
Policy Number: 103.0141
Title: Employees Who Are the Subject of Criminal Investigation(s), Arrest(s), and/or Conviction(s)
Effective Date: 5/7/19

PURPOSE: To provide guidelines to employees who are the subjects of a criminal investigation, order for protection (OFP), harassment restraining order (HRO), or no contact order (NCO); arrested; incarcerated; or charged or convicted of a petty misdemeanor (when the charge is related to drugs, drug paraphernalia, or guns), misdemeanor, gross misdemeanor, or felony.

APPLICABILITY: All employees

DEFINITIONS:

Criminal convictions – includes felonies, gross misdemeanors and misdemeanors for which a workhouse, house arrest, work release, electronic monitoring, community service, probation, fines, jail, incarceration, stay of adjudication or other sentence is imposed.

Documentary evidence – includes examples such as a copy of local, state, or federal release orders, a copy of an OFP/HRO/NCO, or an order of discharge from probation, parole, or other field supervision.

Final disposition – the point at which the issue is considered resolved and complete. If the employee has been convicted, this also means that the employee has met all conditions imposed as a result of the conviction, such as serving probation, paying a fine, community service time, etc.

Immediately notify – prior to the employee’s next scheduled shift or within 24 hours after the incident or release from incarceration, whichever occurs first.

Incarceration – housing in any municipal, county, state, or federal jail or correctional facility.

PROCEDURES:

- A. An employee must **immediately** notify the appointing authority/designee if the employee is the subject of an order for protection (OFP); harassment restraining order (HRO); no contact order (NCO); criminal investigation; petty misdemeanor (when the charge is related to drugs, drug paraphernalia, or guns), misdemeanor, gross misdemeanor, or felony investigation, charge, arrest, and/or conviction; or is incarcerated for any reason. This also applies to employees on leave. Notification may be a direct telephone call or written communication to the appointing authority/designee and must include the formal charge, date, time, jurisdiction of the alleged occurrence, arresting agency, and any other relevant information. If an employee does not provide immediate notification to the appointing authority or designee, the employee is subject to discipline, up to and including discharge, pursuant to collective bargaining agreements.
- B. The appointing authority consults with the regional human resource director (RHRD) and the office of special investigations (OSI) on the extent of the arrest, charge, investigation, incarceration, OFP, HRO, NCO, and criminal conviction records, and assigns an investigation into

the matter. If the employee is in a position which may require use or possession of firearms or chemical irritants, the appointing authority and the RHRD also refer to Policy 103.130, "Firearms and Chemical Irritant Eligibility" regarding firearms and chemical irritant eligibility. If the employee is a commercial driver, also refer to Policy 103.041, "Commercial Driver's License," and notify the designated employer representative.

- C. The employee must follow-up initial notification with written notification on or before the employee's next scheduled shift (or within 24 hours if on leave) to the appointing authority/designee and regional human resource (HR) office by providing the following information:
1. Employee name;
 2. Employee identification (ID) number;
 3. Date of written notification;
 4. Description of issue including:
 - a) Date and time;
 - b) What occurred, including if the allegations involved attempted/actual physical violence or threats of physical violence;
 - c) Action type: investigation, arrest, charge, conviction, other;
 - d) Title of issue/offense: driving while impaired (DWI), driving under the influence (DUI), theft, other;
 - e) Jurisdiction and arresting agency of occurrence or conviction;
 - f) Offense level, if applicable;
 - g) Driver's license suspension/revocation, if applicable;
 - h) Effect on commercial vehicle driver's license, if applicable; and
 - i) Ability to possess firearms or chemical irritants, if applicable.
 5. Date of initial notification to appointing authority/designee; and
 6. Name and title of person initially notified and method of notification.
- D. The employee must immediately notify the appointing authority/designee and regional HR office of any updates, changes, court appearances, and final disposition of the arrest, charge, incarceration, criminal investigation, OFP, HRO, or NCO, and provide supportive documentation as requested to the appointing authority/designee and HR.
- E. Employees are not permitted to be in paid status while incarcerated or serving a criminal conviction, as defined in this policy, unless serving a conviction that only resulted in probation and/or fines. An employee who is sentenced to jail, house arrest, work release, electronic monitoring, or sentencing to service/community service **must request an unpaid leave of absence in writing to the appointing authority/designee and HR to serve the sentence.** Failure to request a leave of absence may result in discharge.
- F. The appointing authority considers the unpaid leave of absence request. Leave approval or denial is based on staffing needs, length of absence, and impact on the department. Under no circumstances may an employee be in paid status while incarcerated or serving a criminal conviction, as defined in this policy, unless serving a conviction that only resulted in probation and/or fines.
- G. Upon final disposition of the issue, the employee provides an updated written description of the status of the issue to the appointing authority/designee and a copy to HR. The written description must include the final disposition date with any applicable supportive documentation attached. The incident is not considered to be at final disposition until the updated written description is

