



SUBJECT		
C - 6.0 Professional Standards Investigations		Department Policy
ISSUED BY	EFFECTIVE DATE	REVISED DATE
Brian Cadwell – Director/Chief of Police	04/01/16	03/19/24
BUREAU / DIVISION / UNIT RESPONSIBLE FOR REVIEWS AND UPDATES	AFFECTED PERSONNEL	IACLEA Reference
Office of the Chief	All personnel	4.2.1, 4.2.2, 4.2.3, 4.2.5, 4.2.6, 4.2.7, 4.2.8, 4.2.9, 4.2.10, 4.2.11, 4.3.2

I.PURPOSE

The purpose of this policy is to establish a uniform means to investigate complaints against members of the Department of Public Safety and Police Services (DPSPS).

II.POLICY

It is the policy of this agency to fairly and impartially investigate all allegations of employee misconduct to determine the validity of allegations and to impose any corrective actions that may be justified in a timely and consistent manner.

III.DEFINITIONS

- A. Citizen Inquiry – A citizen expresses a concern as to whether a DPSPS employee’s act or omission was consistent with federal, state or local law or University or department policy.
- B. Citizen Complaint - An allegation by a citizen, whether oral or in writing, in which it is alleged that a DPSPS employee committed an act or omission of required duties or violated federal, state or local law or University or department policy.
- C. Complaining Party - The person or persons who are making a complaint or inquiry.
- D. Complaint - A complaint is a notification or report of facts which, if proven true, would amount to employee misconduct by one or more members of the Department.
- E. Complaint Log - A chronological log of all citizen complaints.

- F. Inquiry - An inquiry is an expression of dissatisfaction with a policy, procedure, practice, philosophy, service level, or legal standard of the agency. An inquiry does not include an allegation of misconduct or violation of policy by a Department member.
- G. Professional Standards Investigation – A formal internal process into allegations of employee misconduct or malfeasance.
- H. Punitive Action - For purposes of this directive, punitive action is defined as a verbal warning, written reprimand, demotion, suspension, or termination.
- I. Law Enforcement Officer – In accordance with MCL 15.391, "Law enforcement officer", for the purposes of involuntary statements, means all of the following:
 - (i) A person who is trained and licensed or certified under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.
 - (iii) An emergency dispatch worker employed by a law enforcement agency.
- J. Law Enforcement Agency – The department of state police, the department of natural resources, or a law enforcement agency of a county, township, city, village, airport authority, community college, or university, that is responsible for the prevention and detection of crime and enforcement of the criminal laws of this state.
- K. Involuntary Statement – Information provided by a law enforcement officer, if compelled under threat of dismissal from employment or any other employment sanction, by the law enforcement agency that employs the law enforcement officer.

IV. PROCEDURES

A. Initiating a Professional Standards Investigation

1. General

- a. A professional standards investigation may be initiated whenever DPSPS receives a complaint that a member has violated the law or

established policy.

- b. The person making the complaint or allegation may be internal or external to the department or university.
 - i. If a complaint is brought forward to the University's Public Safety Oversight Committee, the Committee may request that DPSPS conduct a professional standards investigation.
- c. The Chief of Police or their designee may initiate a proactive investigation without a complaint.
- d. Any complaint regarding the Chief of Police should be made to the University's General Counsel.

2. Responsibility

- a. Unless directed by someone with higher authority, the Chief of Police has primary oversight and authority over the investigations of complaints made against DPSPS employees.
- b. Nothing in this policy will preclude the Chief of Police or someone to whom the Chief reports to, from calling in an outside agency to assist or conduct the investigation. The outside agency may be sworn or non-sworn.
 - i. Should an outside agency conduct such an investigation, all the provisions of this directive shall apply.
 - ii. Criminal investigations shall only be turned over to another law enforcement agency
- c. Upon receipt of a complaint, or when proactively initiated, the Chief will assure that the investigation is assigned to the appropriate personnel.
- d. Per University Policy 5.08.1 — *Formation and Duties of the Public Safety Oversight Committee*, anyone may also make a complaint directly to the University's Public Safety Oversight Committee.

Any person may file a complaint against a University law enforcement officer or the Department of Public Safety and Police Services with the Oversight Committee by:

- Emailing psoversight-1@mtu.edu
- By calling 906-487-2800.

Any actions taken by the committee shall be in compliance with University policy and federal, state, and local law.

