

Faribault Police Department

Policy # 104	Subject: Code of Conduct and Disciplinary Action
Issued by: Chief Daniel Collins	
Personnel: All Personnel	Date Issued: September 14, 2010

This policy is mandated by the Minnesota POST Board. The Chief of Police must report summary data to POST annually.

General Regulations and Disciplinary Action

The purpose of these general regulations is to control and prohibit conduct that tends to undermine the policy, goals, good order, and/or efficiency of the department. The regulations herein established are primarily intended to promote the end of providing fair and efficient service to the community. Further, these regulations are intended to be equitable to those who are expected to work with them. Fairness to both the community and department personnel is achieved through a process of careful consideration and constant review.

These regulations are not designed to make every irregular, mischievous, or improper act a disciplinary offense. Rather, their reach is limited to conduct that illustrates malfeasance in office and behavior that is prejudicial to good order, discipline, morale, and efficiency, and tends to destroy public respect and confidence.

Department personnel comprise a special class of public employee. Members of the department are conspicuous and visible representatives of government. Members' conduct is closely scrutinized, and when it is found to be excessive, unwarranted, or unjustified, criticism is more severe than it would be for similar conduct of persons in other walks of life. The end result of criticism is lost community support and respect, both of which are necessary ingredients to the department's ability to perform the law enforcement function. Therefore, close adherence to departmental regulations is absolutely essential to guarantee community support and to maintain effective services.

In determining what disciplinary action should be taken, the Police Chief may consider the following:

1. All the circumstances surrounding the case.
2. The seriousness of the employee's conduct in relation to the employee's particular duties and record with the department.
3. What action the department has previously taken to prevent this type of conduct.
4. The contemplated corrective action in light of its training value, rather than strictly as punishment for the offense.
5. The disciplinary action of a corrective nature the department has taken in similar instances.
6. The probable cause of the employee's behavior.

7. What corrective action will most likely eliminate the cause and prevent a reoccurrence.
8. The employee's expected reaction to the corrective measure
9. The probable reaction of other employee's to the corrective action.

A. Disciplinary Action

If disciplinary action is determined to be necessary, it will be in the form of one or more of the following:

1. Oral reprimand
2. Written reprimand
3. Suspension
4. Demotion and/or
5. Discharge

These disciplinary measures, as listed, are not to be considered to be a prescribed progressive order of application of discipline. The appropriate actions(s) will be determined by the circumstances and/or merits of each situation.

B. Responsibility

Members of the department shall be held responsible for the proper performance of any and all duties assigned to them and for strict adherence to the regulations adopted from time to time for the administration of the department. It will not be received as an excuse or justification for anything that they may do contrary to the regulations or for anything they may omit to do, that they followed the advice or suggestion of any other person, whether that person is connected with the department or not, except when an officer of higher rank may take upon themselves the responsibility of issuing direction and positive orders.

C. Breach of Policy, Order, or Procedure

No member shall act or fail to act in such a manner that constitutes a breach of policy, order, or procedure outlined in other sections of this manual.

D. Dereliction of Duty

Members of the department shall not act in such a manner as to deprive any members of the community of the equal protection of the law.

E. Relations with Members of the Public

Members of the department shall not be overbearing, oppressive, or tyrannical in their relations with members of the community.

This regulation includes within its prohibitions all clearly recognized actions that serve to breed disrespect for the department and its members. Actions are clearly recognizable if they constitute gross breaches of the public support. Examples of gross breaches of the public's support include:

1. Unreasonable orders given to citizens;
2. An attempt to control conduct not within the scope of the member's lawful authority.

These examples are illustrative and not intended to be all-inclusive.

F. Inappropriate Language

Members of the department shall not use insulting, defamatory, offensive, or obscene language in the performance of their duties.

G. Respect by Superiors

Superiors shall not act so as to exhibit disrespect for subordinate members of the department.

This regulation is intended to prohibit the overt action or communication that displays a superior's disrespect toward a member of the department.

H. Neglect of Duty

Members of the department shall not ignore flagrant violations of the law that may come to their attention through citizen complaints, by their own observations, or through their own investigation.

