

Personnel Concerns

1009.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation, and disposition of personnel concerns or regarding the conduct of members of the Fargo Police Department. It is designed to empower frontline supervisors with the ability to address concerns directly when appropriate, ensure consistency across divisions, and maintain accountability through oversight by the Professional Accountability Unit (PAU). This policy shall not apply to any questioning, instruction, informal verbal admonishment, or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1009.2 POLICY

The Fargo Police Department takes seriously all concerns or complaints regarding the service provided by the Department and the conduct of its members.

The Department shall accept and address all concerns or complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and employment agreements.

It is also the policy of this department to ensure the community can report misconduct without concern for reprisal or retaliation.

1009.2.1 DEFINITIONS

Personnel Concern - Any report, observation, or allegation regarding the conduct or performance of a department member that may require supervisory review, action or result in formal discipline. The term is synonymous with personnel complaint for all statutory and/or legal purposes.

Formal Personnel Concern - A concern that, after review, is determined to involve a serious, complex, or repetitive policy violation and is referred to the Professional Accountability Unit (PAU) for formal investigation.

Informal Personnel Concern - Generally includes minor, non-repetitive violations that may be addressed by the member's supervisor and/or Shift Commander through informal counseling, training, policy review, or appropriate referral of the involved member. External concerns that are refuted by available video evidence, and are therefore unfounded, may also be addressed in this category.

Informal Counseling - A documented supervisory response to a minor policy violation that does not warrant a formal investigation. This is intended to correct behavior through guidance and accountability at the supervisory level.

1009.3 PERSONNEL CONCERNs

Personnel concerns include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule.

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Complaints about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel concern. However, in order to assist with data tracking, eliminate duplicative reporting, promote community transparency, and to ensure consistency in review, such procedural inquiries shall be documented on a department memorandum and forwarded to the Professional Accountability Unit (PAU) as an inquiry. These inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

1009.3.1 INQUIRIES

In certain circumstances, the PAU or a supervisor may initiate an inquiry to determine whether a reported concern or observed conduct may constitute a potential policy violation. An inquiry may be initiated when a concern is vague, lacks sufficient detail, or may be refuted by video evidence. The purpose of an inquiry is to gather sufficient information to assess whether the matter should be classified as a personnel concern. If the inquiry reveals that the conduct, if true, would not violate department policy or applicable law, the matter shall be documented in a memorandum and forwarded to the PAU for tracking and review purposes. If the inquiry reveals a potential performance issue, the inquiry shall be forwarded to the employee's Lieutenant to address as appropriate pursuant to this policy. If the inquiry reveals sufficient information to suggest a potential policy violation, the matter shall be classified in accordance with this policy and proceed through the appropriate investigative process. All inquiries shall be documented and retained by the PAU in accordance with department records retention standards.

1009.3.2 PERSONNEL CONCERN CLASSIFICATIONS

Personnel concerns shall be classified in one of the following categories:

Informal Personnel Concern- An informal concern generally includes minor, non-repetitive violations that may be addressed by the member's supervisor and/or Shift Commander through informal counseling, training, policy review, or appropriate referral of the involved member. External concerns that are refuted by available video evidence, and are therefore unfounded, may also be addressed in this category. Upon receipt of a personnel concern, the supervisor shall consult with the Shift Commander to confirm the status of the concern through the Department's Concern Classification Matrix and then determine the appropriate response to address the concern. The Shift Commander may consult with the division commander prior to making a determination.

The Shift Commander is responsible to ensure that the division commander is apprised of all informal personnel concerns and that they are properly addressed, documented, and forwarded to the PAU Lieutenant for internal recordkeeping and oversight. The division commander is responsible to document and notify any person who files an external concern that is deemed to be unfounded pursuant to this section within 72 hours of the determination. The documentation shall be forwarded to the PAU Lieutenant.

Formal Personnel Concern- A formal personnel concern is an incident in which further action is warranted in order to determine the veracity of the allegation. This may be determined based on the

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seriousness or complexity of the allegation or the repetitive nature and/or pattern of misconduct by the member. Such complaints shall be investigated by the PAU unless otherwise directed by the Chief of Police. The Chief of Police may authorize referral to an outside law enforcement agency as deemed appropriate under the circumstances to alleviate any conflict of interest that may affect the integrity of the investigation as determined by the Chief. Formal complaints shall be investigated by a member higher in rank than the member under investigation and if sustained may result in official department discipline up to and including termination.

