



Department of Public Safety & Police Services

SUBJECT		
C – 14.0 Citizen Complaint/Professional Standards Inv. Department Directive		
ISSUED BY	EFFECTIVE DATE	REVISED DATE
Daniel Bennett, Director/Chief of Police Services	04/01/16	
BUREAU / DIVISION / UNIT RESPONSIBLE FOR REVIEWS AND UPDATES	AFFECTED PERSONNEL	REVIEWED
Office of the Chief	All Personnel	

I. PURPOSE

This Directive outlines the acceptance of citizen complaints and the investigative process followed for reports of employee misconduct.

II. POLICY

It is the policy of the Department of Public Safety and Police Services (DPSPS) to thoroughly investigate reports of employee misconduct in a transparent manner that will promote the public’s trust in law enforcement while ensuring the rights of citizens and department employees are protected.

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 citizen’s complaint or inquiry.

- D. Complaint Log - A chronological log of all citizen complaints.

- E. Professional Standards Investigation – A formal internal process into allegations of employee misconduct.

- F. Punitive Action - For purposes of this directive, punitive action is defined as a verbal warning, written reprimand, demotion, suspension or termination.

- G. Law Enforcement Officers – Per MCL Act 563 of 2006 15.931, a law enforcement officer is defined, in part. as “A person who is trained and certified under the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616” AND “an Emergency Dispatch Worker employed by a law enforcement agency.”



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- H. Involuntary Statement – A confidential communication that is not open to public inspection.

IV. RECEIVING CITIZEN COMPLAINTS AND INQUIRIES

A. General

- 1. Citizens may file a complaint or make an inquiry alleging misconduct, violation of department or University policy or violation of local, state or federal law. A citizen will not be discouraged from filing a complaint or making an inquiry by any member of this department.

B. Form or Manner of Complaint or Inquiry

- 1. Citizens may file the complaint or make the inquiry in person, by telephone, e-mail or mail. The initial complaint does not have to be in writing.

V. RECEIPT OF CITIZEN COMPLAINT OR INQUIRY

- A. All complaints or inquiries will be forwarded to the Chief of Police. In the event the complaint or inquiry involves the Chief of Police, the complaint will be forwarded to the Chief's immediate supervisor.

- B. The officer receiving a citizen complaint will conduct a preliminary interview of the complaining party. The interview will be conducted in such a manner as to ascertain the facts surrounding the allegations.

- a. If the complaining party makes a written statement, the statement, any other supporting documentation and information will be forwarded to the Chief of Police.

- b. If the complaining party does not wish to make a written statement, the officer will prepare a memorandum (via email if possible), detailing the allegations made by the complaining party.

VI. REQUIRED COOPERATION

- A. Unless otherwise precluded by law, every employee is required to cooperate with the professional standards investigator during the course of a professional standards investigation. Cooperation includes, but is not limited to: truthfully and completely answering questions, providing materials and complying with other relevant provisions of this directive. Failure to cooperate shall be considered insubordination and the employee may be subject to disciplinary action up to and including termination.



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VII. PROFESSIONAL STANDARDS INVESTIGATION PROCESS

- A. Upon receipt of a citizen complaint, the Administrative Lieutenant will assign an investigator to conduct the professional standards investigation.
- B. 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 decline to be interviewed, the investigator will make note of the refusal and proceed with the facts known to that point.
- C. 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).
- D. Nothing in this directive shall be construed as to 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.
- E. Notification shall be made to the law enforcement officer within a reasonable time before an interview or interrogation is to be held.
- F. 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.
- G. Absent exigent circumstances, professional standards investigations should be completed within 45 days of receipt of the complaint.
- H. Any complaint regarding the Chief of Police should be made to the Chief's immediate supervisor. The supervisor will review the complaint and take appropriate action.

VIII. LABORATORY OR MEDICAL EXAMINATIONS

- A. At the direction of the Chief of Police or his designee, certain laboratory or medical examinations may be required as part of an administrative investigation.
 - 1. Any examination requested by the department will be conducted at the expense of the University.
 - 2. Drug screening or blood alcohol level test will be based on "reasonable suspicion" as established in precedent court cases.



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3. 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.
4. 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.

B. CONFIDENTIALITY

- A. All professional standards investigation records, including notes, reports, tape recordings, statements, computer generated records, are considered confidential.
- B. All completed professional standards investigations shall be stored in a locked file cabinet accessible only to the Chief of Police or his designee.
- C. 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:
 1. With the written consent of the law enforcement officers who made the statement.
 2. 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.
 3. 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



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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.

4. 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.

C. DISCLOSURE OF RECORDS

- A. Absent a court order, subpoena or search warrant, completed professional standards investigation records shall only be disclosed:
 1. To the Public Safety Oversight Committee.
 2. To an attorney representing the University.
 3. To an attorney representing the Law Enforcement Officers who are the subject of the investigation.
 4. To an outside law enforcement agency requested to take over the case.
 5. Information on a continuing professional standards investigation will not be released, with the exception of a valid court order, subpoena, search warrant or to an outside law enforcement agency requested to take over the case.

D. RELIEF FROM DUTY

- A. Relief from duty may be a temporary administrative action due to an employee's physical or psychological fitness for duty or an action pending disposition of an internal affairs investigation.
- B. Sergeants, Lieutenants and administrative staff have full authority to relieve from duty, as a temporary administrative action, any employee whose continued presence on the job is deemed to be a substantial and immediate threat to the welfare of the department, the public or the officer. The



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suspending supervisor will promptly report such action, through the chain of command to the Chief of Police.