This regulation is intended to prohibit flagrant neglect of the duty to enforce the laws and ordinances of the jurisdiction. The regulation prohibits willful neglect, recognizing that discretion and justified priority calls for less than total enforcement, but there is no excuse for unreasonable failures to enforce the laws that each officer is sworn to uphold.

I. Failure to Respond

Members of the department shall properly respond to radio calls, requests for assistance, or suspicious circumstances without unreasonable delay, both on and off duty.

Proper response to a radio call, observation, or request for assistance dictates that a member's initial response be carried out with necessary and reasonable dispatch. Any member who fails to take appropriate action on matters brought to his or her attention is guilty of dereliction of duty. Gross neglect is distinguished from mere mistake or poor judgment, because it consists of willful neglect in the face of obvious conditions warranting investigation or other actions.

J. On Duty Activity

Members of the department shall not engage in any activity that does not pertain to departmental business while that member is on duty, unless prior permission has been given by a superior.

K. Leaving Post

Members of the department shall not leave their post, designated patrol area, or the city limits while on duty unless they have permission from their immediate supervisor or unless their duties specifically require it.

L. Absent from Duty

Members shall not be absent from duty without permission from their superior. In the event of sickness, proper notification to one's superior is necessary prior to the time designated for reporting for duty.

Notification, when proper conditions for sick leave exist, includes telephone notification or the filing of a request for relief when possible, prior to the hours scheduled for duty. Extenuating circumstances might make timely notification impossible, in which case notification within a reasonable time is necessary – one hour before scheduled duty.

M. Alert

Members of the department shall not sleep while on duty and must remain alert at all times.

N. Departmental Notification

Members of the department feeling aggrieved at the treatment or orders of a superior, or any members of the department wishing to call attention to any matter or to make recommendations for such things as improvement of service, equipment, or procedures, should first submit their concerns or recommendations in writing to their immediate supervisor prior to any discussion with any person or agency outside the department. At the immediate supervisor's discretion, the report may be forwarded to the Police Chief.

O. Superior's Responsibilities

Superiors shall not knowingly permit members in their command to violate any law, departmental policy, or procedure.

P. Punctuality

Members of the department shall be punctual in reporting for duty at the time designated by their superior.

Q. Untruthfulness

Members of the department are required to speak the truth at all times and under all circumstances, whether under oath or otherwise, unless an undercover role or other operation requires deception to further an investigation.

This regulation prohibits withholding of evidence from judicial proceedings, perjury, untruthful statements made within the department, false public statements, and any other misrepresentations by members of the department. This regulation does not require divulgence of matters prohibited in section AJ – Unofficial Use of Records – of this policy.

R. False or Improper Information

Members of the department shall not knowingly make false or incomplete official reports or knowingly enter or cause to be entered in any departmental book, record or electronic recording device any inaccurate, false or improper information.

S. Excessive Use of Force

Members of the department shall act at all times with in the standards for use of force established in policy 301.

T. Violation of Law

Members of the department shall not violate any federal statute, state law, or local ordinance.

U. Bribes, Acceptance of Gifts, and Solicitations

No member shall accept a bribe, reward, fee, or gift for services rendered as a member of the department.

This regulation does not prohibit the receipt of anything of value from another governmental agency or public service organization. Furthermore, approved off-duty employment governed by policy and existing labor contracts are also not prohibited. It is the appearance that a member's authority is being misused for personal gain that can undermine the public's trust in the department.

No member of the department shall solicit money or contributions for any organization or business while on duty, off duty, while dressed in the department's uniform, or while representing themselves as a member of the department. Also, no member of the department shall solicit anything of value for the department without the express permission of the Police Chief.

V. Mistreatment of Persons in Custody

No member of the department shall use force on a prisoner, other than that necessary to restrain said person in custody from doing harm to themselves, to others, or to property.

W. Leaving Persons in Custody Unattended

No member of the department shall leave a person in custody unattended when transporting or otherwise responsible for said person.