If a Shift Commander determines via the matrix that an incident qualifies as a formal personnel concern, they shall complete a formal personnel complaint form and forward through their chain of command to the PSD commander, who shall review and assign as appropriate for investigation by the PAU. The PSD commander, in consultation with the Assistant Chief, may determine that the concern be recategorized as informal and return it to the division commander for appropriate action.

[See attachment: Concern Classification Matrix_1-19-26.pdf](#)

[See attachment: Personnel Concern Flowchart_1-19-26.pdf](#)

1009.3.3 SOURCES OF PERSONNEL CONCERNS

Personnel concerns may be generated internally or externally.

Internal Concerns - A personnel concern that is filed by a member of the Department.

External Concern - A personnel concern that is filed by a non-department member (community member, outside organization, etc.). External concerns should be investigated as formal concerns in conformity with this policy.

The following applies to the source of both internal and external concerns:

- (a) Individuals from the public may initiate concerns in writing, by email, in person, by telephone or anonymously. However, efforts should be made to properly identify the complainant in order to ensure the integrity of the concern.
- (b) Anonymous concerns shall be accepted and investigated by the PAU. However, unless other objective or sufficient evidence is available or provided to support a violation of department policy or law, no further action shall be taken against the accused member.
- (c) Any department member becoming aware of alleged misconduct shall immediately notify their on-duty supervisor, who should obtain any appropriate preliminary information and consult with their Shift Commander utilizing the matrix to determine appropriate classification. If the member involved is assigned to another division, unit or shift, and the concern is deemed to be informal, the concern should be documented and forwarded to the involved members Shift Commander for disposition. If deemed to be formal, the concern shall proceed as outlined in this policy. Alleged misconduct involving a supervisor or above shall be reported directly to the Professional Standards Division commander.

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- (d) Any member serving in a supervisory rank should initiate a concern based upon observed misconduct or a report alleging misconduct in conformity with this policy.
- (e) Tort claims and lawsuits may generate a personnel concern.
- (f) If an initiated investigation discloses misconduct or improper job performance that was not alleged in the original concern, the investigator shall take appropriate action with regard to any additional allegations.
- (g) A personnel concern from a person who's judgment, perception or ability to communicate is or appears to be impaired due to alcohol intoxication, drugs or other controlled substances, or whose conduct and behaviors evidence significant mental health issues should be accepted, but reviewed and classified pursuant to this policy. The details of their impairment or knowledge of other issues should be documented in the department memo

Allegations of criminal misconduct, excessive or unnecessary use of force, or civil rights violations shall be received and promptly investigated by the Department or outside agency as determined by the Chief, who shall be notified in all such instances regardless of how or when the concern was received.

1009.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINT

1009.4.1 CONCERN FORMS

Personnel concern forms shall be accessible at the front desk of police headquarters and online on the Department website.

Personnel concern forms in languages other than English may also be provided, as determined necessary or practicable. Translation services should be used in lieu of a translated document if one does not exist.

1009.4.2 ACCEPTANCE OF ORAL CONCERN

Although written concerns are preferred, a concern may also be filed orally, either in person or by telephone. Such concerns shall be directed to a supervisor. If a supervisor is not immediately available to take an oral concern, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a concern form as appropriate.

Although not required, complainants should be encouraged to file concerns in person so that proper identification, signatures, photographs or physical evidence may be obtained and the interview recorded via department body-worn camera.

1009.4.3 ACCEPTANCE OF WRITTEN CONCERN FORMS

Personnel concerns should be directed to and received by an on-duty supervisor or Shift Commander preferably assigned to the division in which the member alleged to be involved is assigned, unless undue delay would result. If a person wishes to submit a completed concern form they shall be courteously accepted by any department member. However, the member shall

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request the complainant remain while the member promptly notifies the appropriate supervisor or Shift Commander to allow for in-person contact with the complainant.

In some instances, a complainant's questions and/or concerns regarding a department member's actions or conduct may be immediately resolved through review of body-worn camera or informal discussion regarding policy or law as noted in this policy. However, if a complainant is dissatisfied with the resolution or information provided, the concern shall be accepted and evaluated in conformity with this policy.

1009.4.4 FALSE COMPLAINTS

The Department shall investigate and make appropriate prosecutorial referrals towards any person who knowingly and intentionally files a false claim against any department member. Knowingly making a false complaint against a law enforcement officer may subject the complainant to criminal charges.

