

**CITY OF FLANDREAU/FLANDREAU SANTEE SIOUX TRIBE
PUBLIC SAFETY COMMISSION
POLICIES AND PROCEDURES
ADOPTED SEPTEMBER 3, 2009**

I. PURPOSE

To establish guidelines for the receipt and processing of allegations of sworn police employee misconduct in compliance with agreement between City of Flandreau and Flandreau Santee Sioux Tribe (date).

II. DEFINITIONS

As used in these policies, unless a different meaning clearly appears from the context:

A. "Commission" means the joint Public Safety Commission as provided in the agreement dated _____ and incorporated herein as Exhibit 1 between the City of Flandreau and Flandreau Santee Sioux Tribe.

B. "Commissioners" shall mean members of the commission.

C. "City" shall mean city of Flandreau, South Dakota.

D. "Complaint"

Allegation(s) of misconduct against a sworn employee of the Flandreau Police Department.

E. "Complainant"

The person filing a complaint.

F. "Discrimination"

An act or admission made on the basis of race, religion, color, national origin, ancestry, age, disability, medical condition, marital status, sex or sexual orientation.

G. "Sexual Harassment"

Engaging in any act of unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature.

H. "Employee"

Any employee of the Flandreau Police Department who is a sworn police officer.

I. "Excessive Force"

Unreasonable force used by a sworn employee of the Flandreau Police Department against any person or persons.

J. "False Arrest"

Arrest made without probable cause that a crime has been committed and that the person in question has committed that crime.

K. "Misconduct"

An allegation against a sworn employee of the Flandreau Police Department, which if true, may constitute a violation of law, rule or regulation.

L. "Probable Cause"

A condition where facts and circumstances known to the officer warrant a reasonable person to believe that the arrested person has committed a crime.

M. "Subject Officer"

A sworn employee of the Flandreau Police Department against whom a complaint is filed.

N. "Tribe"

The Flandreau Santee Sioux Tribe.

O. "Witness"

Any person who has information relative to a complaint.

III. MEMBERS

Section 1. The Commission shall be comprised of nine (9) members appointed by the Flandreau City Council in accordance with City Ordinances and the Flandreau Santee Sioux Tribe Executive Committee.

Section 2. Appointments to fill unexpired terms on the Commission shall be filled in the same manner as original appointments.

Section 3. Each member must be a qualified elector of the city at the time of appointment and through his/her service on the Commission except Flandreau Santee Sioux Tribe appointees need not be residents of the city of Flandreau.

Section 4. Appointees shall be made according to Article III, Section 1.

IV. TERMS OF OFFICE

Section 1. The term of office shall be four (4) years. No member shall serve more than two (2) full consecutive terms. Serving less than one (1) year of an unexpired term shall not be counted as service of one term. Commissioners shall be subject to all applicable Tribal Ordinances or local, State and Federal laws along with Code of Ethics adopted by the parties.

Section 2. In the event that a replacement member has not been appointed when a term of office of an Incumbent member expires, Incumbent member may continue to serve until a replacement is appointed.

Section 3. Members may be removed from the Commission by an affirmative vote of the Flandreau City Council or Flandreau Santee Sioux Tribe Executive Committee as to their appointees, for the following causes:

A. Absence from three consecutive regular meetings without permission of the Commission expressed in the official minutes.

B. Incompetence, malfeasance, misfeasance, nonfeasance, neglect of duty or conviction of a crime involving moral turpitude.

C. Refusal to resign from the Commission when no longer qualified as an elector of the City for city appointees.

D. Failure to comply with the Confidentiality requirements described herein.

V. COMPENSATION

Members shall serve without compensation for their services on the Commission.

VI. OFFICERS

Section 1. The Commission shall have at least three officers, Chair, Vice-Chair and Secretary and such other Officers, as it deems necessary.

Section 2. The chair shall preside over all meetings of the Commission and shall have the same rights as other members, except the chair shall not make or second a motion. The chair shall have the right to vote on all matters. The chair shall sign all documents on behalf the Commission after such documents have been approved by the Commission, and shall perform such other duties and delegate the responsibilities as may be imposed upon the chair by the

Commission. The chair may also speak to the media on behalf of the Commission on official actions of the Commission.

Section 3. In the absence of the chair the vice-chair shall assume all duties and powers of the chair. In the absence of the chair, all action taken by the vice-chair shall have the same force and effect as taken by the chair. The Secretary shall keep official minutes of the Commission.