3. Role of the Professional Standards Investigator

- a. A professional standards investigator shall diligently investigate all accusations made by or against any member in an equally fair and impartial manner.
- b. Investigations shall be conducted from the viewpoint that all accused persons are considered innocent, and they shall be treated accordingly unless evidence to the contrary overcomes this presumption.
- c. Investigative reports shall show all facts revealed by the investigation.

B. Required Cooperation

1. Unless otherwise precluded by law, every DPSPS employee is required to cooperate with a professional standards investigation. Cooperation includes, but is not limited to: truthfully and completely answering questions, providing materials and information, and complying with other relevant provisions of this directive.
2. Failure to cooperate shall be considered insubordination and the employee may be subject to disciplinary action up to and including termination.
3. Any employee that hinders or attempts to hinder the professional standards investigative process

shall be subject to disciplinary action, up to and including termination.

Actions that could be considered hindering include but are not limited to:

- Failing to show up for an interview or meeting
- Intentionally delaying investigative processes
- Directing or guiding others to be uncooperative with investigative processes
- Hiding, altering, deleting, or destroying information or materials that are, or could reasonably be recognized as, being associated with the investigation

D. Professional Standards Investigation Process

1. Upon receipt of a complaint, the Chief of Police will conduct a preliminary review of the complaint. Upon review, the Chief will classify the complaint as either “Criminal”, “Policy Violation”, or “Inquiry”.

The Chief may also initiate a proactive professional standards investigation if there is a supported belief that a department member has engaged in misconduct.

- a. If the Chief believes the complaint is criminal in nature, it shall be turned over to another agency for investigation.
 - i. This does not preclude a professional standards investigation from occurring simultaneously.
- b. If the Chief believes the complaint is an inquiry, including a citizen inquiry, they may respond to the complainant directly or assign the appropriate department member to respond.
- c. If the Chief believes the complaint is a policy violation, they shall have the Deputy Chief conduct a professional standards investigation.
 - i. If during the investigation the Deputy Chief finds information that indicates

criminal activity may be involved, they shall inform the Chief of Police, who may reassign the investigation to an outside agency.

- d. Proactive investigations may also be initiated if the Chief has a supported belief that a DPSPS member has violated this or any other policy during the course of the primary professional standards investigation.
2. After receiving a complaint, the Chief of Police or their designee shall notify the complainant of the receipt of the complaint, preferably in written communication. The Chief of Police shall also provide the complainant with periodic updates if the investigation exceeds thirty (30) days in length and shall notify the complainant when the investigation is complete and what the outcome was (sustained, not sustained, exonerated, unfounded).
3. The investigator will make every reasonable attempt to locate and interview the complainant. The interview should be recorded and the recording will be made part of the case file. Should the complaining party be anonymous or decline to be interviewed, the investigator will make note of this and proceed with the facts known to that point.
4. The professional standards investigator will notify the law enforcement officer(s), in writing, of any and all allegations before any interview is conducted and will issue the law enforcement officers a Garrity Admonishment (Appendix A).
5. Nothing in this directive shall be construed as entitling a law enforcement officer to be notified of a professional standards investigation until such time as an interview or interrogation is to be held
6. Notification shall be made to the law enforcement officer within a reasonable time before an interview is to be held.
7. The professional standards investigator shall gather

statements and supporting evidence. The professional standards investigator will compile all of the information for inclusion in a report.

8. Absent exigent circumstances, professional standards investigations should be completed within 45 days of receipt of the complaint.

Reasons for extending the investigation longer than the 45 days include, but are not limited to:

- Severity of the allegation
- Scope of the investigation
- Number of people involved
- Awaiting results from examinations (i.e., medical, computer forensics, etc.)
- Availability of witnesses

E. Additional Investigation Procedures

1. Upon orders of the Chief of Police or his designee, an employee may be required to submit to a medical or laboratory examination, at the department's expense. This examination must be specifically directed and narrowly related to a particular professional standards investigation being conducted by the department.
2. Medical and psychological examinations will be done in connection with the concept of fitness for duty (See policy C - 18.0 *Fitness for Duty*).
3. An on-duty supervisor is required to direct an employee to submit to a breath, blood, or urine test when a level of inebriation or drug usage is suspected as the factor directly related to duty performance or operating a department vehicle.
 - a. If the supervisor suspects the activity of the employee amounts to criminal conduct, they shall immediately notify the Chief of Police or their designee.
 - b. Officers who are in possession of their firearm may also be investigated for violation of MCL 750.237