1009.5 DOCUMENTATION

Supervisors shall ensure that all concerns are documented on a department approved form and/or within an approved database. The supervisor shall ensure that the nature of the concern is defined as clearly as possible, to include a brief description of the allegation, date, time, and location of the incident. In addition, the name, address, and telephone number(s) of the complainant, witness, or others who may have information directly related to the concern should also be included.

Any accompanying documentation relative to a personnel concern, to include any written statements, photographs, other recordings, or any other information provided by the complainant at the time the concern is received by the Department should be attached and included in the initial concern file.

1009.6 PERSONNEL CONCERN INVESTIGATIONS

Personnel concerns shall be administratively investigated as follows.

1009.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a formal personnel concern shall rest with the Professional Accountability Unit (PAU). In most cases, PAU will conduct the investigation and provide the Professional Standards Division (PSD) commander with a regular update as to the status of the investigation. If approved by the PSD commander, PAU may assign a formal personnel concern (in whole or in part) to a command officer, sergeant, or other department supervisor who shall be responsible for conducting the concern investigation and returning it to the PAU.

A supervisor who becomes aware of alleged misconduct should take appropriate steps to prevent aggravation of the situation.

The responsibilities of department supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any concern, a concern form is completed, reviewed with the Shift Commander, and classified pursuant to this policy.

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- (b) In circumstances where the integrity of the investigation could be jeopardized by reducing the concern to writing or where the confidentiality of a complainant's identity is at issue, a supervisor shall orally report the matter to the Shift Commander, who shall notify the division commander and initiate appropriate action.
- (c) Responding to all concerns in a courteous and professional manner.
- (d) Resolving those personnel concerns that can be resolved immediately.
- (e) Notifying the Shift Commander, the PAU, and Chief of Police upon receipt of a concern involving allegations of a serious nature.
- (f) Promptly contacting the Shift Commander and PSD commander for direction regarding their roles in addressing a concern that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination. The PSD Commander shall promptly notify the Chief of any such concern. The Chief or assigned designee shall ensure the Human Resources Division is notified as appropriate.
- (g) Conducting an initial investigation as follows:
 - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
 - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries are taken.
 - 3. Review any relevant BWC or in-car video.
 - 4. Except for criminal allegations, obtain and include any administrative statements or information as appropriate. Administrative statements may include general inquiry information, such as why a member was late for duty, why force was deployed, etc., but should not evolve into additional questioning of the member.
 - 5. Ensuring that the procedural rights of the accused member(s) are followed.

1009.6.2 NOTICE TO EXTERNAL COMPLAINANT

The member conducting an external personnel concern investigation should:

- (a) Inform the complainant of the investigator's name and the concern number within three days of the assignment. This may be done by phone, email, or written correspondence, depending on the contact information provided.
- (b) Ensure interviews of the complainant are generally conducted during reasonable hours.
- (c) Provide the complainant with periodic updates on the status of the investigation, as appropriate.

1009.6.3 FORMAL PERSONNEL CONCERN INVESTIGATION PROCEDURES

Whether conducted by a department supervisor, a member of the Professional Accountability Unit or a supervisor from another law enforcement agency, the following guidelines apply to all department members interviewed as part of a formal personnel concern:

- (a) Unless otherwise determined by the Chief of Police, a department employee who is the subject of a formal personnel concern shall be notified in writing as soon as

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practicable. The written notification shall be provided to the employee by PAU and shall specify the Department or City of Fargo policy, rule, procedure, directive, or law the employee is alleged to have violated, as well as a brief description of the allegation.

- (b) Prior to any interview, an employee shall again be informed of the nature of the investigation, read the employee obligations and protections requirements for internal investigations, and provided a copy of the PAU memorandum outlining this information.
- (c) Interviews of the member shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, they shall be compensated in accordance with the Compensation Policy (1019).
- (d) Interviews of the member shall be at the Fargo Police Department or other reasonable and appropriate place.
- (e) No more than two interviewers should be involved in the interview of the member, with one designated as the primary who should ask questions of the member.
- (f) Personnel who are the subject of a concern investigation shall respond in full to the complainant's allegation(s). This may include, but is not limited to, obtaining a written response from the department employee whenever it is appropriate to do so.
- (g) All interviews should be for a reasonable period and the employee's personal needs should be accommodated.
- (h) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (i) Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
- (j) In the event a criminal investigation is also being conducted as a result of the members conduct, the following guidelines apply:
 1. A member should be given an order to answer questions in an administrative investigation that may incriminate the member in a criminal matter only after the member has first been given a Garrity advisement.
 2. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related, but separate investigations.
 3. No information or evidence administratively compelled from a member shall be provided to anyone involved in conducting any related criminal investigation or to the prosecutor.
- (k) All members subjected to interviews which could result in discipline have the right to have an uninvolved representative or legal counsel present during the interview. The member may ask to consult with the representative, but is solely responsible to respond to the questions posed.

