



To: Washoe County Sheriff's Office Personnel
From: Chief Deputy Timothy O'Connor
Date: January 15, 2020
Subject: Standing Order 20-01, modifies Policy 1020 Personnel Complaints

This standing order modifies Policy 1020 Personnel Complaints, see attached.



Approved by Chief Deputy O'Connor

January 15, 2020

Date



1020 Personnel Complaints

1020.1

PURPOSE AND SCOPE

The purpose of this procedure is to provide guidelines for the reporting, investigation and disposition of complaints regarding the conduct of commissioned and non-commissioned members of the Washoe County Sheriff's Office (Office). The Office investigates all complaints and allegations of misconduct, whether initiated through a citizen's complaint or from within the Office. All allegations will be documented and investigated in an adequate and expedient manner.

Additional guidance, provisions, changes or additions may be contained in the Collective Bargaining Agreements and NRS Chapter 289, which applies only to commissioned members.

1020.1.1

DEFINITIONS

Citizen Complaint – Any allegation or complaint regarding misconduct or poor performance by a member of this Office is brought forth by a person who is not a member and is not being handled as a Class I or Class II complaint. The term does not include incidents of member misconduct or poor performance that are discovered or reported from within the Office.

- Citizen complaints may be reclassified as needed to ensure a complete investigation.

Inquiries about member conduct or performance which, even if true, would not qualify as a violation may be handled informally by an Office supervisor and shall not be considered a complaint. These may generally include clarifications regarding policy, procedures or the Office's response to specific incidents.

Class I Complaints - All complaints or issues brought forward or reported concerning a member that involve:

- Corruption or illegal conduct.
- Unnecessary or excessive force.
- Abuse of authority.
- Violation of rights.
- Language, conduct or behavior that is derogatory of a person's race, religion, creed, or nationality.
- Sexual harassment
- Violence in the workplace.

Class II Complaints - All complaints or issues brought forward or reported concerning a member that does not involve the characteristics of a Class I Complaint.

Investigation - An administrative investigation, conducted by the Office, of alleged misconduct by a member that could result in punitive action.

Punitive Action - A disciplinary action, including, but not to limited to, dismissal, demotion, suspension, reduction in salary, written reprimand or transfer.



Report of Misconduct – Any allegation of misconduct that is brought forward by another member of this Office. The term does not include incidents of member misconduct that are reported as citizen's complaints.

Risk Management Investigation – An investigation of all incidents for which litigation has begun, or there is the appearance the issue may result in litigation.

1020.2

AVAILABILITY AND ACCEPTANCE COMPLAINTS

1020.2.1

AVAILABILITY OF CITIZEN COMPLAINT FORMS

Citizen complaint forms will be maintained at the front desk and the website of the Office.

Watch commanders and supervisors will maintain Citizen Complaint forms as part of their equipment and shall make them available to citizens.

Each Watch Commander shall be responsible for monitoring public satisfaction or inquiries regarding the citizen complaint process and shall forward any suggestions for improvement or changes up the chain of command.

1020.2.2

ACCEPTANCE OF CITIZEN COMPLAINTS

All citizen complaints will be courteously accepted by any member of the Office and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may be filed verbally either in person or by telephoning the Office and will be accepted by any supervisor. If a supervisor is not immediately available to take a verbal complaint, the receiving member shall obtain contact information sufficient for the supervisor to re-contact the complainant. The supervisor upon re-contact of the complaint shall complete and submit the Citizen Complaint form as appropriate.

This administration recognizes that some complaints are minor in nature and may be resolved at the lowest level of supervision, without the need for an investigation. In these cases, the supervisor of the member complained about will resolve the issue, document the circumstances in a memorandum form and forward the information to the Chief Deputy for review. The Chief Deputy shall determine whether any additional action is needed.

Citizen Complaints Lodged in Person - Although not required, citizens should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained. The following should be considered before taking a complaint:

- When the complainant is intoxicated to the point where his/her credibility appears to be unreliable, identifying information should be obtained and the person should be provided with a Citizen Complaint form to be completed and submitted at a later time. However, if the intoxicated person insists on filing the complaint, the complaint shall be taken and properly processed.