4. The use of employee photographs for the purpose of photo line-ups shall be in accordance with applicable federal and state laws and accepted police practices.
 - i. The department may require an employee to participate in a line-up for the purpose of investigation into employee misconduct.
5. Search and seizure law shall regulate the procurement of employee financial disclosure statements in cases applicable to the use of such evidence.
6. Per MCL 37.203, polygraph examinations shall not be offered, as it is a violation of state law for the employer to request an employee to submit to a polygraph.
7. Property belonging to Michigan Tech and/or DPSPS is subject to inspection where the employer has a reasonable suspicion that evidence of work-related misconduct will be found therein. Property includes, but is not limited to: vehicles, desks, files, storage lockers, uniform lockers, phones, tablets, computers, electronic data from or on the Michigan Tech network, and voicemail.

F. Confidentiality

1. All professional standards investigation records, including notes, reports, tape recordings, statements, and computer generated records, are considered confidential.
2. All completed professional standards investigations shall be stored in a locked file cabinet accessible only to the Chief of Police or his designee.
3. Per MCL 15.395, involuntary statements made by law enforcement officers are confidential communications and may only be disclosed under one or more of the following circumstances:
 - a. With the written consent of the law enforcement officers who made the statement.

- b. To a prosecuting attorney or the attorney general pursuant to a search warrant, subpoena, or court order, including an investigative subpoena issued under chapter VIIA of the code of criminal procedure, 1927 PA 175, MCL 767a.1 to 767a.9. However, a prosecuting attorney or attorney general who obtains an involuntary statement under this subdivision shall not disclose the contents of the statement except to a law enforcement agency working with the prosecuting attorney or attorney general or as ordered by the court having jurisdiction over the criminal matter or, as constitutionally required, to the defendant in a criminal case.
- c. To officers of, or legal counsel for, the law enforcement agency or the collective bargaining representative of the law enforcement officer, or both, for use in an administrative or legal proceeding involving a law enforcement officer's employment status with the law enforcement agency or to defend the law enforcement agency or law enforcement officer in a criminal action. However, a person who receives an involuntary statement under this subdivision shall not disclose the statement for any reason not allowed under this subdivision, or make it available for public inspection, without the written consent of the law enforcement officer who made the statement.
- d. To legal counsel for an individual or employing agency for use in a civil action against the employing agency or the law enforcement officer. Until the close of discovery in that action, the court shall preserve by reasonable means the confidentiality of the involuntary statement, which may include granting protective orders in connection with discovery proceedings, holding in camera hearings, or ordering any person involved in the litigation not to disclose the involuntary statement without prior court approval.

G. Disclosure of Records

1. Absent a court order, subpoena, or search warrant, completed professional standards investigation records shall only be disclosed:
 - a. To the Chief of Police
 - b. The Public Safety Oversight Committee.
 - c. To an attorney representing the University.
 - d. To an attorney or union representative representing the Law Enforcement Officers who are the subject of the investigation.

H. Relief from Duty

1. Relief from duty may be a temporary administrative action due to an employee's physical or psychological fitness for duty or an action pending a disposition of a professional standards investigation. Unless expressly stated, it is not considered a punitive or disciplinary action.
2. Only the Chief or Deputy Chief, or their designee, shall have full authority to relieve an employee from duty, as a temporary administrative action.

The reasons for a relief from duty as a temporary administrative action include, but are not limited to:

- i. The employee's presence is deemed to be a substantial and immediate threat to the welfare of the department, the public, or the employee.
- ii. Due to the seriousness of allegations, it is appropriate to have the employee refrain from tasks that are essential to their job until the investigation is complete.
- iii. The employee may need to abstain from talking or interacting with other employees/individuals.
- iv. The need to restrict access to department resources that are needed to perform their job,

including reports and information systems,
until the completion of an investigation.

3. An officer relieved from duty, regardless of the reason or duration, may be asked to relinquish the department issued firearms, badge, and identification card. They may also be requested to temporarily return any University issued keys.
4. Employees who are relieved from duty as a temporary administrative action may be placed on administrative leave with pay or placed in a temporary administrative position. The Chief of Police will determine, with regard to the circumstances, what action is appropriate.

