

EAST LANSING POLICE DEPARTMENT

POLICY AND PROCEDURE

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SUBJECT: COMPLAINT AGAINST EMPLOYEE
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CHIEF OF POLICE:



5.1 PURPOSE

To establish formal guidelines and procedures for receiving, reporting, investigating, and adjudicating allegations of employee misconduct. To build and maintain a relationship with the community based upon public trust and confidence. To protect the reputation of employees from false allegations of misconduct.

5.2 GENERAL INFORMATION

- A. A complaint may be made by a citizen or a Department employee. An individual who requests to file a complaint against an employee shall be directed to the immediate on duty supervisor of the employee. If the immediate supervisor of the employee is not available, the on duty uniform division supervisor will take the complaint.
- B. A complaint must be made by a person. If an organization wishes to file a complaint against an employee, the complaint must be taken from a person representing that organization. A complaint may be made in person, by phone, or any means of written communication.
- C. If the complaint alleges the employee may have been involved in criminal activity, then a separate criminal investigation may be conducted simultaneously to an administrative internal investigation. The investigations will be conducted separately from each other. The Chief of Police or his/her designee will determine if a criminal investigation will be conducted. The criminal investigation will be done by a detective bureau supervisor, an outside police agency, or a joint investigation with other police agencies, as determined by the Chief of Police or his/her designee.
- D. Upon the conclusion of the criminal investigation, the detective bureau supervisor who conducted the criminal investigation will have the case reviewed by the Ingham County Prosecutor's Office. The Prosecutor's Office will determine if any criminal charges will be brought against the employee. The employee will be notified of the Prosecutor's decision as soon as possible, by the detective bureau supervisor.

- E. The Department recognizes there may be false allegations of misconduct lodged against employees. All complaints will be thoroughly, fairly, and impartially investigated. The Department has a responsibility to protect employees from false allegations of misconduct.

5.3 **COMPLAINT AGAINST EMPLOYEE FORM**

- A. Complaints against employees will be submitted on a Complaint Against Employee form. The form will be completed by the supervisor taking the complaint.
- B. The supervisor will request the complainant to submit a written statement describing the incident. The supervisor shall write a brief description of the complaint in the Description of Incident section of the Complaint Against Employee form, or the supervisor may submit a typed letter with a brief description of the complaint.
- C. A copy of the completed Complaint Against Employee form and a copy of the complainant's written statement will be given to the complainant. The original Complaint Against Employee form, and any other documents submitted at the time of the original complaint, will be forwarded directly to the Police Administration.

5.4 **ANONYMOUS COMPLAINTS**

- A. Anonymous complaints will not be arbitrarily dismissed. Citizens making anonymous complaints by telephone shall be transferred to the immediate supervisor of the named employee. If the immediate supervisor of the employee is not available, the on duty uniform division supervisor will take the complaint. The supervisor taking the complaint should attempt to obtain the identity of the complainant. The complainant should be encouraged to appear in person, so the investigation can be conducted in a thorough, fair, and impartial manner.
- B. The supervisor shall advise the caller of the Department's procedure for investigating complaints against employees. Should the caller refuse to give their identity, the Complaint Against Employee form shall still be completed. Print the word "Anonymous" in the Complainant box. The seriousness of the alleged misconduct will determine how much time and investigative resources will be committed to the investigation of an anonymous complaint. The decision will be made by the Administration.

5.5 **DUTIES OF POLICE ADMINISTRATION**

- A. Upon receiving a complaint against an employee, the supervisor will complete all the applicable and available information on the Complaint Against Employee form. If the complainant is not able to identify the specific employee involved in the incident, the supervisor will make a reasonable attempt to identify the employee, before the complaint is sent to the Police Administration.

