providing police services by the Police Department.
- M. **Reporter** means a person(s), whether identified or anonymous, who questions or objects to the way police services were or were not provided by the Police Department, or the specific actions of an employee of the Police Department. It may also include a Police Department supervisor who becomes aware of a performance matter and addresses those issues with the employee.

015.3 The Professional Standards Function

Discipline is a function of command. Responsibility for the investigation of misconduct ordinarily rests within the established chain of command. However, the complex challenges of safeguarding the integrity of a law enforcement agency necessitates having a specific person or unit charged with the coordination and supervision of investigations concerning the violation of Department rules or criminal laws by its employees.

- A. The Chief will lead and oversee the professional standards function of the Department. The goal of the professional standards function is to ensure that the integrity of the Department is maintained by an internal system whereby objectivity, fairness and justice are ensured through impartial investigation and review.
- B. The Department will investigate all inquiries and complaints, including anonymous inquiries and complaints as addressed herein, involving the Department or its employees. Even malicious or false accusations will be appropriately investigated to protect the integrity of the Department and its employees and to instill public confidence. A record of inquiries will be maintained by the Department in accordance with applicable Department policies and applicable law.

Nothing contained in this order will preclude the assignment of professional standards investigations to appropriate command or supervisory personnel at the discretion of the Chief.



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015.4 Professional Standards Procedures

- A. **Initiation.** Inquiries regarding the Department and/or its employees may be initiated by citizens over the phone, by mail, or in person; by Department employees or city employees; and by anonymous parties meeting the criteria of this order. Unless otherwise delegated by the Chief, all citizen inquiries should be directed to a Department supervisor. Inquiries should be classified and properly documented as set forth herein. Inquiries may be classified as:
1. a question;
 2. a performance matter; or
 3. a complaint.
- B. **Inquiries Classified as a Question**
1. Supervisors receiving inquiries should determine if the inquiry can be resolved through a brief conversation with the reporter or if further investigation is warranted. If an inquiry is a question that can be addressed at the time of the inquiry, the supervisor should provide the appropriate response to the reporter and document the conversation and response on an Inquiry Report Form ("IRF"). See Appendix 1 for IRF. The IRF shall report the reporter's name, address, telephone number, the name, address and telephone numbers of any witnesses, and a brief description of the facts and circumstances of the inquiry. The supervisor shall forward the IRF to the Chief for review, processing and filing.
 2. If an inquiry is a question that warrants further investigation, the supervisor should inform the reporter of the same and fill out an IRF and inform the reporter that the Department will follow up as promptly as possible with a response to the inquiry. The supervisor shall forward the IRF to his/her Chief for review and to receive instruction as to further investigation.
- C. **Anonymous Reporters.** Reporters wishing to remain anonymous may submit a performance matter or complaint if the reporter sets forth specific believable facts relating to the alleged incident. Supervisors receiving the information will complete an IRF and forward it to his/her Chief for review. However, if the supervisor believes an inquiry involving an alleged performance matter or complaint is unfounded (doesn't set forth specific believable facts), he/she may require the reporter to fill-out and sign a Citizen Report Form ("CRF") and explain to the reporter why the facts are not believable. See Appendix 2 for CRF. In this situation, the supervisor will still forward an IRF to his/her Chief documenting the circumstances to the best of his/her knowledge.
- D. **Intake of Inquiries.** If the inquiry involves a performance matter or complaint or if it is unclear what classification should be given to the inquiry, the supervisor receiving the inquiry shall fill out an IRF which shall be forwarded to the Chief to properly classify the inquiry. Except in the case of anonymous reports, the Chief shall notify the reporter in writing of receipt of the inquiry. The notice shall describe the Department's investigative procedures and provide that the Department will follow up with the reporter with a response and/or report



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as to the final disposition of the matter as appropriate and in accordance with applicable laws, Department policies and labor agreements.