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- (l) All interviews shall be audio and video recorded by the approved investigator. Any other department members and/or their representatives are prohibited from audio or video recording any portion of the investigative or pre-disciplinary interviews and processes. If the employee has been previously interviewed, a copy of the recorded interview may be provided to the employee prior to any subsequent interview upon request.
- (m) In order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative, or attorney collectively, or in groups prior to being interviewed.
- (n) All members shall provide complete and truthful responses to questions posed during interviews.
- (o) Members shall not discuss the content or information presented during the interview(s) with any other department member, unless serving as the member's representative, until the personnel concern is completed and has been closed by the Professional Accountability Unit.
- (p) Until such time as the Department determines any allegations are sustained, no documents or video shall be provided to any other person by the member. If a member desires their representative review any documents or video the member has access to, prior to the determination that any allegations are sustained, the member shall contact PAU and arrange an in-house review of the materials.
- (q) No member may be directed to submit to a deception detection device examination.

1009.6.4 FORMAL PERSONNEL CONCERN INVESTIGATIVE FORMAT

All investigations of formal personnel concerns shall be thorough, complete, and formatted as follows:

Introduction - Include the identity of the member(s), the identity of the assigned investigator(s), the initial date and source of the concern.

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

Summary - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation. This is limited to the investigator's assessment as to whether or not they believe there is sufficient evidence to substantiate each allegation listed and any additional policy violations that were discovered through investigation or during the interview of the member.

Evidence - 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.

Exhibits - A separate list of exhibits (e.g. recordings, photos, documents, full copies of policy, etc.) should be attached to the report and referenced therein.

1009.6.5 FORMAL PERSONNEL CONCERN DISPOSITIONS

Formal personnel concerns shall be classified with one of the following dispositions:

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Unfounded - When the investigation discloses the alleged acts did not occur or did not involve department members. Concerns determined to be frivolous will fall within the classification of unfounded.

Exonerated - When the investigation discloses the alleged act occurred, but the act was justified, lawful, proper, and within the scope of the Department policies, rules, procedures, directives, or the City of Fargo's employment policies.

Not sustained - When the investigation discloses there is insufficient evidence to sustain the concern or fully exonerate the member.

Sustained - When the investigation discloses sufficient evidence to establish the act occurred and it constituted a violation of policy, procedure or other prohibited misconduct.

Incomplete - The investigation could not be completed due to uncooperative complainants, witnesses, resignation of the member or other factors outside the control of the Department. However, resignation of a member may not negate a dispositional finding if sufficient evidence exists to establish a policy violation.

1009.6.6 PERSONNEL CONCERN TIMELINES AND NOTICE

Informal Personnel Concerns - Informal personnel concern actions should be completed within 10 days following the dispositional decision by the shift or division commander. If informal counseling is utilized, the Shift Commander may record the counseling via body-worn camera depending on the level of detail and guidance that will be provided. Regardless, the Informal Counseling Form shall be completed, containing a summary of the counseling topics and guidance, and signed by the involved member, who shall receive a completed copy.

If training is utilized as part of the disposition, the Shift Commander shall notice the Training and Development Unit to ensure training continuity and so that a record can be kept regarding training the member received. Training may be conducted by the Shift Commander, supervisor or TDU as appropriate.

The division commander shall ensure that all external complainants are notified of the disposition and that all informal personnel concern actions are documented and forwarded to the PSD commander.

Formal Personnel Concerns - Formal personnel concerns shall proceed with due diligence in an effort to complete the investigation within 60 days from the date of assignment by the PAU, unless an extension is approved by the Professional Standards Division (PSD) commander.

External complainants shall be notified by the Chief via official department correspondence. The written notification shall include a brief summary of the investigative findings and whether or not discipline was imposed.

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1009.6.7 REOPENING OR CONTINUATION OF A PERSONNEL COMPLAINT

In the event new or otherwise relevant information regarding any personnel concern is discovered after final disposition, the Chief of Police may order the investigation re-opened, after which the context of the concern and the disposition may be subject to change.