- B. The supervisor shall submit the following information or documents with the Complaint Against Employee form to the Police Administration, if the documents have been completed and are available.
1. Written statements and any other documents from the complainant, the victim, or a witness, that would support the allegation.
 2. A copy of the employee's daily, police report, traffic accident report, ticket, SRMS information, etc., that is directly related to the specific incident that prompted the complaint, if available.
 3. If a visible injury exists, request permission from the complainant to photograph the injury. Use discretion if the photos would be of a highly personal nature. All photographs will be kept by the Department. The complainant is responsible for obtaining photos for their own personal use. If photos are not taken or there is not a visible injury, describe any alleged injuries in the supervisor's written statement.

5.6 **DUTIES OF THE POLICE ADMINISTRATION**

- A. The Police Administration will review the Complaint Against Employee form and all the attached information and will assign a number to the complaint. The complaint will then be sent to the Chief of Police to be reviewed.
- B. Upon completion of the investigation, the Police Administration will review the case and determine if further investigation is warranted. When it is determined the investigation is complete, the case file will be sent to the Chief of Police.

5.7 **DUTIES OF THE CHIEF OF POLICE**

- A. The Chief of Police or his/her designee shall review all cases of complaints made against employees and determine when an investigation is to be initiated.
- B. If it is determined that a criminal act may have occurred, the Chief of Police or his/her designee will request a criminal complaint number be assigned to the case and a criminal investigation will be conducted.
- C. The Chief of Police shall determine the disposition for the case.
- D. There may be times the employee cannot be notified of the internal investigation due to the nature of the complaint. The Chief of Police or his/her designee will determine when the notification would not jeopardize the investigation.

5.8 **ASSIGNMENT OF THE INVESTIGATION**

- A. The investigator shall be superior in rank to the named employee. If there is a complaint made against the Chief of Police, the complaint will be forwarded to the City Manager. The City Manager will determine if the complaint will be investigated. The City Manager will determine if the City Human Resources

- Department or an outside police agency will investigate the complaint.
- B. If deemed necessary, assistance from an outside police agency may also be requested for internal investigations where the named employee is below the rank of Chief. The decision will be made by the Chief of Police or his/her designee.
 - C. After the case has been assigned to an investigator, any additional documents that are submitted by the complainant, witnesses, etc. will be forwarded directly to the investigator.

5.9 **DUTIES OF THE INVESTIGATOR**

- A. A thorough, fair, and impartial investigation shall be conducted, until no further investigative leads are available and all necessary persons involved have been interviewed.
- B. The investigator shall notify the employee's supervisor(s) that an internal investigation is being conducted. The notification to the supervisor(s) may be done in the form of a written memorandum or an e-mail.
- C. Per the collective bargaining agreement, the investigator shall notify the employee named in the complaint that an internal investigation is being conducted. The notification will be in the form of a written memorandum.
- D. The investigator does not determine a disposition for the case. The investigator will forward the completed investigation to the Police Administration.
- E. The investigator will attempt to complete the investigation within ninety days. The ninety day time period will start on the date the investigation is assigned to the investigator. The ninety day time period will end on the date the employee is notified in writing of the case disposition. Upon completion of the investigation, the investigator will forward the entire case file to the Police Administration.
- F. There may be times the ninety day time period cannot be met, due to factors such as a very complex investigation, difficulty in locating witnesses, legal issues, etc. If the investigation cannot be completed in ninety days, the investigator shall notify the Chief of Police in writing. The employee shall also be notified in writing.

5.10 **CLOSING THE COMPLAINT**

- A. The Complaint Against Employee form shall be closed using the following dispositions.
 1. Unfounded: The alleged act did not occur.
 2. Exonerated: The actions taken were appropriate, reasonable, and consistent with Department policy and training.
 3. Not Sustained: There was insufficient information to clearly prove or

disprove the allegations.

4. Sustained: There was sufficient information to justify a reasonable conclusion that part or all of the alleged act occurred.
5. Policy Review: Part or all of the alleged act occurred. The employee's actions were reasonable and followed current Department policy. However, the policy should be reviewed and may need to be revised.