Section 4. Election of Officers shall be conducted annually at the first meeting in March each year.

Section 5. All officers shall be elected by the members for a term of one year. A member may serve no more than two successive years in the same office. This article may be suspended by a majority vote of the Commission to allow any existing officer(s) to serve a term that is greater than two years based upon extenuating circumstances.

Section 6. Election of officers shall be conducted in a manner prescribed by the Commission.

Section 7. In the event of resignation or removal of the chair during the year, the vice-chair shall become chair and a new election shall be held for vice-chair. In the event of resignation or removal of any other officer, a new election shall be held to fill the vacant office.

Section 8. If the chair and vice-chair are both absent at any meeting of the Commission, the Secretary shall perform all duties of the chair.

VII. AUTHORITY, POWERS, DUTIES

Section 1. The Commission shall have the power to:

A. Advise the Mayor, City Council and Flandreau Santee Sioux Tribe in all police/community relations issues.

B. Conduct public outreach to educate the community on the purposes of the Commission.

C. Receive complaints of the alleged police misconduct filed within six months of the date of the alleged misconduct against a sworn member of the Flandreau City Police Department regarding the use of excessive force, discrimination or sexual harassment in respect to members of the public, the improper discharge of firearms, illegal search or seizure, false arrest, false reporting, criminal conduct or misconduct.

D. Review and investigate complaints of the alleged police misconduct.

E. Conduct hearings into allegations of police misconduct upon majority vote of the Commission.

F. To the extent permissible by law, subpoena and require attendance of witnesses, the production of books, documents, papers, audio, video and any other electronic media pertinent to the investigation.

G. To review and advise the police department in matters pertaining to police policies and practices, and making formal recommendations for amendment to the police department's policy and procedures manual and on police department proposed amendments to the policy and procedures manual.

H. Administer oaths to witnesses and to take testimony, which will be recorded verbatim.

I. Submit written findings concerning allegations contained in the filed complaint to the City Council and Flandreau Santee Sioux Tribe Executive Committee.

J. Review and investigate the death of any individual arising out of or in connection with actions of sworn police officers, regardless of whether a complaint regarding such death has been filed.

K. Review and advise the police department in matters pertaining to police policies and practices.

L. Recommend to the Chief of Police the provisions necessary to carry out the commission's duties.

M. Advise the Chief of Police regarding the performance of the city police department.

N. Submit to the Mayor, City Council and Flandreau Santee Sioux Tribe Executive Committee an annual report of activities during the past year; same due July 1 each year.

Section II. These by-laws do not and are not intended to exceed the powers given the Commission by the Joint Agreement, City Ordinances or other Resolutions.

VIII. REVIEWING AND PROCESSING COMPLAINTS

A. Where to file:

Complaints of sworn police employee misconduct may be filed with the Public Safety Commission Chair.

B. How to file:

Only complaints of sworn police employee misconduct made in writing will be subject to review by the Commission.

C. Time element:

Only complaints filed within six months of the day of the alleged sworn police employee misconduct will be investigated by the Commission.

D. Receiving and forwarding:

Complaints of misconduct which have been investigated shall be forwarded to the Commission for review and disposition as soon as practical.

E. Complainant file:

The Commission shall maintain a confidential central register of all complaints filed at the Flandreau City Office.

IX COMMISSION REVIEW, FINDINGS AND RECOMMENDATIONS

Section 1. The complaint, with the stated allegations of police misconduct and the investigative data, shall be submitted to the Commission for its review. The Commission, in executive session, deliberates and determines an appropriate finding for each allegation. The findings are forwarded to the police chief for final disposition. The Commission may direct the staff to reopen an investigation for additional information or evidence.

Section 2. With five affirmative votes, the Commission may elect to hold a hearing. The full Commission will conduct this hearing. The Commission may request or subpoena the complaining parties, witnesses and involved sworn police department employees to appear before the Commission to answer questions and provide information.

Section 3. The Commission's findings shall be referred to the police chief and the Flandreau Santee Sioux Tribe Executive Committee for final disposition. The complainant and subject officer shall be notified of the final disposition by the police chief. If the police chief is the subject of the complaint, findings shall be provided the Mayor, the City Council and the Flandreau Santee Sioux Tribe Executive Committee.