If at any time prior to the conclusion of a formal personnel concern investigation the complainant decides to withdraw their concern, but the investigation has disclosed a possible violation of any department policy, rule, procedure, directive, or the City of Fargo's employment policies, the investigation shall continue until a conclusion is reached and an appropriate disposition determination is made by the Chief of Police.

1009.6.8 CONCERN REGARDING THE USE OF A CONFIDENTIAL INFORMANT

A member conducting a personnel concern investigation regarding the alleged misuse of a confidential informant in violation of North Dakota Century Code (NDCC) § 29-29.5-01 et seq. shall comply with the investigation timeframe and notification requirements of NDCC § 29-29.5-07.

1009.7 DISPOSITION OF FORMAL PERSONNEL CONCERN

Upon completion of a formal personnel concern investigation, the Professional Accountability Unit shall forward the investigative file to the Chief for preliminary review. The Chief may return it for additional investigation or approve it for review by the Department executive staff.

1009.7.1 EXECUTIVE STAFF RESPONSIBILITIES

Upon receipt of a completed formal personnel concern investigation, the executive staff, which consists of all division commanders led by the Assistant Chief, shall meet and receive a full presentation from the Professional Accountability Unit Lieutenant or designee, review the entire investigative file, the member's personnel file, and any other relevant materials. The executive staff may return the entire investigation to the assigned investigator or PAU for further investigation or action as appropriate.

The executive staff shall make recommendations regarding the sustainability and disposition of any allegations and the amount of discipline, if any, to be imposed. The entire investigative file shall then be forwarded to the Chief of Police for final review and disciplinary decision within seven (7) days following the PAU presentation, unless an extension is authorized by the Chief of Police.

When forwarding any written recommendation to the Chief of Police, the executive staff shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

In addition to the evidence, facts, and circumstances involved, the executive staff shall also consider the following in determining a disciplinary recommendation:

- (a) **Employee Motivation** - Was the member acting in the public's best interest and/or attempting to accomplish a legitimate law enforcement purpose?
- (b) **Degree of Harm** - What was the monetary cost to the Department or community; what was the extent of personal injury; what was the impact on public confidence towards the Department; what is the nature and seriousness of the members actions?

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- (c) **Employee Experience** - Is the member involved new or inexperienced in their current position or in law enforcement in general; have they successfully completed similar tasks or investigations previously?
- (d) **Intentional and Unintentional Errors** - Was the action reasonably the best decision with the information available or was it contrary to the law, an established ministerial duty, training, policy or otherwise malicious in nature; did the member intentionally commit or omit an action, decision, etc.?
- (e) **Employee Past Record** - Is the members conduct repetitive or part of a pattern over time of poor judgment or decision-making; what is the member's work performance and discipline history; were there any previous efforts to remediate the employee's misconduct or performance deficiencies?

If any part of the disciplinary recommendation submitted to the Chief of Police involves an economic sanction, specifically a suspension from duty without pay, a demotion or termination of employment with the Department, the employee who is the subject of the disciplinary recommendation shall be provided a deprivation hearing with the Chief of Police prior to the imposition of a final disciplinary decision. A deprivation hearing shall also be required prior to any disciplinary decision if, separate from any recommendation submitted to the Chief of Police, the Chief of Police considers an economic sanction to be a viable outcome to the concern.

1009.7.2 PRE-DISCIPLINE EMPLOYEE RESPONSE

The Department shall strive to ensure that the due-process rights of department members are protected. Department members should always be afforded a fair and reasonable opportunity to respond to any allegation which results, or may result, in the initiation of a formal personnel concern.

The pre-discipline process shall provide the member with an opportunity to present a written or oral response to the Chief of Police prior to imposition of any recommended discipline.

Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline.

1009.7.3 NON-ECONOMIC DISCIPLINARY SANCTION

If the disciplinary action proposed involves a non-economic sanction (training, policy review, oral or written reprimand), the PAU shall provide the member with a written notice informing them of the decision before the discipline is issued by the Chief and provide the following to the member:

- (a) An opportunity to respond orally or in writing to the Chief of Police prior to the final issuance of the discipline.
 - 1. If the member elects to respond orally, the presentation shall be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.
 - 2. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.

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- (b) If requested by the member, access to all of the materials considered by the executive staff in recommending the proposed discipline.