- When it appears to the member accepting the complaint that the complainant is under the influence, may be suffering from a mental disorder, or there are indications that the complainant displays any other trait or condition that may have bearing on the complainant's credibility, the member shall note these observations and conditions or any other pertinent remarks on the reverse side of the original report. This report will include the observation of any physical marks, injuries or characteristics that may have bearing on the complaint. All such remarks and statements on the reverse side of this report shall be followed by the signature and commission number of the member making the remarks. This information will not be provided to the complainant.
- Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with their parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint.
- The original and first copy of the report will then be placed into a sealed envelope and forwarded to the Office of Professional Integrity.
- When an uninvolved supervisor or the Watch Commander determines that the reporting person is satisfied that their complaint required nothing more than an explanation regarding the proper/improper implementation of Office policy or procedure, a complaint need not be taken.
- When the allegations of a complaint concern a situation of felonious conduct, excessive force within the previous 8 hours, or any other incident considered to be urgent or of significance, the on-duty supervisor will be made aware of the situation and immediately contact a member of the Office of Professional Integrity, in addition to any other command staff which may warrant notification. The member accepting the complaint is still responsible for the initial report even though other investigators may respond. The fact that appropriate notifications have been made will be noted on the reverse side of the original report forwarded to the Office of Professional Integrity.

Citizen Complaints Received by Mail - Any member receiving a citizen's complaint by mail will place the complaint and the envelope in a sealed envelope and forward to the Office of Professional Integrity.

Citizen Complaints Received by Telephone - Any member accepting a complaint by telephone must complete a Citizen Complaint Report and shall enter on the report, either typed or in the member's own handwriting, all of the pertinent information. In the complainant's signature box, the accepting member shall print or type the words, "telephone complaint".

- Once completed, the accepting **member** shall place all of the copies in a sealed envelope and forward to the Office of Professional Integrity. The complainant will be advised that the complaint will be forwarded to the Office of Professional Integrity. If the complainant revealed his or her name, address and telephone number, the complainant will also be advised that a member of this Office will contact the complainant.
- For any type of complaint, the receiving supervisor will initiate a report using "BLUE TEAM" to collect the necessary information and make a secondary notification to the Office of Professional integrity. This will be done in accordance with SOP 20.00.

The requirement of Complaints Lodged in Person above apply to telephone complaints.



1020.2.3

REPORT OF MISCONDUCT BY A MEMBER OF OFFICE

Misconduct Observed or Discovered by a Member's Superiors - The majority of observed or discovered incidents of member misconduct or poor performance are minor departures from the directives of this Office. Supervisors have the responsibility and the authority to adjudicate these minor transgressions and administer the proper corrective action. Any incidence of misconduct or poor performance requiring an interview, interrogation and/or an investigation and which may result in disciplinary action will be forwarded or submitted to the Office of Professional Integrity. Any member discovering or observing Class I misconduct shall immediately notify their Division Chief Deputy, who shall notify the Undersheriff. The Undersheriff will notify the Office of Professional Integrity.

Reports of Misconduct - In all cases of misconduct, members are not only encouraged, but required to report incidents of misconduct. Members may report misconduct by other members to any of the following:

- Their immediate supervisor or the supervisor of the member(s) perpetrating the misconduct.
- Their Division Chief Deputy
- The Undersheriff
- The Office of Professional Integrity

1020.3

INITIAL SUPERVISOR RESPONSIBILITY

A supervisor who becomes aware of alleged misconduct or receives a citizen complaint shall take reasonable steps to prevent aggravation of the situation.

