



# MAINE STATE POLICE GENERAL ORDER

## M-7

**SUBJECT:** MAINE STATE POLICE OFFICE OF PROFESSIONAL STANDARDS

**EFFECTIVE DATE:** 09.09.2021

**EXPIRATION DATE:** 09.09.2028

**RECENT HISTORY:** AMENDED (09.09.2021); AMENDED (08.01.2020); AMENDED (11.12.2019); TECHNICAL AMENDMENTS (12.16.2013); RESCINDS G.O. 52A (04.18.2008)

**DISTRIBUTION CODE:** 2 (MAY BE PUBLICLY DISCLOSED)

**APPLICABILITY CODE:** S, Z

**MLEAP:** 2.04, 2.05, 2.06, 2.07, 2.08, 2.09, 2.10

**MCJA MINIMUM STANDARDS POLICIES** 9, 10

**SIGNATURE OF COLONEL:**

A handwritten signature in blue ink, which appears to read "John Cote", is written over a light blue rectangular background.

### I. PURPOSE

1. The purpose of this General Order is to establish the Maine State Police Office of Professional Standards.

### II. POLICY [MCJA MS 9.1, 10.1]

1. The Maine State Police recognizes the importance of investigating all complaints of alleged officer misconduct, including, alleged criminal conduct. Accordingly, the policy of the agency shall investigate, fairly and

with all due diligence, all complaints made by individuals against Maine State Police personnel, and that the Office of Professional Standards (OPS) shall administer and coordinate such investigations with respect to sworn personnel and, if requested, with respect to non-sworn personnel. **MLEAP 2.06**

- A. Investigations of complaints against non-sworn personnel must be conducted by appropriate supervisory and human resources personnel in accordance with all applicable laws and contract provisions.

*Note: Because this is a statutorily-mandated policy, officers shall abide by the policy as it applies to all standards of the Maine Criminal Justice Academy Board of Trustees. A violation of the standards may result in action by the Board of Trustees. [MCJA MS 9.14, 10.5]*

### **III. DEFINITIONS**

- 1. For the purposes of this General Order, the terms included in this section are defined as follows, unless otherwise indicated in the order.
  - A. Colonel. "Colonel" means the Chief of the Maine State Police, or her or his designee.
  - B. Commander. "Commander" means the Commanding Officer of a Maine State Police Unit.
    - 1. "Commanding officer" is synonymous with Commander.
  - C. Director. "Director" means a civilian member of a Unit who is generally responsible for managing and supervising that Unit.
  - D. OPS. "OPS" is the acronym for the Maine State Police Office of Professional Standards.
  - E. Unit. "Unit" means a major organizational component of the Maine State Police such as, as examples, the Maine State Police Crime Laboratory, the State Bureau of Identification, or a Troop.

### **II. PROCEDURE**

- 1. GENERAL
  - A. Except as otherwise stated in this policy, and unless the Colonel or Lieutenant Colonel specifically request that a report be provided in written or spoken format, reports required by this policy may be provided in either format; however, if a report is in spoken format, the substance of the information must be documented by the recipient of the information.

1. OFFICE OF PROFESSIONAL STANDARDS

- A. The purpose of the OPS is to investigate, fairly and with all due diligence, all complaints (including those made anonymously) received by individuals against Maine State Police sworn personnel. **MLEAP 2.04** [MCJA MS 9.2]
- B. The OPS shall consist of at least one (1) Lieutenant and as many other sworn officers as necessary to carry out the duties of the OPS.
- C. A Lieutenant shall be the Commanding Officer of the OPS.
  - 1. The Commanding Officer of the OPS reports directly to the Lieutenant Colonel; however, all activities of the OPS shall be conducted under the authority of Colonel.
  - 2. The Commanding Officer of the OPS shall ensure that:
    - a. All OPS records remain confidential as required by Maine law, including, but not limited to, 5 M.R.S.A. § 7070, as applicable;
      - (1) Investigative reports and complaints shall remain secure from unauthorized access.
      - (2) The office space of OPS, its files, and other systems must be secured through limited any access.
      - (3) Access to the office space of OPS by unauthorized personnel shall be supervised by a member of OPS. **MLEAP 2.09** [MCJA MS 9.13]
    - b. Each complaint referred to the OPS is documented;
    - c. A weekly report of the OPS' activities – to include, at minimum, a summary of the complaints made against Maine State Police personnel and volunteers – is provided to the Colonel and the Lieutenant Colonel. [MCJA MS 9.8]
      - (1) The Colonel and the Lieutenant Colonel may receive and request additional spoken or written briefings on complaints depending on the severity of the complaints; **MLEAP 2.07** and
    - d. An annual summary report shall be prepared by the OPS for the Colonel that includes, but is not limited to, statistical data that will aid in identifying the possible need for training, supervision, or other further appropriate action.