I. Conclusions

1. The professional standards investigator will make a finding regarding each allegation in the investigation. These findings will be noted in their final report.
2. The standard of proof to support any or all of the findings is by the preponderance of the evidence.
 - i. Preponderance of the evidence means proof by information that, compared with information opposing it, leads to the conclusion that the fact at issue is more probably true than not.

J. Definitions of Findings

1. Exonerated - The alleged act or omission occurred and the act or omission was within the course and scope of department policy, university policy, state and/or federal law.
2. Unfounded - The alleged act or omission did not occur.
3. Not Sustained - The investigation failed to establish whether or not the alleged act or omission occurred.
4. Sustained - The investigation established the alleged act or omission occurred and that the act or

omission violated department or University policy or state and/or federal law.

5. Policy Failure - A finding or conclusion that current policies, procedures, rules or regulations covering the situation were non-existent or inadequate; or the employee followed policy but the investigation reveals policy changes are recommended.

M. Criminal Activity

1. Discovery of Suspected Criminal Activity

- a. If a professional standards investigation uncovers possible criminal activity, the investigation into the suspected criminal activity will be referred to the appropriate external law enforcement agency.
- b. Unless required by law, no information or evidence administratively coerced from an employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

2. Bifurcation Required

- a. The professional standards investigation shall continue, independent of the criminal investigation, unless such continuation would interfere with the criminal investigation. In such cases, the reasons for the temporary pause in the investigation will be noted in the professional standards report.

N. Review of Professional Standards Investigations

1. The completed investigative report will be forwarded to the Chief of Police.
2. The Chief of Police will notify the University's General Counsel, per the Public Safety Officers Act 120 of 1990, section 390.1511, and if necessary, request that the Public Safety Oversight Committee be notified.

3. Once notified, the Chief of Police will provide copies of the professional standards investigation report, excluding any involuntary statements that do not meet the necessary requirements outlined in the MCL Act 563 of 2006, 15.393, to the committee and provide any lawfully acceptable input or assistance to the committee as needed or requested.
4. The Public Safety Oversight Committee reports directly to the President and has the authority to recommend disciplinary action, if they deem appropriate.
5. The Chief of Police will take any recommendations provided by the President of the University and/or the Public Safety Oversight Committee and administer discipline if necessary.
6. If the Public Safety Oversight Committee is not notified, the Chief of Police will review the investigator's report and their findings. The Chief's review may confirm the findings or require they be changed.
 - a. If changes are required, the Chief shall write a memo that will be attached to the investigative report, describing why the findings should be changed.
7. In accordance with university policy, department policy, collective bargaining agreements, and applicable laws, the Chief of Police, in consultation with Human Resources, shall issue appropriate disciplinary action if a complaint is sustained.

The types of discipline include:

- Verbal Warning
- Written Warning
- Loss of Assignment
- Temporary Ineligibility for Promotion
- Remedial Training
- Written Reprimand
- Suspension
- Demotion

- Termination

7. If the professional standards investigation or inquiry discovers that a policy needs to be changed, created, or updated, the Chief of Police shall make note of this and ask the Deputy Chief to make any necessary changes.

N. Appeal Procedures for Disciplinary Actions

1. Appeals of formal disciplinary action shall be conducted in accordance with the collective bargaining contract of that employee and shall be processed according to that and departmental policy.

By Order of

A handwritten signature in black ink, appearing to be 'B. J. H.', written over a horizontal line.

Sources:

University of Nevada Reno, Department of Police Services General Order No: 02-521-1 "Citizen Complaints Professional Standards Investigations"

MCL Act 563 of 2006, 15.391, Definitions by Law Enforcement Officers Act "Definitions"

MCL Act 563 of 2006, 15.393, Disclosures by Law Enforcement Officers Act "Use of Involuntary Statement by Law Enforcement Officer in Criminal Proceeding: prohibition."

MCL Act 563 of 2006, 15.393, Disclosures by Law Enforcement Officers Act "Confidential Communication; Exception"

Garritty v. New Jersey, 385 U.S. 493

Virginia Tech, Virginia Tech Police Department Directive C – 10.0 "Personnel and Admin Complaints"

University of Michigan, Department of Public Safety Policy and Procedural Order 2.3 "Citizen Commendations and Complaints Against Employees"

Revised:

10/04/24