In general, the primary responsibility for the investigation of a citizen complaint shall rest with the member's immediate supervisor. The Sheriff or authorized designee may, however, direct that another supervisor investigate it. The supervisor shall be responsible for the following:

- A supervisor receiving a citizen complaint involving allegations of a potentially serious nature shall ensure that the Watch Commander, Commanding Officer, the Office of Professional Integrity and Sheriff are notified as soon as practicable.
- A supervisor receiving or initiating any citizen complaint shall ensure that a Citizen Complaint form has been completed as fully as possible. The original Citizen Complaint form will then be directed to the Commanding Officer of the accused member, via the chain of command, who will take any appropriate action and/or forward the complaint to the Office of Professional Integrity for further action.
 - 1) During the preliminary investigation of any complaint, the supervisor should make every reasonable effort to obtain names, addresses and telephone numbers of additional witnesses.
 - 2) When appropriate, immediate medical attention should be provided and photographs of alleged injuries as well as accessible areas of non-injury should be taken.
 - 3) 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 member's Division Commander and/or the Sheriff or his/her designee who will initiate appropriate action.



- A supervisor dealing with an accused member shall ensure that the procedural rights of the member are followed pursuant to the member's Collective bargaining agreement and state and federal law...
- When the nature of a citizen complaint relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination, the supervisor receiving the complaint shall promptly contact the Sheriff or his/her designee for direction regarding their role in investigating and/or addressing the complaint.

1020.4**ASSIGNMENT TO ADMINISTRATIVE LEAVE**

A member be placed on administrative leave pending an investigation when gross misconduct is alleged, when the safety when the safety of the public or employees is at risk, when the presence of the member in the workplace presents an impediment to the continued functioning of the workplace.

A commissioned member may be reassigned without his/her consent during or pursuant to an investigation or hearing related to a complaint of misconduct when the Office finds, based on specific facts or circumstances, that reassignment is necessary to maintain the efficient operation of the Office. NRS 289.057(5).

1020.4.1**ADMINISTRATIVE LEAVE**

A member placed on administrative leave may be subject to the following guidelines:

- Except as provided in a collective bargaining agreement, a member placed on administrative leave shall continue to receive regular pay and benefits until all investigations relating to the matter have concluded.
- A member placed on administrative leave may be required by a supervisor to relinquish any badge, Office identification, assigned weapon(s) and any other office property and equipment.
- A member placed on administrative leave may be ordered to refrain from taking any action as an office employee or in an official capacity. The member shall be required to continue to comply with all policies and lawful orders of a supervisor.
- A member placed on administrative leave may be temporarily reassigned to a different shift, generally within normal business hours, during the pendency of the investigation and the member may be required to remain available for contact at all times during such shift and report as ordered.
- It shall be the responsibility of the assigning supervisor to promptly notify the member's Division Commander.

1020.5**ALLEGATIONS OF CRIMINAL CONDUCT**

Where a member of this Office is accused of criminal conduct, a separate supervisor or assigned detective shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any administrative investigation may parallel a criminal investigation.



The Sheriff shall be notified as soon as practicable. The Sheriff may request a criminal investigation by an outside agency be conducted.

A member accused of criminal conduct shall be provided with all rights and privileges afforded by law and the applicable collective bargaining agreement.

No information or evidence administratively compelled from a member may be provided to a criminal investigator.

Criminal history may be disseminated by a law enforcement agency if the member has been convicted or the member is currently incarcerated or participating in parole and probation.

1020.6

ADMINISTRATIVE INVESTIGATION WITH THE MEMBER

Investigations of a minor nature may be assigned to the member's supervisor for investigation. More serious complaints will be assigned to the Office of Professional Integrity for investigation. The following procedures shall be followed:

- The investigator shall not be the complainant, the ultimate decision-maker regarding disciplinary action, or have any personal involvement regarding the alleged misconduct.
- A commissioned member who is the focus of the investigation shall be provided notice in accordance with NRS Chapter 289.
- Interviews of accused members shall be conducted during reasonable work hours of the employee and, if the member is off-duty, the member shall be compensated. (NRS 289.060(3)(a)).
- Off-duty interviews should only be conducted based on the seriousness of the investigation and other factors requiring that time is of the essence.
- An investigator may not interview a commissioned member at that person's home without prior permission of the commissioned member.
- No more than two interviewers should ask questions of an accused employee to prevent confusion or misunderstandings.
- All interviews shall be for a reasonable period and the member's personal needs shall be accommodated.
- No member shall be subjected to offensive or threatening language nor shall any promises, rewards or other inducements be used to obtain answers. Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively or be subject to discipline for insubordination. Nothing administratively ordered may be provided to a criminal investigator.
- Absent circumstances preventing it, the interviewer should record all interviews of members and witnesses. The member may also record the interview. If the member has been previously interviewed, a copy of that interview shall be provided to the member prior to any subsequent interview.
- A commissioned member who is the subject of an investigation that could result in punitive action may have two representatives of his/her choosing during his/her interrogation in accordance with NRS 289.080(1)). However, in order to maintain the integrity of each individual employee's statement, involved employees shall not consult or meet with representatives or attorneys collectively or in groups prior to being interviewed.