1009.7.4 ECONOMIC DISCIPLINARY SANCTION

Any member whose discipline recommendation includes an economic sanction, such as suspension without pay, demotion or termination, shall be provided with a written notice by the PAU informing them of the disciplinary recommendation and provide the following to the member:

- (a) An opportunity to respond orally or in writing to the Chief of Police prior to the scheduled deprivation hearing.
 1. If the member elects to respond orally, the presentation shall be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.
 2. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the deprivation hearing to occur to ensure adequate time to review the material.
- (b) Access to all of the materials considered by the executive staff in recommending the proposed discipline.

1009.7.5 DEPRIVATION HEARING

Members shall be allowed a minimum review time of five (5) calendar days to review and prepare any response prior to a deprivation hearing. The Professional Accountability Unit shall ensure a representative from the City of Fargo City Attorney's Office and Human Resources Division attend all deprivation hearings. The involved member shall consider the following regarding participation in the deprivation hearing:

- (a) The response is not intended to be an adversarial or formal hearing designed to accommodate the presentation of testimony or witnesses. Members shall be treated with courtesy and respect at all times, and shall be interviewed in a private setting whenever possible.
- (b) The member may suggest that further investigation be conducted or may offer any additional information or mitigating factors for the Chief of Police to consider.
- (c) In the event the Chief of Police elects to cause further investigation to be conducted, the member shall be provided with the results prior to the imposition of any discipline.
- (d) The member may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.
- (e) Members may bring with them a person of their own choosing to any pre-determination hearing held with the Chief of Police. The member may present any pertinent information to the Chief of Police for consideration prior to any disciplinary determination. Members wishing to present any additional information to the Chief of Police following such a hearing shall have not less than 48 hours to do so.

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1009.7.6 CHIEF OF POLICE RESPONSIBILITIES

Upon completion of a formal personnel concern investigation, the investigative report shall be forwarded to the Chief of Police as outlined in this policy. The report shall include the executive staff review and recommendations. The Chief of Police shall review the recommendation and all accompanying materials. The Chief may meet with the executive staff if necessary to further discuss and understand their recommendations. The Chief of Police may accept or modify any classification or recommendation for disciplinary action and/or return the file to the Professional Accountability Unit for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required, the Chief of Police shall determine the proper discipline, if any, which should be imposed. The Chief of Police shall be responsible for the final determination relative to employee discipline and will ensure it is imposed accordingly. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

Discipline dispositions may include any of the following or a combination thereof:

- (a) Training and Policy Review
- (b) Oral Reprimand
- (c) Mediation
 - 1. The concern is resolved to the satisfaction and mutual agreement of the complainant and department employee through formal discussion and/or explanation.
- (d) Written Reprimand
- (e) Suspension Without Pay
- (f) Demotion
- (g) Termination

A member who is suspended without pay shall be subject to the requirements detailed in section 1009.9 (Administrative Leave) during the term of suspension.

Any disciplinary disposition may also include a Performance Improvement Contract (PIC), formal referral to the Department's Wellness Coordinator, City Employee Assistance Program (EAP) or a department approved public safety psychologist as appropriate. Compliance with any such referral is mandatory. Additional guidance is provided in policy 1015 (Fitness for Duty).

1009.8 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices, department phones, and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct. In these instances the supervisor conducting the search shall document the results in the PAU investigative file.

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Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

1009.9 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate allowing the member under investigation to continue to work would adversely affect the mission of the department, the Chief of Police or the authorized designee may temporarily place the member on paid administrative leave. Any member placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all department and city policies, as well as any lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift or be directed not to enter any department or city facilities until the investigation is completed. The member may be required to remain available for contact at all times during such shift, and will report as ordered.
- (d) The PSD commander shall update the Chief on a weekly basis regarding the status of any member placed on administrative leave and the related investigation in order to determine if continued paid leave is warranted.

1009.10 CRIMINAL INVESTIGATION

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

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency. Under no circumstances shall a department supervisor or superior commence questioning of a member accused of a criminal violation unless exigent circumstances exist or approval has been granted by the Chief of Police.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. Except for public safety concerns, the member should not be administratively ordered to provide any information in the criminal investigation. No information or evidence administratively compelled from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

The Fargo Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

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1009.11 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline. The PSD commander shall consult with the Chief of Police to determine if such matters require further investigation depending on the potential for any criminal conduct, seriousness of the complaint and/or the availability of other sufficient information.

