

DIRECTIVE 26.3 COMPLAINT PROCEDURES

Issue Date: 04/03/2020	By Order of Chief of Police
Rescinds: (Issue 05/22/2018)	CALEA Standards Referenced: 26.3.1; 26.3.2; 26.3.3; 26.3.4; 26.3.5; 26.3.6; 26.3.7 & 26.3.8
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This directive consists of the following sections:

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POLICY AND PROCEDURE:

It is the policy of the Miami Township Police Department to ensure that integrity is maintained through an internal system where objectivity, fairness and justice are assured by intensive and impartial investigation and review.

It is the function of Internal Affairs to provide fact-finding assistance to the Chief of Police. Internal Affairs provides a systematic, objective and impartial method of investigating complaints of improper behavior of employees or inquiries against the department that might violate Standards of Conduct or other written directives of the Department.

26.3.1 Complaint Types

Each complaint shall be classified as either an Allegation of Misconduct or an Inquiry.

Type of Complaints to be Investigated by Supervisors

Allegations of Misconduct may be investigated as an Inquiry by the employees' immediate supervisor. Examples of such allegations are:

- Violation of department rules, regulations, procedures and directives.
- Rudeness directed toward a citizen.

- Poor demeanor by a department employee.
- Improper operation of department vehicles.
- Unequal application of process.

An Inquiry will typically involve a citizen contacting the Miami Township Police Department with a question about department policy, procedure or tactic used by the department or a member of the department. Inquiries are usually handled by the employee's immediate supervisor. Examples of inquiries are:

- Questions about department policy and procedure.
- Questions about laws and their applications.

Type of Complaints Requiring Investigation by the Internal Affairs Function

Allegations of Misconduct that involve criminal behavior or serious misconduct will require an internal investigation. Examples of such conduct are:

- Violations of Law
- Excessive Use of Force
- Breach of Civil Rights
- Corruption
- An Unlawful Order
- Other Gross Misconduct

These types of complaints, depending on the severity, will be investigated by the Internal Affairs function or Independent external investigators.

26.3.2 CEO, Notification

The Chief of Police will be notified of any Allegation of Misconduct or Inquiry that has been made:

- Allegations of Misconduct that will require an Internal Investigation shall be delivered to the Chief of Police upon receipt.
- Allegations of Misconduct that may be investigated as an Inquiry shall be delivered to the Chief of Police by the start of the next working day.

During the investigation, the Chief of Police will be updated on the progress of the investigation no less than every seven days.

26.3.3 Investigation Time Limits

Typically, all investigations of complaints will be completed in fourteen days or less.

If more time is needed to investigate an Allegation of Misconduct or an Inquiry, the assigned investigator shall advise the Chief of Police in writing and explain why more

time is needed. The Chief of Police shall determine if more time will be allocated to the investigation.

26.3.4 Informing Complainant

The agency has a written directive regarding complainant notification that includes:

Verification that the Complaint has Been Received

Upon receipt of a Complaint form, the Chief of Police or designee, will assign a Complaint number using the numerical year and ascending numbers beginning with 01; i.e. 2018-01. The complaint will be classified as an Allegation of Misconduct or as an Inquiry.

The Chief of Police or designee will assign an investigating officer to conduct the investigation. A letter will be sent to the complainant by the Chief of Police or designee acknowledging the receipt of the Complaint, the classification of the complaint and the name of the investigating officer. In addition, the notification should include an anticipated time limit for the investigation. A copy of this letter will be maintained in the case file.

Schedule for Status Notification to the Complainant

The investigating officer will contact the complainant of an Allegation of Misconduct, formal or informal, or Inquiry within the first three days of assignment. Any communication with the complainant, to include the progress of the investigation, will be in writing and maintained in the case file.

Notification that the Investigation Concluded

Upon conclusion of the complaint investigation and after approval by the Chief of Police, the Chief of Police shall prepare a letter to the complainant, advising them of the conclusion of the facts. A copy of this letter shall be maintained in the case file.

26.3.5 Statement of Allegations / Rights

An employee shall be notified of an Allegation of Misconduct or Inquiry against them or if they are associated with the Allegation of Misconduct or Inquiry. If the notification would jeopardize the conduct of the Allegation of Misconduct or Inquiry, then notification may be delayed.

Notification will be made by a supervisor by delivering a copy of the Allegation of Misconduct or Inquiry to the employee through the chain of command. Notification will be made as soon as practical upon receipt of the Allegation of Misconduct or Inquiry.