X HEARINGS:

Section 1. Conducting the hearing:

The hearing shall be open to the extent permissible by law. The Commission shall follow an informal hearing procedure in conducting its investigation of individual complaints. Citizen or police department employee witnesses shall be questioned by the Commission or staff only. There shall be no cross examination by sworn police department employees, city witnesses, the complainant or the respective council.

All records relating to the investigation pertinent to the complaint shall be made available to the Commission to the extent permissible by applicable Federal, State, Tribal, and local law and applicable contractual agreements.

Section 2. Subpoenas

Subpoenas shall be issued by the commission upon affirmative vote of five commissioners and shall be served by the chair or designee.

Section 3. Recommendations/Findings

Section 4. The Commission shall make its findings, which may include but not be limited to, the following:

(A) Unfounded:

The alleged act did not occur.

(B) Exonerated:

The alleged act occurred but was justified, legal and proper.

(C) Not sustained:

The investigation produced insufficient evidence to prove or disprove the allegation.

(D) Sustained:

The department member committed all or part of the alleged acts of misconduct or poor service.

(E) Misconduct noted:

The department members violated a Section of the department policies, rules or regulations not originally alleged in the complaint.

(F) Inquiry:

If during the investigation, it is determined that a complainant is merely requesting clarification of a policy or procedure, that the complaint with the concurrence of the investigating officer may be considered an inquiry.

XI CONFIDENTIALITY

A. Commissioner limitation:

All matters shall be kept confidential as required by law.

B. Penalty for violation:

Failure to comply with this regulation shall be grounds for removal as a Commissioner from the Commission.

XII Meetings:

Section 1. Regular meetings to the Commission shall be held on the first Wednesday of each month at 9:30 a.m. unless otherwise agreed upon in advance by the Commission.

Section 2. Special meetings of the Commission may be convened at the call of the chair or the vice-chair in the absence of the chair. Upon petition of five (5) members of the Commission, the chair may be required to call a meeting of the Commission within one week. Members will be given at least 24 hours notice before any Special Meeting. The Notice and Agenda for any meeting shall be distributed.

Section 3. All meetings of the Commission and its standing committees shall be open to the public and, whenever possible shall be held in a city owned or tribal owned facility provided hearings on complaints shall be confidential.

Section 4. Notwithstanding Section 3 above, the Commission may schedule closed session meetings; same to be held on property of Flandreau Santee Sioux Tribe. Case review meetings will not be open to the public; however public comments may be heard prior to going into a closed session.

Section 5. Four (4) members of the Commission shall constitute a quorum for the transaction of business. A motion shall carry upon affirmative vote of a majority of members present at any meeting except as otherwise noted in the Commission's policies and procedures or bylaws.

Section 6. A quorum being present, the order of business at the meetings of the Commission may include the following:

- A. Roll call/report of Commissioner absences
- B. Minutes of previous meeting
- C. Chief of police report
- D. Commissioners' comments

- E. Public comment
- F. Unfinished business
- G. New business
- H. Next meeting
- I. Recess or close session if required
- J. Adjournment

The Chief of Police or any Commissioner shall have the right to place an item on the agenda.

Section 7. A Commission meeting may be cancelled by the chair, due to lack of a quorum, lack of sufficient agenda voting items or inclement weather.

Section 8. Minutes of each Commission Meeting shall be kept on file in the Commission's office and copies sent to the Mayor, City Council members and the Flandreau Santee Sioux Tribe Executive Committee.

Section 9. The Commission may promulgate such rules, regulations and policies and procedures for its conduct as it deems necessary.

Section 10. All adopted rules, regulations, policies and procedures shall promptly be filed with the city clerk and the Flandreau Santee Sioux Tribal Secretary and bear the signature of the chair and the date of adoption.

XIII AMENDMENT OF BYLAWS


These by-laws may be amended at any regular meeting of the Commission by majority vote of the Commission, provided that notices of such amendment shall have been given at a previous regular meeting.

Adoption:

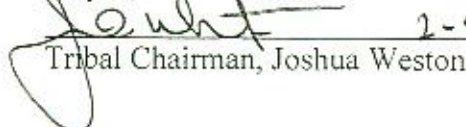
Respectfully submitted,



 Chair, Public Safety Commission



 Mayor, Warren Ludeman



 Tribal Chairman, Joshua Weston

 Date