5.11 **MINOR COMPLAINTS**

- A. A minor complaint would be an incident where there would be very little, if any, likelihood of disciplinary action being taken against the employee, even if the alleged act occurred. Examples would be a complaint where it appears the employee may have committed a minor traffic offense, a minor violation of a Department policy, a minor violation of a Department training procedure, incidents that appear to be a simple misunderstanding between the complainant and the employee, etc.
- B. A minor complaint shall be documented by completing the Complaint Against Employee form. The supervisor shall include the supporting documentation outlined in section 5.5 B (2). A copy of the completed Complaint Against Employee form and a copy of the complainant's written statement will be given to the complainant. The original documents will be sent to the Police Administration.
- C. An internal investigation number will be assigned to the complaint. The Chief of Police or his/her designee will review the information and determine if the complaint should be investigated. If the complaint is minor in nature, the complaint may be assigned back to the division supervisor of the named employee to do the investigation. Upon completion of the investigation, the supervisor shall forward the case file to the Police Administration for review.
- D. The Chief of Police will determine a disposition for the complaint.

5.12 **DISPOSITION OF SUSTAINED COMPLAINTS**

- A. The seriousness of the misconduct shall be one of the factors used to determine disciplinary action. The employee's service record and record of prior complaints will also be taken into consideration. The employee may also be required to receive additional training or to attend a counseling program, in addition to a disciplinary action.
- B. A notice of disciplinary action letter shall be completed on all internal investigations that result in disciplinary action. The original letter will be given to the employee. A copy of the letter shall be placed in the employee's personnel file.

5.13 **NOTIFICATION OF THE CASE DISPOSITION**

- A. A letter from the Chief of Police shall be sent to the complainant notifying them

of the disposition of the investigation. The complainant will be advised if disciplinary action was taken against the employee. The actual details of the discipline will not be discussed with the complainant.

- B. If civil litigation is pending as a result of a complaint against an employee, then approval from the City Attorney, or the attorney in charge of the case for the City, is required, prior to a letter being sent to the complainant.
- C. The investigator shall notify the employee and the employee's supervisor(s) of the case disposition, when no disciplinary action is taken.
- D. The Police Administration shall notify the employee and the employee's supervisor(s) of the case disposition, when disciplinary action will be taken.

5.14 DISPOSITION MEETING WITH EMPLOYEE

- A. When disciplinary action is taken as a result of the internal investigation there will be a meeting with the Police Administration, the employee, and the employee's supervisor, to discuss the disciplinary action.
- B. If disciplinary action is not taken as a result of the internal investigation, there will be a close out meeting with the investigator, the employee, and the employee's supervisor, to discuss the disposition of the investigation. The investigator will document the close out meeting with a written letter. The close out letter will be placed in the case file.

5.15 RETENTION OF THE CASE FILE

- A. Upon final review by the Chief of Police, the case file shall be kept in a confidential file separate from the employee's personnel file. The case file shall be kept in the Police Administration file room.

5.16 COMPLAINT CLASSIFICATIONS

- A. The complaint classifications shall be used for tracking and reporting purposes. A classification will be assigned to each complaint by either the Police Administration:
 1. Criminal Activity: Involvement in illegal behavior.
 2. Use of Force: Excessive or unlawful use of force, threats to use force as a means of intimidation.
 3. Discrimination: The treatment of the individual was based upon factors such as, but not limited to, race, sex, age, physical appearance, or other types of profiling.

4. **Demeanor:** Behavior that is rude, impolite, discourteous, or insulting. The use of profanity, insulting or obscene gestures. Verbal or physical acts of intimidation, other actions which could be considered as offensive.
5. **Traffic Violation:** Traffic law violations.
6. **Policy Violation:** Failure to adhere to Department policy and procedure, rules, regulations, training guidelines, and all other established work place procedures.
7. **Other:** Other types of misconduct not specifically classified.