E. **Inquiries Classified as a Performance Matter**

1. If the documented inquiry is a performance matter, the Chief may assign it to the appropriate supervisor for review with the employee. The supervisor to whom the performance matter is assigned shall discuss the incident with the employee involved in the incident. The supervisor may contact the reporter and request the reporter complete a CRF to acquire a firm understanding of the facts. Reporters completing a CRF will also be asked to sign a Tennesen Warning acknowledgment. See Appendix 3 for Tennesen Warning form.
2. Following discussion with the employee and receipt of a CRF, if obtained, the supervisor shall submit a Performance Matter Report to the Chief outlining the following information:
 - a. Name of the employee;
 - b. Details of the incident, emphasizing the subject of the inquiry, if not adequately documented in the IRF and CRF;
 - c. Recommendations for further counseling or training or other appropriate action.
3. Upon receipt of the Performance Matter Report, the Chief may take any of the following actions:
 - a. Place the report in the employee's personnel file which shall be maintained in accordance with Department rules and policies and applicable labor agreements.
 - b. Conduct appropriate counseling and/or instruction with the employee; or recommend further action, including disciplinary action, be taken;
 - c. Refer the employee to further training that might be appropriate; or
 - d. Require further investigation or action in accordance with Department rules and policies and applicable labor agreements.
 - e. Subject to the requirements of the Minnesota Government Data Practices Act, reporters shall be notified of the final disposition of performance matters.

- F. **Performance Matters Initiated by a Supervisor.** If a performance matter is initiated by a supervisor, the supervisor shall complete a Performance Matter Report consistent with this section which shall be forwarded to the Chief who shall follow the procedures outlined above. If a performance matter involves a supervisor, the performance matter will be reported to that supervisor's supervisor per the Department's chain of command. A Performance Matter Report shall be completed and the applicable procedures outlined above shall be followed.



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- G. **All performances matters involving the Chief** shall be reported to the City Administrator and an IRF and/or CRF shall be completed and obtained, as applicable.
- H. **Inquiries Classified as Complaints.** If the documented inquiry is classified as a complaint, the Chief shall determine the appropriate method of investigation as outlined below.
1. **Complaints Requiring an Internal Affairs Investigation.** An Internal Affairs Investigation shall be conducted for complaints alleging serious incidents or other incidents in the Chief's discretion. Allegations of any of the following shall be considered a serious incident:
 - a. Criminal misconduct;
 - b. Misuse of force;
 - c. Breach of civil rights;
 - d. Corruption;
 - e. Abusive or insulting language or derogatory conduct regarding a person's race, religious, sex, national origin or sexual preference;
 - f. Sexual harassment as that term is defined by Minnesota law;
 - g. Intimidation or retribution toward a reporter or witness involved in any complaint proceeding; or i.e. other incidents at the Chief's discretion.
 2. An Internal Affairs Investigation shall be conducted for any incident requiring a formal statement under Minn. Stat. 626.89. Internal Affairs Investigations require obtaining an executed CRF from the reporter or in the event of an anonymous complaint, the Chief may execute a CRF on behalf of the reporter. Citizens completing a CRF will be asked to sign a Tennesen Warning acknowledgment.
 3. The Chief shall provide the accused employee with a written summary of the allegations and a copy of the employees' rights and responsibilities as provided herein, including Garrity and/or Tennesen Warnings, as applicable. See Appendix 4. However, if the reporter alleges facts which could result in criminal charges, the employee will be notified that a complaint has been filed only if the Chief determines that such notification will not impede the criminal investigation.
 4. The Chief shall assign the appropriate designee to complete the investigation. The investigation may be assigned to an external agency when there is a potential for criminal charges resulting from the investigation or in any other situation where the Chief believes that an external investigation is appropriate. To the extent applicable, the investigation shall comply with the Peace Officer Discipline Procedures Act as outlined in Minn. Stat. 626.89.
 5. The investigator shall provide his or her name and contact information to the reporter as soon as practical. The investigator will thoroughly investigate all allegations in the CRF



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and any other potential misconduct discovered in the course of the investigation. If the investigation uncovers potential misconduct by employees other than the employee identified in the CRF, the investigator will notify the Chief and a complaint may be initiated against such employee.

6. An investigation report will be submitted to the Chief containing all relevant information organized into the following three sections:
 - a. **Complaint:** This section will consist of an itemized summary of the acts of misconduct alleged in the CRF. Reference will be made to those rules, procedures, orders, statutes or constitutional provisions that would be violated if the allegations were taken as true.
 - b. **Investigation:** This section will consist of a chronological summary of the investigation, including all pertinent facts obtained through interviews with the reporter, accused employee(s), and all available witnesses. Written statements, description and analysis of any physical evidence, and all other relevant information will be included.
 - c. **Findings/Conclusions:** This section will include the investigator's factual findings, conclusions as to whether any misconduct occurred, and underlying reasons for the findings and conclusions.
7. All employees, including the accused employee, will cooperate with the investigation, in accordance with constitutional guarantees and applicable law. Failure to cooperate may be a basis for disciplinary action.
8. No employee will engage in any conduct, which constitutes intimidation of, or recrimination toward any reporter or witness involved in a complaint here under. Such conduct will constitute misconduct.
9. **Formal Investigation Not Warranted.** If the Chief decides that a formal investigation is not warranted, the reporter will be notified of this decision and the basis for the determination. The disposition of the complaint shall be either "not sustained" or "exonerated". The reporter will have thirty days to provide additional information or otherwise respond to the Chief's decision. This response will be considered by the Chief. In making the initial determination, the Chief may meet informally with the reporter, accused employee, or any potential witness.
10. **Supervisory Attention Indicated.** If the Chief determines the alleged complaint is minor in nature, the Chief will forward the allegation to the immediate supervisor of the accused individual. The supervisors will then investigate the allegation, determine the merits of the complaint, and recommend a disposition of the case. The supervisor will then inform the Chief by memorandum of his/her recommendation. This should ordinarily be accomplished as soon as practical. Subject to the requirements of the Minnesota Government Data Practices Act, the Chief will notify the reporter of the final disposition