**1020.6.1
ADMINISTRATIVE SERVICES****1020.6.1.1
TESTING**

A member of this Office may be administratively ordered to submit to a blood, breath or urine test for alcohol and drugs under any of the following circumstances:

- When the member, whether on- or off-duty, is involved in a shooting or police related death.
- When the member is involved in an injury or fatal accident while on-duty.
- When the member is involved in an injury or fatal accident while operating any County owned vehicle whether on- or off-duty.
- When the member is found to be exhibiting objective symptoms of intoxication or drug influence while on-duty.

The use of compelled testing results shall be restricted to the administrative investigation.

**1020.6.1.2.
DISCLOSURE OF FINANCIAL INFORMATION**

Any commissioned member may be compelled to disclose personal financial information pursuant to proper legal process, if such information tends to indicate a conflict of interest with official duties, if the member is assigned to or being considered for a special assignment or to determine if the member is engaged in unlawful activity (NRS 289.030).

**1020.6.1.3
SEARCH OF OFFICE AREAS AND EQUIPMENT**

Members shall have no expectation of privacy when using telephones, computers, radios or other communications provided by the Office. These devices may be monitored or searched at any time.

Assigned lockers and personal storage spaces may be administratively searched upon a reasonable suspicion that misconduct has occurred and when the member has been given reasonable notice that the search will take place. The member may be present if such an accommodation does not delay the investigation.

All other Office-assigned areas (e.g., desks, office space and assigned vehicles) may be administratively searched by a supervisor, in the presence of an uninvolved witness, for non-investigative purposes (e.g., obtaining a needed report or radio). An investigative search of such areas shall only be conducted upon a reasonable suspicion that official misconduct is involved.

**1020.6.2
ADMINISTRATIVE INVESTIGATION POINT**

Basic Procedures Applicable to Investigations - Members who have been assigned the task of investigating citizen's complaints, misconduct, performance related issues or risk management cases may, consistent with the specific directives of this Office, utilize any recognized method of investigation.



Investigations generally follow a routine format, however, the need to conduct a thorough investigation may require some additional techniques the assigned investigator may not be familiar with. In each case, members should seek guidance from the Office of Professional Integrity regarding the format that best suits the individual case.

General investigative guidelines are provided in a training manual to all newly promoted supervisors. This manual is also available from the Office of Professional Integrity for anyone who may wish to review it.

Request for Investigation - Include the identity of the member(s), the identity of the assigned investigator(s), the initial date and source of the complaint. An investigation of a commissioned member shall not be conducted if the alleged misconduct occurred more than 1 year from the date of the filing of a complaint with the Office unless the alleged misconduct would be a crime punishable by state or federal law. NRS 289.057(1).

Brief - Provide a very brief summary of the facts giving rise to the investigation.

Summary - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion/Recommendation - Disposition of each allegation and if the investigation warrants a recommendation regarding further action.

Exhibits - A separate list of exhibits (e.g., recordings, photos and documents) should be attached to the report.

1020.7

DISPOSITION OF PERSONNEL COMPLAINTS

Each allegation shall be classified with one of the following dispositions based on the totality of circumstances:

Unfounded - When the investigation discloses that the alleged act(s) did not occur or did not involve Office personnel. Additionally, complaints that are determined to be frivolous will fall within the classification of unfounded.

Exonerated - When the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.

