
Policy Number: 107.100
Title: Internal Affairs – Office of Special Investigations
Effective Date: 4/21/20

PURPOSE: To provide procedures for assigning department paid employee, volunteer, and contractor misconduct cases which may involve criminal behavior or have significant security concerns to the office of special investigations (OSI). Allegations of misconduct may be reported from any source and may include non-criminal or criminal behavior. The OSI director/designee refers allegations of sexual harassment and discrimination to the office of professional accountability (OPA) or the appointing authority for investigation.

APPLICABILITY: Department-wide

DEFINITIONS:

Appointing authority – for the purposes of this policy, a warden or manager who has been delegated authority for personnel transactions by the commissioner of corrections.

Complaint – a verbal or written report of misconduct by a department employee, volunteer, or contractor.

Misconduct – conduct that violates the law, administrative rules, policies, or norms of behavior (reflects unfavorably on the department).

Office of professional accountability (OPA) – an office which conducts non-criminal investigations into misconduct.

Staff person – for the purposes of this policy, any department paid employee, volunteer, or contractor.

PROCEDURES:

A. Scope

1. OSI internal affairs investigates allegations of staff misconduct which may involve criminal behavior or have significant security concerns.
2. Investigations of alleged misconduct by licensed department peace officers are handled in accordance with Policy 107.105, “Allegations of Fugitive Apprehension Unit Employee Misconduct.”
3. All complaints of staff misconduct must be routed and handled in accordance with Policy 103.218, “Office of Professional Accountability,” and Policy 103.225, “Fact-Finding Process and Discipline Administration.”
4. Upon request, OSI may provide assistance with investigations conducted by the office of professional accountability (OPA) or supervisors in other units.
5. OSI does not recommend or direct disciplinary action.

6. Investigations are conducted in compliance with collective bargaining agreements, compensation plans, and policies, as well as any applicable state or federal law.

B. Reporting

Any staff person who witnesses, experiences, or has knowledge of potential criminal behavior or other misconduct by staff must take immediate action.

1. Reports of criminal behavior that are also life threatening must be reported immediately to local law enforcement (911), to the OSI assistant director-investigations, and to the appropriate assistant or deputy commissioner.
2. Reports of criminal behavior not considered life threatening must be made to the OSI assistant director-investigations. The OSI assistant director-investigations consults with the necessary management staff in determining the appropriate action.
3. Reports of staff misconduct that does not involve criminal behavior or significant security concerns must promptly be forwarded to the appointing authority/designee or the OPA director for processing in accordance with Policy 103.218, "Office of Professional Accountability," and Policy 103.225, "Fact-Finding Process and Discipline Administration."

C. Complaint resolution procedures

1. OSI documents receipt of all complaints of misconduct and any referrals made to the OPA in the augmented criminal investigation support system (ACISS) maintained by OSI.
2. OSI reviews each complaint to determine a plan of action.
3. Action may include:
 - a) Conducting and completing the investigation;
 - b) Referring the matter to the OPA or appointing authority; or
 - c) Requesting assistance from an outside agency.

D. General guidelines for investigations

1. Thoroughness and scope
 - a) Each investigation commences with the purpose of gathering all material evidence regarding the complaint.
 - b) If information emerges during the investigation to indicate other employee misconduct has occurred, OSI will review the additional information to determine if:
 - (1) The scope of the present investigation must be expanded; or
 - (2) The issues are no longer criminal and do not present a significant security concern.
 - c) If at any point the investigation reveals that no criminal conduct occurred and/or that a criminal prosecution likely will not proceed, the OSI investigator must promptly discuss the matter with the OSI assistant director – investigations. The OPA and OSI directors/designee determine whether the investigation should continue as planned, be transferred to the OPA, or become a joint OPA/OSI investigation.
 - d) An investigation may be discontinued, upon approval of the OSI director, if it becomes apparent that further investigation is unwarranted.

- e) A written decision including the reasons to discontinue an investigation must be submitted to the commissioner/designee for review.
2. Timeliness
- Investigations must be complete within 60 days of the date of the complaint, unless a shorter period is specified by an agreement or plan. If it appears the investigation will not be complete within 60 days, an extension must be sought through the OSI deputy director – investigations.
3. Criminal misconduct
- a) Complaints or evidence of criminal misconduct must be referred to the appropriate law enforcement or prosecutorial authority.
 - b) A referral must not detract from the ability or responsibility of OSI to complete an investigation.
 - c) A special investigator must seek approval from law enforcement or the prosecutorial authority, prior to conducting the internal investigation.
 - d) The OSI director makes the final decision as to when the internal investigation may begin.
4. Subjects of investigations
- a) OSI contacts HR and informs them that OSI is conducting a staff misconduct investigation.
 - b) HR gives initial notice to an employee that:
 - (1) The employee is the subject of an investigation; and
 - (2) The identity of the investigator or another departmental contact.
 - (3) The notice is given in accordance with bargaining agreements and plans, and at such a time that it is not detrimental to the investigation.
 - (4) OSI tells HR when to give notice to an employee.
 - c) OSI gives notice to HR when the investigation is complete. HR gives notice to an employee when the investigation is complete.
5. Investigative leave
- a) OSI provides preliminary complaint information to the appointing authority to determine if a reasonable basis exists for placing an employee on paid investigatory leave in accordance with the applicable contract plan. Consideration must be given to the following factors:
 - (1) Does the subject's presence in the workplace pose a clear or imminent threat to the safety and security of the facility, other staff, or the subject?
 - (2) Does the subject's presence in the workplace threaten the integrity of the investigation?
 - (3) Is the subject likely to influence the testimony of other staff, engage in retaliatory acts, or destroy or tamper with evidence?
 - b) If the employee is placed on investigative leave, HR staff must ensure the employee is provided with:
 - (1) Preliminary information concerning the nature of the allegations; and
 - (2) Expectations of the employee while on investigatory leave.
 - c) The decision to place an employee on investigatory leave may be made at any time during the investigative process.