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of the complaint. This procedure is a supervisory matter and should not be considered a formal internal affairs investigation.

- I. **Allegation of Misconduct from Within the Department.** Any Department employee alleging a complaint against another Department employee will use the chain of command to report the complaint. If the alleged misconduct has been committed by the reporting employee's immediate supervisor, the misconduct will be reported to that supervisor's supervisor.
- J. **Command and supervisory personnel** may initiate investigations when the alleged misconduct (reported or observed) is within the scope of their authority. Report of misconduct outside of their authority will conform to chain of command protocol.
- K. **Complaints against the Chief.** Any complaint made against the Chief shall be forwarded to the City Administrator. An IRF or CRF shall be completed or obtained as appropriate. The City Administrator should refer the investigation of complaints against the Chief to an outside law enforcement agency, criminal justice agency or other agency or entity at the City Administrator's discretion.

015.5 Resolution of Complaints

A. Disposition Report.

1. Upon completion of an investigation, the file will be reviewed by the Chief who will then prepare a report containing one of the following dispositions:
 - a. **Unfounded:** A fair preponderance of the evidence establishes that the act, or acts, complained of did not occur, or the employees named in the complaint were not involved in the alleged misconduct.
 - b. **Exonerated:** A fair preponderance of the evidence establishes either that the act, or acts, which provided the basis for the complaint occurred, however, the investigation reveals that such acts were justified, lawful and proper.
 - c. **Not Sustained:** The investigation failed to disclose sufficient evidence to prove or disprove the allegations made in the complaint.
 - d. **Sustained:** A fair preponderance of the evidence obtained in the investigation establishes that the accused employee's actions constituted misconduct.
2. The Chief is not bound by the investigator's findings and conclusions. The Chief may reverse, modify or remand the matter for further investigation. If the Chief concludes that misconduct has been established, appropriate corrective and/or disciplinary action will be taken. Such action will be based on the investigative findings and the accused employees' record of service and will be in conformance with any applicable labor agreement, contract or other rule or regulation relating to discipline of employees. The disciplinary action may include an oral reprimand, written reprimand, suspension with or



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without pay, demotion or discharge. If the complaint is sustained, the disposition report will contain the following information:

- a. A summary of the act(s) constituting misconduct and the specific statutes, policies, regulations and procedures violated.
 - b. A description of the disciplinary or remedial action taken to prevent recurrence of the misconduct.
 - c. Any additional information as the Chief may find applicable to accurately document the disposition.
3. The disposition report will be reviewed with the accused employee by the Chief and/or appropriate supervisor, and the reason for such action will be explained to the employee. Subject to the requirements under the Minnesota Government Data Practices Act, the reporter shall be informed of the final disposition of the complaint.
4. Following notification of disposition, the reporter or the accused employee may request the Chief to amend the findings or conclusions or to reopen the case, pursuant to prevailing Department policies and labor agreements. The investigation may be reopened by the Chief at any time if substantial new evidence is discovered which is relevant to the complaint.
- B. **Dismissal.** If an investigation of employee misconduct results in dismissal, the following information will be provided to the employee:
1. A statement citing the reason for dismissal;
 2. The effective date of the dismissal;
 3. A statement of the status of fringe and retirement benefits after dismissal; and
 4. A statement as to the content of the employee's employment record relating to the dismissal.
- C. **Appeal.** When a sustained disposition is final, the accused employee may appeal the disposition according to the employee's labor agreement, City of Park Rapids personnel policy, or if applicable, through the Minnesota Veteran's Preference Act.
- D. **Storage and Confidentiality of Records.** Disclosure to the reporter, accused employee, or the public of data collected, created, received or maintained in connection with the processing of any complaint will be governed by the Minnesota Government Data Practices Act. All data collected, created or received by the Department in connection with the processing of a complaint will be securely maintained by the Chief and disposed of in accordance with applicable labor agreements and the Department's document retention schedule for personnel files. Employees should be aware that the status of complaints or charges against employees, resulting disciplinary action, and the final disposition of any disciplinary action and resulting documentation are public data.