X. Misuse of Firearms

Members of the department shall strictly adhere to guidelines established in policies 301 and 302 for the use of firearms and shall at no time act negligently or in disregard of utmost safety in handling a firearm.

Any unjustified use of the firearm, whether it is excessive use in the line of duty or simple "horse play" that may constitute danger to others, is covered by this policy. A firearm should not be used as an impact weapon or object.

Y. Insubordination

Members of the department shall promptly obey any lawful order emanating from any superior. Should any such order conflict with a previous order or with any regulation, policy, or procedure of the department, the members to whom such order is given shall **respectfully** call attention to such conflict or any other conflict which may arise from such order. If the officer giving the last order does not change the same so as to correct the conflict, his or her order shall stand and the responsibility shall be theirs. The person obeying the order will not be held in any way responsible for failing to carry out an order that is a violation of the law. If the unlawful order is given to any member of the department, such member must promptly report such fact to the Police Chief.

Z. Disrespect of Superiors

Members shall not speak or act so as to exhibit disrespect for a superior.

This policy intends to prohibit the over action or communication that directly displays a member's disrespect toward a superior. (To be a direct display, the action must occur during a superior-subordinate transaction or immediately thereafter)

AA. Public Criticism

Members of the department shall not publicly criticize the operation or personnel of the department if such criticism clearly undermines the discipline, harmony, or general efficiency of the department.

The department recognizes that its members retain rights to expression and freedom of speech granted by the Constitution, whether on or off duty. However, these rights do not allow for conduct that is disruptive of the proper function of the public's business.

AB. Departmental Criticism

Members of the department shall not, under any circumstances or in any manner whatsoever, speak critically or derogatorily to other members of the department regarding the orders or instructions issued by superiors; provided, however, in any case when there is sound reason to believe that such orders or instructions are inconsistent or unjust, it is the right and duty of any member to appeal to higher authority in the department.

AC. Cooperation During Internal Investigations

Members of the department must cooperate in any official internal investigation of alleged misconduct, illegal activity, or impropriety. Failure to answer questions or submit to proper investigative techniques constitutes insubordination.

AD. Censuring Department Members

Deliberations or discussions among members conveying censure towards other members of the department and all publications or communication of a personal nature relating to official transactions within the department are prohibited.

This regulation is intended to prohibit the internal criticism which meets the “disruptive” test of the public criticism regulations. (See Public Criticism above) However, it should be noted that internal dissension and criticism becomes disruptive more easily than public criticism, due to the fact that the department’s duties require a high level of internal discipline to guarantee efficiency, honesty, and equity in the public service. This regulation is not intended to limit any agreement under any existing labor contract.

AE. Strike Participation by Employees

Any essential employee of the department who participates in any mass absence without leave constituting a strike within the terms of Minnesota State Statute and who fails to return to duty upon order of the Police Chief shall be immediately suspended for insubordination and engaging in illegal activity.

In the event such essential members participate in said strike for a period exceeding twenty-four hours (24), the Police Chief may thereupon take immediate steps to discharge or take disciplinary action against said violators.

In the event probationary personnel participate in said strike and fail to return to duty on a specific order to each probationary essential employee by the Police Chief, that member may be summarily discharged from the department by the Police Chief.

AF. Association with Criminal Element

Members of the department shall not develop personal associations with persons or frequent places known to them as being engaged in criminal activity.

The purpose of this regulation is to protect the department and all of its members for charges of impropriety and conflicts of interest. Personal associations consist of more than a single occurrence, more than general contacts, or more than associations that may develop in the line of official business. If, over a period of time, a member continues to carry on private business with a person known or suspected to be carrying on a continuing criminal activity, he or she is in direct violation of this policy.

AG. Petitioning Outside the Department

Members of the department shall not request the aid of any person outside the department to have them transferred to another assignment or beat, to have them restored to any assignment or beat from which they have been removed by order of a superior, or to have them promoted to a higher rank in the department, nor shall they knowingly permit any petition to be formulated or presented by citizens in their behalf requesting such transfer, restoration or promotion.