Not Sustained - When the investigation produced insufficient evidence or information to prove clearly or to disprove the allegations. This category is justified when, because of a lack of witnesses or other objective and persuasive proof, the complaint cannot be sustained. A lack of cooperation or unavailability of the complainant may also necessitate this conclusion. Under these circumstances, the determination of "not sustained" is justified but does not necessarily mean the allegation is untrue.



Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct. Evidence in a sustained complaint will be weighed by a preponderance of the factual evidence.

Misconduct Not Based on Original Complaint - Is used to indicate the discovery of sustained acts of misconduct that were not alleged in the original complaint.

Successfully Concluded Through Conciliation - "Conciliation" is an acceptable method of case resolution. Conciliation will be employed only after consultation with the Office of Professional Integrity and/or the Undersheriff. Conciliation does not replace disciplinary action but may lessen the severity of discipline, in some cases.

1020.8

COMPLETION OF INVESTIGATIONS

Following completion of the investigation, the complete file is reviewed, and a Case Summary prepared by the investigator. The Case Summary a condensed version of the investigation (case point) in chronological order.

When the investigation is completed, the investigator shall forward all copies of the case report to the Office of Professional Integrity for review.

When the investigation is completed, the investigator shall forward all copies of the case report to the Office of Professional Integrity for review.

The investigator shall complete the assignments given by the Office of Professional Integrity and shall return the completed case to the Office of Professional Integrity.

Every investigator or supervisor assigned to investigate a complaint shall proceed with due diligence. Recognizing that factors such as witness availability and the complexity of allegations will affect each case, every effort should be made to complete each investigation and impose any disciplinary action in a timely manner.

Investigations should be completed within three months of the date the office becomes aware of the allegation. The Sheriff or his/her designee may extend the period to six months if the investigation reasonably requires such an extension.

Should additional time be required, a written request should be made to the Sheriff or his/ her designee, generally 30 days before the period tolls, requesting an extension. A request for extension should include the reason for the request and the related completion date required. Such a request must be approved by the Sheriff or his/her designee.

If the nature of the allegation dictates that confidentiality is necessary to maintain the integrity of the investigation, the involved member(s) need not be notified of the pending investigation unless and until the member is interviewed or formally charged.



When considered complete, the case will be submitted to the Undersheriff for final approval. If the investigation determined the allegations to be Unfounded, Not Sustained or Exonerated, the Office of Professional Integrity will submit letters to the complainant as well as the member, stating the findings of the investigation.

Should the investigation determine the allegations to be Sustained, the case report will be submitted through the Undersheriff and appropriate chain of command to the lowest level of supervision for a recommendation for discipline. (This administration recognizes that certain cases may require a determination of discipline or resolution at a higher level.)

Once received, the Sheriff may accept or modify the classification and recommendation for disciplinary action contained in the report.

Within 30 days of the final review by the Sheriff, written notice of the findings shall be sent to the complaining party. This notice shall indicate the findings, however, will not disclose the amount of discipline, if any imposed.

Any complaining party who is not satisfied with the findings of the Office concerning their complaint may contact the Sheriff or designee to discuss the matter further.

1020.9

CONFIDENTIALITY OF CONTENT OF INVESTIGATION

The content of all investigations of complaints are confidential member personnel files. The content of the investigation shall not be revealed to other than the involved member or authorized personnel except as required by applicable law this Policy. Legal counsel should be consulted prior to disclosure of investigation content not otherwise covered in this policy.

- After the investigation is completed and except as otherwise provided in Subsection (b), the reporting member, the member complained about and/or their officially recognized representatives may inspect the official file relating to their particular report of misconduct. The request must be in writing. All requests to inspect the official file relating to a report of misconduct must be submitted to the Office of Professional Integrity or to the Undersheriff. All such access to the Office of Professional Integrity investigation files shall be strictly controlled by the Undersheriff and the Lieutenant of the Office of Professional Integrity.
- After the investigation is completed, the following documents and information are confidential and may not be inspected or released except as required by applicable law and this Policy.
 - 1) Contents of the investigation of any criminal matter.
 - 2) Intelligence information.
 - 3) Information from a member's personnel file.
 - 4) The performance or results of tests or the refusal of the accused to take a test, except that the results of a test may be released to the person submitting to the test.
 - 5) Statements of members under penalty of discipline.
 - 6) Internal memoranda between the Sheriff's Office and its legal counsel.
 - 7) Materials compiled in anticipation of litigation, such as an attorney-investigator's worksheet.
 - 8) Information provided by other governmental agencies, without their authorization for release.