Any member resigning or retiring while under investigation shall be considered to have left the Department "not in good standing." This shall be documented in the final investigative file and communicated to the City Human Resources Department for their personnel files, as well as the North Dakota Peace Officers Standards and Training Board (ND POST). For sworn members, this designation disqualifies them from being issued a license to carry a concealed firearm pursuant to the Law Enforcement Officer Safety Act (LEOSA). See the Retiree Concealed Firearms Policy (207) for additional information.

1009.12 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary members have the right to appeal a suspension without pay, demotion, or termination from employment to the City of Fargo Civil Service Commission in accordance with Fargo Municipal Code #7-0305, and City of Fargo Policy #300-008A.

1009.13 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

All non-sworn members and re-employments shall serve a one year probationary period. A sworn member's probationary period starts upon hire date and shall end one-year after completion of the ND POST certification and the Department field training program (Fargo City Ordinance 7-0302 (H)). Probationary employees may be disciplined and/or released from employment without notice or cause at any time. These individuals are not entitled to any rights under this policy.

Any probationary period may be extended for a period not to exceed six months at the discretion of the Chief of Police in cases where the individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate (see also the Temporary Modified-Duty Assignments Policy).

1009.14 RETENTION OF PERSONNEL CONCERN FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Files policy (1012).

Personnel complaint records are subject to review and/or inspection as prescribed by North Dakota Century Code (NDCC) 44-04-18.1 and/or the policies governing the review and/or inspection of any such records established by the Department and/or the City of Fargo. Personnel complaint records shall be securely maintained by the Professional Accountability Unit (PAU) and may be accessed only upon written request to PAU unless otherwise authorized by the Chief of Police.

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Personnel Concerns

Any documentation relative to employee discipline which accompanies a personnel complaint shall be included in the complaint file. In addition, a copy of any final discipline determination made by the Chief of Police shall be forwarded to the City of Fargo's Human Resources Office for inclusion in the employee's personnel file. The Department's complaint files shall be retained indefinitely in a secure digital format.

1009.15 PROFESSIONAL STANDARDS DIVISION COMMANDER RESPONSIBILITIES

In addition to the executive staff role, the Professional Standards Division (PSD) commander is responsible for the overall integrity and management of the Department's personnel concerns investigations and actions to include:

- (a) Ensuring all personnel concerns are documented in an electronic system that records and tracks them. The system shall include the nature of the concern, member(s) involved, disposition and the actions taken to address the concern.
- (b) Conducting an annual audit of the system and sending a report to the Chief of Police detailing all relevant data that will assist the Department in identifying operational or personnel issues, trends or concerns.
- (c) The implementation of any processes designed to identify officers who may be in need of additional training or review based on identified patterns of violations, department-wide training deficiencies or other matters that may affect the good order of the Department.
- (d) Ensuring quarterly and annual reports relative to personnel concerns are created, reviewed, and presented to the Chief of Police, executive staff, appropriate boards or commissions and the public as directed.
- (e) Provide the Chief of Police with regular updates as to the status and number of personnel concern investigations.