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E. **Administrative Leave from Duty.** Employees of the Department may be placed on administrative leave with pay, when acts alleged or committed by such employees are of such a nature that, in the judgment of the Chief, the interests and welfare of the public, the Department, or the individual are best served by such action.

015.6 Employee Rights and Responsibilities

All employees of the Department will assume the obligation of their rank and perform their duties accordingly in the investigation of complaints or allegations of misconduct. Employees will have the responsibility to cooperate with any person conducting a professional standards investigation within the context of the following provisions:

A. **Rights Involving Investigation Leading to Criminal Charges**

1. Prior to being asked questions pursuant to a formal criminal investigation, employees will be given a Garrity Warning if applicable in the particular circumstances.
2. If a Department employee is potentially subject to a criminal charge, he/she is entitled to have an attorney present before answering questions.

B. **Rights Involving Investigation Leading to Disciplinary Charges.** Prior to being asked to provide private or confidential information about him or herself pursuant to a formal investigation concerning only potential employment discipline, employees will be given the Tennesen Warning. The Garrity Warning excludes use of the employee's answer or any information gained by reason of the employee's statement against the employee in any criminal proceeding. The answer may, however, be used in disciplinary procedures against the employee – including dismissal.

Employees in this situation are required to cooperate fully with persons conducting the investigation. They must answer all questions that are narrowly, directly and specifically job related.

C. **Polygraph.** Employees will not be requested or required to take a polygraph or similar test. (SS 181.75). If an employee requests a polygraph test, the employer or agent administering the test will ensure the employee understands that taking the test is voluntary. Results of any polygraph examination may only be given to persons authorized by the employee to have them. (Minnesota Statute 181.76)

D. **Rights under the Peace Officer Discipline Procedures Act** (Minn. Stat. 626.89)

1. Formal statements, as defined herein, may only be taken of a peace officer at the police station or City Hall or at a mutually agreed upon place by all parties.
2. Formal statements cannot be taken unless there is filed with the City a written complaint against the officer and the officer has been given a summary of the allegations. Before a disciplinary hearing is conducted the officer must be given a copy of the signed complaint.



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3. Upon request, the investigating agency or the officer shall provide the other party with a list of witnesses that the agency or officer expects to testify at the administrative hearing and the substance of the testimony. A party is entitled to copies of any witness statements in the possession of the other party and an officer is entitled to a copy of the investigating agency's investigative report, provided that any references in a witness statement or investigative report that would reveal the identity of confidential informants need not be disclosed except upon order of the person presiding over the administrative hearing for good cause shown.
 4. Sessions at which a formal statement is 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 employing agency at the officer's current compensation rate for time spent attending the session.
 5. A complete record of sessions at which a formal statement is taken must be made by electronic recording or otherwise. 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.
 6. The officer whose formal statement is taken has the right to have a union representative or an attorney retained by the officer, or both, present during the session. The officer may request the presence of the attorney or the union representative, or both, at any time before or during the session.
 7. 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.
 8. Officers must be given copies of any disciplinary letters or letters of reprimand.
 9. Officers may not be required to produce or disclose personal finance records except pursuant to a valid search warrant or subpoena.
 10. The Department may not release photographs of the officer without the written permission of the officer, except that the Department may display a photograph of an officer to a prospective witness as part of an investigation.
 11. An officer may not be discharged, disciplined, or threatened with discharge or discipline as retaliation for or solely by reason of the officer's exercise of the rights under the Peace Officer Discipline Procedures Act.
- E. **Medical and Laboratory Examinations.** Any medical or laboratory examinations required as part of an investigation will be conducted and administered according to Department and/or City policy.



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015.7 Dissemination of Professional Standards Process

Copies of this order and updates or changes to the procedures governing the Department's professional standards process will be disseminated to all Department personnel. It is essential that each employee understand the professional standards function both as a source of guidance for conduct and as a public statement of the Department's commitment to integrity.

- A. The Chief will publish statistical summaries, based on the records of professional standards investigations, in the Department's Annual Report to the City Administrator.
- B. The Department will disseminate information to the public on procedures to be followed in registering inquiries and complaints with the Department. This information will be available upon request over the phone or in person at the Department.

11/10/2016

Chief Executive Officer

Date