- 9) Information that cannot be disseminated pursuant to Federal statute, state law, local ordinance or court order.
 - 10) Identity of any person who has supplied information and has requested that his or her identity be withheld.
 - 11) Identity of informants and the contents of their statements.
 - 12) Information on matters totally unconnected to the requested report of misconduct.
- After the investigation: The focus of an investigation may waive confidentiality and authorize release of the investigation to a third party. In the event that an accused member, or the representative of such member, knowingly makes false representations regarding any internal investigation and such false representations are communicated to any media source, the Office may disclose sufficient information from the member's personnel file to refute such false representations.
 - During the investigation: A representative of the peace officer may inspect the following if related to the investigation and in the possession of the Office: (1) Physical evidence; (2) Audio recordings, photographs and video recordings; and (3) Statements made by or attributed to the peace officer. NRS 289.080(4). A request to inspect these materials shall be made in writing by the focus of the investigation and shall designate the representative who will inspect the materials. No copying of the items inspected will be allowed.

1020.9.1

RECORDS RETENTION

The Office of Professional Integrity will maintain and secure files in accordance with current acceptable methods for the storage of classified documents. The Office of Professional Integrity will retain files of investigations for the period of time directed by current law and by recommendation of the Office of the District Attorney.

All records of investigations shall be securely maintained no less than the periods indicated below:

- Sustained Complaints resulting in formal discipline -20 years.
- Sustained Complaints resulting in informal discipline, such as verbal counseling or additional training - 18 months.
- Inconclusive findings - 5 years, provided a 1 year infraction-free period proceeds date of destruction.
- Complaints that are Not Sustained, Unfounded or Exonerated - 3 years.
- Complaints that do not lead to an investigation - 2 years.
- The Office of Professional Integrity will destroy original investigative files only:
 - 1) After the statute of limitations has passed for that particular case; and
 - 2) After the destruction of the case has been approved by the Undersheriff.

1020.9.2

SUSTAINED COMPLAINTS

Before being placed in the member's file, the member will have an opportunity to read and initial the comment or document. If the commissioned member submits a written response within 30 days, the response will be attached to the comment or document (NRS 289.040(1)&(2)).



The commissioned member will receive a copy of any comment or document placed in the member's file (NRS 289.040(4)).

A copy of the disposition of the allegation of misconduct and a copy of the notice or adjudication of any punitive or remedial action will be the only documents related to the investigation which will be placed in the commissioned member's file.

If punitive action is taken, the commissioned member or a representative authorized by the member may, except as otherwise prohibited by federal or state law, review any administrative or investigative file maintained by the office relating to the investigation including any recordings, notes, transcripts of interviews and documents pursuant to NRS 298.057(3)(a).

Sustained complaints shall be maintained in the member's personnel file for the prescribed period.

Complaints which are unfounded, exonerated or not sustained shall be maintained by the Office of Professional Integrity apart from the member's personnel file.

If the investigation concludes that the commissioned member did not violate a statute, policy, rule or regulation, the investigation shall not be reopened unless there is newly discovered material evidence. (NRS 289.057(3)(C)).

1020.9.2

REMOVAL OF ACTION FROM PERSONNEL FILE

Upon request, a commissioned member may review any administrative file of that commissioned member that does not relate to a current investigation (NRS 289.040(5)).

Records of the investigation and/or any punitive action may be maintained in a commissioned member's personnel file in accordance with the collective bargaining agreement. If a member identifies a complaint or allegation that should be removed from his/her personnel file, the member will write an office memorandum specifically asking for the item to be removed and the reasons for removal. (NRS 289.057(3)(b) states that the law enforcement agency shall not, except as otherwise required by federal or state law, keep or make a record of the investigation or the imposition of punitive action after the record is required to be removed.)