1009.16 TERMINATION REPORTING

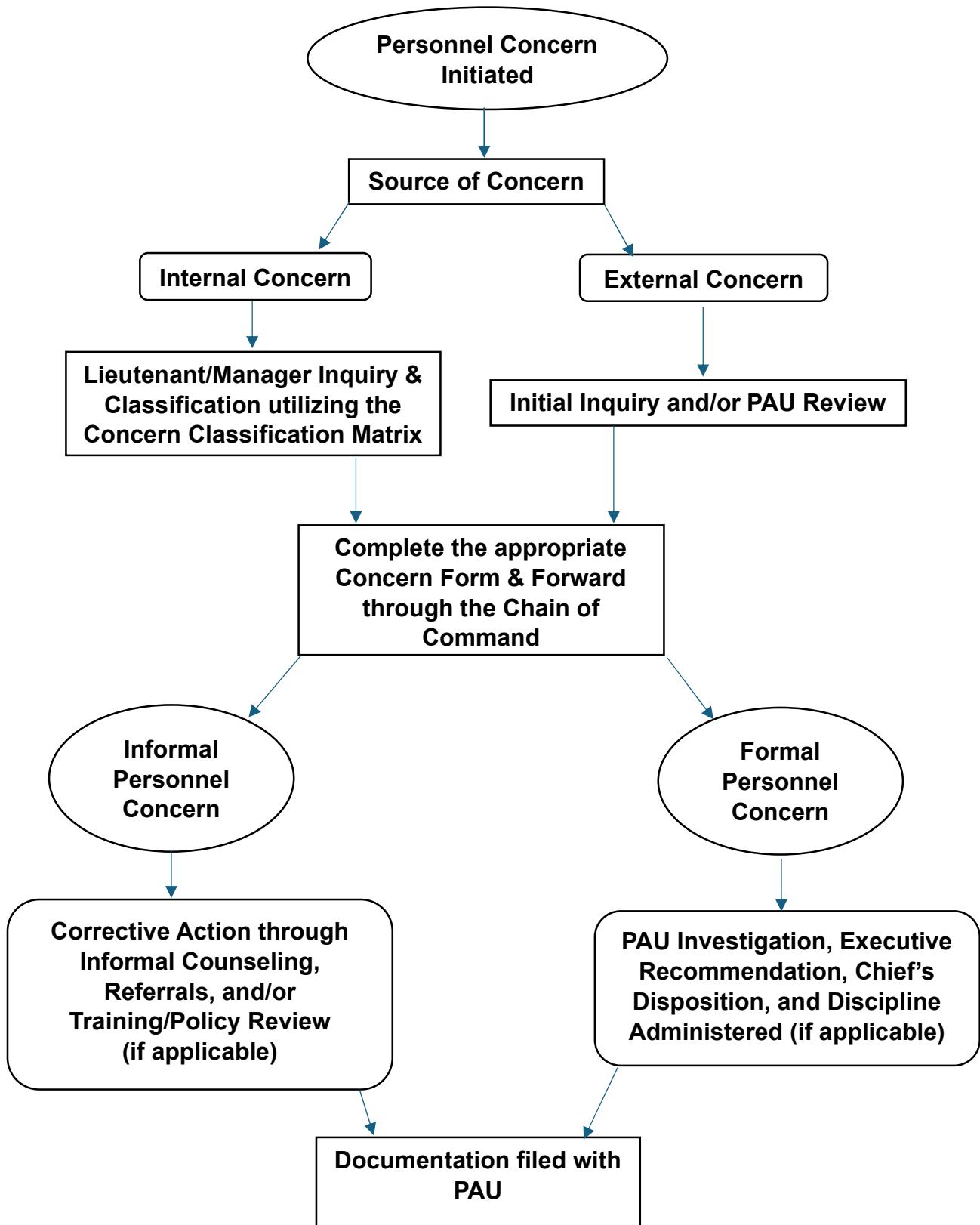
When an officer is terminated, notice of the nature and cause of the termination, the effective date of the termination, and a statement indicating whether or not the Department recommends denial, suspension or revocation of the officer's peace officer license, shall be forwarded to the North Dakota Peace Officer Standards and Training Board within 30 days of the termination by the Chief of Police or his/her designee (ND Administrative Code § 109-02-02-18).

1009.17 REVISION DATE - 01/20/2026

Attachments

Personnel Concern Flowchart_1-19-26.pdf

Proposed Personnel Concern Process



Concern Classification Matrix_1-19-26.pdf

Appendix A – Concern Classification Matrix

This matrix is intended to assist Lieutenants in classifying personnel concerns as either **Informal** or **Formal Personnel Concerns**. It provides structured guidance based on key factors and supports consistent, fair, and well-documented decision-making.

Assessment Matrix

Factor	Guiding Questions	Column 1	Column 2
Employee Motivation	Was the action well-intentioned?	Good-faith effort	Malicious, reckless, or self-serving
Degree of Harm	Was there actual or potential harm?	Minimal or procedural	Physical, reputational, or operational harm
Employee Experience	Is the employee new or unfamiliar with the policy?	Inexperienced or newly trained	Experienced and should know better
Intentionality	Was the act or omission deliberate or accidental?	Clearly unintentional	Willful, deceptive, or knowingly improper
Past Record	Is there a history of similar violations?	Clean record	Pattern of behavior or prior counseling

Decision Guidance:

- **Column 1 has 4-5 sections; Column 2 has 0-1 sections→**
 - Should handle the personnel concern as an **Informal Personnel Concern**.
- **Column 1 has 2-3 sections; Column 2 has 2-3 sections→ **Use discretion and document rationale****
 - May proceed as an **Informal Personnel Concern or a Formal Personnel Concern**.
- **Column 1 has 0-1 sections; Column 2 has 4-5 sections→**
 - Shall proceed with a **Formal Personnel Concern**.

Note: If further clarification is needed, please refer to Policy 1009 Personnel Concerns, Section 1009.8.1, for detailed disciplinary considerations.