6. Resignations submitted by employees under active investigation must not be accepted without review and support by the OPA director, agency human resource director, and the appropriate deputy/assistant commissioners.

E. Criteria for investigation by OSI

OSI has limited investigative resources and must exercise discretion to ensure resources are used appropriately to meet the priority needs of the department. The following criteria must be used:

1. The type, level, severity, and potential impact of the allegation.
2. OSI resources available to conduct and complete the investigation in a timely manner.
3. The appropriateness of OSI to coordinate and complete the investigation.
4. Other resources available who:
 - a) Are capable of conducting the investigation; and
 - b) Are sufficiently removed from the situation so as to be able to proceed without any real or perceived conflict of interest.
5. The departure of the alleged abuser or victim from the custody of the department shall not provide a basis for terminating the investigation. If the alleged abuser is an employee of the department and terminates their employment the investigation shall continue.

F. Interviews

1. All interviews must be digitally recorded.
2. The digital recording must be preserved as evidence in a secure location.
3. The digital recording must not be removed from secure evidence storage unless necessary for presentation in a subsequent proceeding and consistent with the Minnesota Government Data Practices Act, Public Employee Labor Relations Act, and other applicable laws.

G. Completion and report routing

1. The investigator submits the final draft report to the deputy director of OSI – investigations for review. Upon review, the deputy director of OSI – investigations submits the report for approval to the OSI director or designee.
2. Upon final approval, the report must be sent to the appropriate assistant commissioner or deputy commissioner or to the commissioner.
3. Upon submission to the appropriate assistant commissioner or deputy commissioner, or to the commissioner, the final report is sent back to the investigator who forwards the report to the appropriate county attorney's office if applicable, and a copy of the report is given to the appropriate appointing authority. The appointing authority may forward the report summary to HR to determine if the investigation needs to be reviewed by the work incident review committee (WIRC).
4. Individual counties still maintain discretion of charging.

5. Adjudication - the appointing authority makes the final disposition of employee, volunteer, or contractor misconduct allegations based upon the report provided by the investigator and other relevant factors.
6. Responses to requests for access to data are handled in accordance with the Minnesota Government Data Practices Act.

H. Pending investigations

Information about pending investigations is confidential and only disclosed as required by law.

I. Report storage and retention

1. Physical file and evidence storage
 - a) Individual investigators maintain files of investigations and evidence (either hard copy or electronic) until final disposition of the outcome of the investigation.
 - b) All physical files and evidence must only be transported or stored for minimal amount of time in an OSI-issued vehicle as to ensure the integrity and chain of custody of the physical file or evidence.
 - c) All closed investigative files, exhibits, and evidence must be maintained in ACISS.
2. Electronic file storage
 - a) OSI investigative data must not be stored in areas that would be subject to unauthorized access.
 - b) Work in progress must be backed up on the DOC server to protect from damage or loss.
3. Copies of reports
 - a) Upon the completion of an investigation, only one copy of an investigative report and attachments must be prepared.
 - b) All original documents and evidence must remain in the custody of the individual investigator until the final disposition of the outcome of the case.
 - c) Upon the final disposition of the outcome of the case, the investigative evidence may be disposed of in accordance with Policy 301.035, "Evidence Management."
 - d) The completed investigation report and applicable documents must be given to HR management staff.
4. Requests for copies of investigative reports must be made to HR management staff.

J. Records retention

1. Upon the final disposition of the outcome of the case, OSI transfers the investigative report to the appropriate HR management staff.
2. OSI retains the complete case file with the applicable evidence.
3. HR management staff keep the investigative case file according to the HR retention schedule.

INTERNAL CONTROLS

- A. HR retains investigatory documents according to the appropriate retention schedule.
- B. OSI retains completed case files and applicable evidence..

ACA STANDARDS: None

REFERENCES: [Policy 103.300, “Sexual Harassment Prohibited”](#)
[Policy 103.302, “Harassment and Discrimination Prohibited”](#)
[Policy 103.218, “Office of Professional Accountability”](#)
[Policy 103.225, “Fact-Finding Process and Discipline Administration”](#)
[Policy 301.035, “Evidence Management”](#)
[Policy 107.005, “Office of Special Investigations”](#)

REPLACES: Policy 107.100, “Internal Affairs – Office of Special Investigations,” 11/19/18.
All unit and 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, Strategic Planning, Implementation, and Employee Development