AH. Legal Referrals

Members of the department, while acting in an official capacity, shall not recommend to any person the employment of any particular person as an attorney or counsel or suggest the name of any lawyer or person to a prisoner with a view to his defense, nor shall they, either

directly or indirectly, interfere or interest themselves in any manner whatever in the employment of any attorney to aid any potential litigant against the City.

No member of the department is to render legal advice or state his or her opinion as to the legality of any charge made against any prisoner.

AI. Mishandling of Records

Members of the department shall not divulge the content of official records to anyone outside of the department without first obtaining permission from a superior, nor shall any member of the department divulge any matters relating to official business without first receiving authorization from his or her superior.

This regulation is to be read in conjunction with the Media Relations policy.

AJ. Unofficial Use of Records

No member of the department, unless authorized to do so for a specific purpose, shall have access to the official records of the department.

This regulation intends to prohibit all unofficial use of the records. Tampering with records by members of the department is prohibited.

AK. Use of City Vehicles

Members of the department shall drive assigned vehicles with safety in mind at all times. Careless or irresponsible operation of departmental vehicles is prohibited. Members shall report repair items to department vehicles to a superior. Damage to department vehicles will be noted on the City of Faribault Incident Reporting Form in addition to notifying a supervisor.

AL. Care and Use of Department Equipment

Members of the department shall be responsible for the good care of city property, whether fixed or moveable or assigned to their use or keeping, and must promptly report to a superior the loss of, damage to, or unserviceable condition of such property. Roughness or carelessness in the handling of such property will not be tolerated. Any member found responsible for the destruction or loss of city property, either through willfulness or negligence, may be required to pay all costs of repair or replacement thereof, besides suffering any penalty imposed for violation of this regulation. Further, any department employee failing to report defective equipment to his or her supervisor may be subject to disciplinary procedures. Members of the department shall not use any department property for private purposes.

AM. Radio Use

Members of the department shall not use the radio except for official communications. At no time shall a member use unprofessional, discourteous, obscene, offensive or disrespectful language during the transmission of a radio message.

AN. Failure to Meet Financial Obligations

Members of the department shall promptly pay all debts and legal liabilities.

This regulation is intended to deal with a narrow portion of conduct that is the result of financial irresponsibility. Financial hardship cases are not necessarily subject to discipline unless a gross demonstration of financial irresponsibility is present and job performance is adversely affected.

AO. Use of Intoxicants

The word “intoxicants” as used in the regulation is intended to include medicine, alcohol, and any other substance which excites or dulls the body to the point where physical or mental control is markedly diminished or which gives off an odor indicating a substance has been consumed which may impair judgment.

Members shall not consume intoxicants at any time after reporting for a duty shift or during a duty shift unless it is appropriate in the performance of an official assignment. In such cases, there must be prior approval from the member’s supervisor. No member shall consume any intoxicants when armed with a weapon while off duty. At no time shall a member consume intoxicants to such a degree that it impairs his or her own duty performance.

Members of the department shall not operate city motor vehicles after consuming an intoxicant. There are rare cases when an undercover investigator may have to consume alcohol during the course of an investigation. If this happens, the officer must document the fact that he or she has consumed alcohol and the reason why.

When a department member is called to duty while off duty and an intoxicant has been consumed, the member must advise his or her supervisor of that fact. The supervisor will determine whether the department member should report for duty. Department members who are on stand-by status may not consume intoxicants, unless prescribed by a physician, and must notify their supervisor when prescription medication is consumed. The supervisor will determine their suitability for continued stand-by status.

Investigators or other department members who are scheduled to be subject to call-out during a specific off-duty period (“on call”), are strongly encouraged to refrain from consuming intoxicants while “on call”. If alcohol is consumed and for eight (8) hours after the alcohol consumption is ceased, the scheduled “on call” department member must arrange with another equally qualified department member to take his or her place “on call” and notify the on-duty shift supervisor of the change.