received in HR and placed in the employee's file. The employee is responsible for verifying with HR that the final disposition information has been received.

- H. Employees who are subjects of a criminal investigation, OFP, HRO, or NCO; arrested; incarcerated; or charged or convicted of a petty misdemeanor (when the charge is related to drugs, drug paraphernalia, or guns), misdemeanor, gross misdemeanor, or felony may be subject to discipline up to and including discharge. The appointing authority determines if employee discipline must be administered using the following criteria:
1. The relationship of the incident/charge/OFP/HRO/NCO/crime(s) to the employee's position;
 2. The nature and seriousness of the incident/charge/OFP/HRO/NCO/crime(s);
 3. All circumstances relative to the incident/charge/OFP/HRO/NCO/crime(s), including social conditions;
 4. Whether the employee's conduct violates policies 103.220, "Personal Code of Conduct of Employees," or 107.009, "Office of Special Investigations – Code of Conduct and Ethics" (for all sworn peace officers of the OSI fugitive apprehension unit) or other DOC policies;
 5. The reflection of the incident/charge/OFP/HRO/NCO/crime on the DOC, whether the employee's conduct impacts the credibility of the DOC;
 6. Whether the employee reported the incident/charge/OFP/HRO/NCO to the appointing authority;
 7. Whether the employee is able to work; and
 8. Whether the conduct has an impact on the employee's professional credibility.
- I. The appointing authority must record the decision in writing and provide the documentation to the RHRD.
- J. Employees in juvenile facilities may have additional reporting responsibilities based upon juvenile facility licensing standards in Minn. Rule 2960.

INTERNAL CONTROLS:

- A. The RHRD/designee receives and stores the documentation and the appointing authority's written decision(s) in a location suitable under the Minnesota Government Data Practices Act (such as electronic document storage).

ACA STANDARDS: 4-4055, 4-4061; 1-ABC-1C-11; 1-ABC-1C-12; 2-CO-1C-10; 2-CO-1C-18

REFERENCES: [Collective Bargaining Agreements](#)
[Minn. Stat. §§ 14.03; 241.01, subd. 3a\(g\)\(h\)](#)
[Minn. Rules Chapter 2960](#)
[Policy 103.130, "Firearms and Chemical Irritants Eligibility"](#)
[Policy 103.041, "Commercial Driver's License"](#)
[Policy 103.220, "Personal Code of Conduct of Employees"](#)
[Policy 107.009, "Office of Special Investigations – Professional Code of Conduct"](#)
[Policy 103.014, "Background Checks for Applicants and Current Employees"](#)
[Policy 103.223, "Personal Associations Between Staff and Offenders"](#)
[Policy 107.009, "Office of Special Investigations – Code of Conduct and Ethics"](#)

REPLACES: Policy 103.0141, "Employees Who are the Subject of Criminal Investigation(s), Arrest(s) and/or Conviction(s)," 3/6/18.

All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENTS: None

APPROVALS:

Deputy Commissioner, Community Services

Deputy Commissioner, Facility Services

Assistant Commissioner, Operations Support

Assistant Commissioner, Facility Services