- C. An officer relieved from duty, regardless of the reason or duration, will relinquish the department issued firearms, badge, and identification card.
- D. Employees who are relieved from duty as a temporary administrative action may be placed on administrative leave with or without pay or placed in a temporary administrative position. The Chief of Police will determine, with regard to the circumstances, what action is taken.

E. CONCLUSIONS

- A. The investigator will make a determination regarding each allegation in the investigation. These determinations will be noted in the report.
- B. The standard of proof to support any or all of the findings is by the preponderance of the evidence.

F. DEFINITIONS OF FINDINGS

- A. 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.
- B. Unfounded - The alleged act or omission did not occur.
- C. Not Sustained - The investigation failed to establish whether or not the alleged act or omission occurred.
- D. 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.

G. PREPARATION OF REPORTS FOR INQUIRIES AND CITIZEN COMPLAINTS

- A. Citizen Inquiries
 - 1. Citizen inquiries that do not rise to the level of a citizen complaint need not be documented. Once an inquiry is handled, the officer will prepare an email account of the event and forward it to the administrative lieutenant.
- B. Citizen Complaints



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1. The investigation into a citizen complaint will be documented in a memorandum, using the format in Appendix B of this Directive.

H. OUTSOURCING OF PROFESSIONAL STANDARDS INVESTIGATIONS

- A. The Chief of Police, or his immediate supervisor, may have an outside agency conduct a professional standards investigation into any allegations of misconduct or wrongdoing involving a DPSPS employee. Should an outside agency conduct such an investigation, all the provisions of this directive shall apply.

I. CRIMINAL ACTIVITY

A. Discovery of Suspected Criminal Activity

1. If a professional standards investigation uncovers possible criminal activity, the investigation into the suspected criminal activity will be referred to the Michigan State Police.
2. All information will be forwarded to Michigan State Police Investigators with the exception of any involuntary statements made by Law Enforcement Officers.

B. Bifurcation Required

1. The professional standards investigation shall continue, independent of the criminal investigation. The professional standards investigator shall not share any involuntary statements with the Michigan State Police.

C. Professional Standards Investigation to Continue

1. The internal professional standards investigation shall continue. Administrative action, up to and including termination, may be imposed, consistent with this General Order and department policy.

J. REVIEW OF PROFESSIONAL STANDARDS INVESTIGATIONS

- A. The completed package will be forwarded to the Chief of Police.
- B. The Chief of Police will notify the President of the University and, per the Public Safety Officers Act 120 of 1990, section 390.1511, request that the Public Safety Oversight Committee (PSOC) be formed.
- C. Once formed, the Chief of Police will provide copies of the 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



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any lawfully acceptable input or assistance to the committee as needed or requested.

- D. The PSOC reports directly to the President and has the authority to recommend disciplinary action, if they deem appropriate.
- E. The Chief of Police will take any recommendations provided by the President of the University and the Public Safety Oversight Committee and administer discipline if necessary.

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*"

Garrity 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*"

By Order of

Daniel P. Bennett
Director of Public Safety and Police Services



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APPENDIX A

ADMINISTRATIVE INVESTIGATION ADMONISHMENT

I am advising you that you are being questioned as part of an official professional standards investigation conducted by or on behalf of the Michigan Tech Department of Public Safety and Police Services. You will be asked questions specifically directed and narrowly related to the performance of your official duties or fitness for office. You are entitled to all the rights and privileges guaranteed by the laws and Constitution of this state, and the Constitution of the United States, including the right not to be compelled to incriminate yourself.

You are further advised that you are entitled to representation by a person of your choice, who may be present at all times during such interviews. The representative shall not be a person subject to the same investigation.

You are being ordered to answer truthfully and completely the questions of the professional standards investigators. You are admonished that if you refuse to answer questions relating to the performance of your duties or fitness for office, you will be subject to departmental charges that could result in your dismissal from the Department of Public Safety and Police Services. If you do answer the questions, neither your statements nor any information or evidence which is gained by reason of such statements can be used against you in any subsequent criminal proceeding. These statements may be used against you in relation to subsequent department charges.

You are hereby ordered to comply with Section VI of Departmental Directive C – 14.0

Professional Standards Investigator's Name (Please Print)	Date/Time
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I acknowledge that I understand this admonishment.

Employee's Name (Please Print)	Employee's Signature	Date/Time
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Witness Name (Please Print)	Witness Signature	Date/Time
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APPENDIX B

REPORT OF PROFESSIONAL STANDARDS INVESTIGATION

Investigation Number:

DATE: (Date of final report)

TO: (Chief of Police)

FROM: (Professional Standards Investigator's name and rank)

I. Allegation(s): 1. Violation of Directive: 02-; to wit: (plain language summary of pertinent section)

II. Date and Time: (Date and time of alleged misconduct, act or omission)

III. Involved Officer(s): (Name)

IV. Complaining Party: (Name, address, and telephone number)

V. Summary of Investigation: (include summary of statements, describe evidence that is inculpatory and exculpatory, other relevant investigative activity)

VI. Conclusions: (List conclusion for each allegation.)

VII. Exhibits: (Number in sequential order with brief description)