There is an immediate lowering of esteem, suspicion of ineffectiveness, and creation of a safety hazard when there is public contact by a member of the department indicating the use of intoxicants either due to an odor or physical evidence or impairment. Additionally, the stresses of law enforcement require an officer to be mentally alert and physically able to perform.

Therefore, the Police Chief has instituted a zero-tolerance policy for intoxicant consumption, and the prohibition of the use of intoxicants includes off-duty consumption that affects on-

duty performance. Officers should not consume intoxicants in public when they are identifiable by uniform. Trousers are the only uniform item considered unidentifiable.

AP. Immorality

Members of the department while on duty shall not engage in any conduct relating to their moral turpitude.

This regulation prohibits immoral or offensive conduct. Such conduct includes the following:

1. Offensive sexual solicitations
2. Offensive or indecent behavior.

These examples are illustrative and not meant to be all-inclusive or exhaustive.

AQ. Required Reports

Members of the department shall report all violations of the department's regulations, policies, orders, or procedures to a supervisor.

Members of the department shall communicate promptly as specified in standard reporting procedures all crimes, deaths, attempted suicides, fires, accidents, complaints, and information of which the department normally takes notice. No members shall withhold tips or information with a view toward personal achievement or for any other reason.

All officers shall, in writing and within two (2) hours after beginning a "self-assigned covert investigation", notify their immediate superior of the purpose of the inquiry and identity of the principals and suspects. If a target of the investigation is another officer, the reporting officers need not inform their immediate superior(s) and shall notify the Police Chief or the commanding officer of the Services Division.

Self-assigned means any unassigned action undertaken at an officer's discretion and without the knowledge or approval of a superior. *Covert investigation* means, whether on or off duty, a surveillance, interview or interrogation, or fact finding inquiry to reveal employee misconduct or violation of law.

"All information which the department takes notice of" is impossible to specify. This regulation is intended to be illustrative of the kinds of important happenings which must be reported. Members should be aware that over-reporting is not a violation of this policy, while under-reporting is a violation; therefore, when in doubt, they should be safe and submit a report.

AR. Accidents with City Vehicles

Members of the department shall promptly report to their superior any crash with any department motor vehicle operated by them or in their charge. In all cases in which a city vehicle is involved in accidents, a supervisor or ranking officer in charge shall be notified by the officer. The supervisor will either personally investigate the crash or request another police agency to investigate.

AS. Employee Address / Telephone Numbers

Members of the department shall report any changes in address or telephone number within 24 hours after making such changes by promptly submitting such information to the Police Chief and Captain of their respective division. All members of the department shall maintain telephones at their homes, In the event an officer is unable to obtain a telephone promptly after having changed residence, he or she shall notify his or her captain of a telephone number at which he or she may be reached in case of emergency.

AT. Interference with Official Acts of Department Members

Members of the department are prohibited from interfering in the normal processing of traffic/parking citations or otherwise disrupting any official action being undertaken by other members of the department.

This regulation is intended to protect the members of the department in the discharge of their duties from undue influence by fellow members. In most cases, disruption of duties consists of attempting to change a decision or official action made by another. If a superior orders a change in a decision made by a subordinate member and the subordinate feels this constitutes a disruption of his or her decision, the subordinate should follow the procedure outlined in section N and Z of this policy.

AU. Temporary Assignments

Any member of the department may be temporarily appointed to a position of higher rank by the Police Chief and shall be held responsible in like manner as if regularly appointed to such high office. He or she shall be careful not to interfere with or countermand any order issued by the member whose place he/she temporarily occupies, except when the expediency of official business demands.

AV. Duplicate Keys

Members of the department are prohibited from making or causing to be made any duplicates of keys under the charge of the department without first receiving the approval of their superior officer.

AW. Intervening on Behalf of Principals in the Judicial Process

Members of the department shall not intervene in any judicial process on behalf of anyone with the courts, court administration, attorneys, complainants, witnesses, or anyone involved in the judicial process for any reason whatsoever. See section AH of this policy.

AX. Improper use of Position

Members of the department shall not use their position as a member of the department or as an employee of the City of Faribault to gain favor or influence with anyone for themselves or others.