The investigator may cause the accused employee or other employees to participate in interviews and submit written statements relative to the investigation.

Prior to questioning of any accused employee, the nature of the investigation shall be explained to the employee and whether the investigation is focused on alleged violation of department rules or violation of criminal law. Notification of constitutional rights shall be made prior to any questioning involving an Internal Affairs Allegation of Misconduct.

A member covered under the Collective Bargaining Agreements, Article 36, Employee's Rights, shall be awarded all the rights and responsibilities of these agreements.

A member not covered under a Collective Bargaining Agreement, shall be awarded all the rights and responsibilities of the Miami Township Policy & Procedure Manual, Corrective Discipline.

26.3.6 Submission to Tests, Procedures

Evidence collection for Allegations of Misconduct or Inquiries involving employees of the Miami Township Police Department will be conducted in accordance with the following guidelines.

Medical or Laboratory Examinations

Any time there are indications that an employee is suspected of using or being under the influence of any illegal drug or controlled substance, they shall be required to submit to a blood and/or urine test. An employee who is using a prescription medication that is or contains any controlled substance shall report such usage in writing to their immediate supervisor.

Employees may be required to submit to any other type of accepted medical or laboratory examination pursuant to criminal rules of procedure. All drug and alcohol testing shall be conducted in accordance with applicable State and Federal Laws.

A member covered under the Collective Bargaining Agreements, Article 38, Drug Testing, shall be awarded all the rights and responsibilities of these agreements.

A member not covered under a Collective Bargaining Agreement, shall be awarded all the rights and responsibilities of the Miami Township Policy & Procedure Manual, Drug & Alcohol-Free Workplace.

Photographs

The Miami Township Police Department maintains a photo file of all employees. These photographs may be used in the complaint process.

Employees who are subject to a complaint investigation may be required to submit to additional photographs if probable cause exists to believe they are involved in a criminal offense and the evidence is particular to the offense being investigated.

Audio or Video Recording

Employees who are subject to a complaint investigation may be required to submit to an audio or video recording during the investigation.

Participate in a Line-Up

Employees who are subject to a complaint investigation may be required to participate in a line up if probable cause exists to believe they are involved in a criminal offense and the lineup evidence is particular to the offense being investigated.

Submit Financial Disclosure Statements

Employees who are subject to a complaint investigation may be required to submit a financial disclosure statement when it is material to the investigation.

Instruments for the Detection of Deception

A member covered under the Collective Bargaining Agreements, Article 36, Employee's Rights, is exempt from testing utilizing instruments for the detection of deception.

A member not covered under a Collective Bargaining Agreement, may be required to submit to testing utilizing instruments for the detection of deception.

26.3.7 Relieved from Duty

The Chief of Police or any appointed first line supervisor may relieve an employee from duty and place that employee on temporary administrative leave for up to one day under the following circumstances:

- Employee conduct has been personally observed by the supervisor that is extremely serious in nature and/or creates potential harm to the employee or others.
- The employee is unfit for duty due to physical or psychological reasons.

The employee receiving such temporary administrative leave shall be directed to report to the Chief of Police or his/her designee at a designated time within 24 hours. The supervisor imposing the leave shall also appear before the Chief of Police or his/her designee at an appointed time with all necessary documentation relevant to that leave.

Employees who are relieved from duty and placed on temporary administrative leave shall receive pay unless otherwise notified by the Chief of Police or his designee at their initial appearance.

Employees placed on administrative leave will be assigned a liaison within the police department to maintain the flow of information between the employee and the employer. The liaison will remain in place throughout the administrative leave or until relieved by the Chief of Police.

26.3.8 Conclusion of Fact

All complaint investigations require a conclusion of fact. One of the following conclusions of fact shall be assigned:

- Unfounded/Malicious – The allegation is false, and it is likely the complainant knew that at the time of the allegation.
- Unfounded/Innocent – The allegation is false.
- Proper Conduct – The actions occurred but were consistent with criminal law and/or department policies and procedures.
- Not Sustained – There is insufficient evidence to prove or disprove the allegation.
- Sustained – There is sufficient evidence to support the allegation and the action violated criminal law or department policies and procedures.
- Withdrawn – The complainant withdraws the allegation prior to completion of the investigation and no further action is required.
- Misconduct not Based on Complaint – The investigation reveals sufficient evidence to indicate other infractions not based on the original complaint.