2. REFERRAL OF COMPLAINTS TO THE OPS MLEAP 2.04 [MCJA MS 9.3, 10.2]

- A. As soon as practicable, any complaint made against a sworn officer of the Maine State Police – including, but not limited to, complaints of alleged criminal conduct – shall be forwarded through the Chain-of-Command to the OPS.
  - 1. An individual who wishes to file a complaint may use the standardized [Maine State Police complaint form](#) to do so. See “[Maine State Police Complaint Form](#)” (attached).
  - 2. An individual also may file a complaint via the Internet (see <https://www.maine.gov/dps/msp/about/contact/OPS/complaints>), in person, or by telephone, fax, or email.

3. OPS INVESTIGATION OF COMPLAINTS MLEAP 2.04, 2.06 [MCJA MS 9.4, 9.5, 9.6, 9.9, 9.10, 9.12, 9.13, 10.3]

- A. Allegations made against a Maine State Police officer of a violation of policy or law or of misconduct shall be investigated with all due diligence.
- B. Upon receiving a complaint, the OPS Commander first shall determine if the complaint is one related to job performance or to misconduct.
  - 1. If a determination is made by the OPS Commander that the complaint is one related to job performance, then the complaint must be remanded to the appropriate Unit for corrective action, and the Colonel or Lieutenant Colonel shall be notified of the allegation(s) made.
  - 2. If a determination is made that the complaint concerns alleged misconduct by a sworn officer, then the Colonel or Lieutenant Colonel shall determine whether the complaint is to be investigated at a Unit level or by the OPS, except that –
    - a. The OPS **shall** conduct the investigation when a complaint alleges serious misconduct by a sworn officer.
      - (1) For the purposes of this paragraph, the term "serious misconduct" includes, but is not limited to, possible or actual criminal conduct.
  - 3. At its option, the OPS may conduct an investigation when a complaint does not allege any allegations of serious misconduct by a sworn officer, or, with the prior approval of

the Colonel or Lieutenant Colonel, may assign the complaint to the appropriate Unit for investigation.

4. If a complaint is found to have been made against an officer who works for a different law enforcement agency, then OPS shall inform the complainant of that circumstance and provide the complainant with the name of that other agency. [MCJA MS 9.7]

C. When the OPS conducts an investigation, an investigation report the Lieutenant Colonel.

1. The investigation report must include:

- a. A summary of the complaint made against the sworn officer who is the subject of the investigation;
- b. The OPS' findings of fact regarding the matter; and
- c. Confirmation that documentation (including, if applicable, signed documentation showing that a *Garrity* warning was provided and was understood) that the contractual rights of the officer who is the subject of the investigation have been ensured during the investigation.

2. Interviews conducted during an OPS investigation must be audio recorded, whenever possible.

D. When a complaint is assigned to a Unit for investigation and the investigation is later completed, a report of the investigation –must be made by the Unit to the OPS.

1. The Unit's investigation report must include:

- a. A summary of the complaint made against the sworn officer who is the subject of the investigation;
- b. The Unit's findings of fact regarding the matter; and
- c. Confirmation that documentation (including, if applicable, signed documentation showing that a *Garrity* warning was provided and was understood) that the contractual rights of the officer who is the subject of the investigation have been ensured during the investigation.

2. An investigation report made by a Unit must not include any recommendations regarding either the manner in which the complaint should be disposed or whether disciplinary action should be taken against an officer.

3. Interviews conducted during a Unit investigation must be audio recorded, whenever possible.
  - a. At the conclusion of the Unit's investigation, all recordings must be forwarded to the OPS when the completed investigation report is provided.
4. Upon receiving the information resulting from a Unit's investigation, the OPS shall consider the information provided and, if deemed necessary, all audio recordings submitted with it.
  - a. If necessary, the OPS may request from the investigating Unit further information or clarification with respect to the Unit's investigation.
5. Once a Unit's investigation is completed to the satisfaction of the OPS Commander, then the OPS Commander shall make a report to the Lieutenant Colonel for her or his consideration.

E. Time Limit on Investigations **MLEAP2.05**

1. Investigations conducted pursuant to this policy must be completed as soon as practicable.
2. OPS investigations must be completed within thirty (30) days after a complaint is received, unless a time extension is granted by the Colonel or, so long as an investigation is active and open, the circumstances of the investigation otherwise require that the 30-day time period be extended.
  - a. When a time extension of an investigation is necessitated, the OPS shall notify the respective contract representatives.
  - b. When a time-extension of an investigation is necessitated, the investigation must be completed as soon as practicable.
3. All other timelines associated with an investigation are outlined in applicable union contracts.

F. At all times during an investigation of a complaint made against a sworn officer, the investigation:

1. Must be conducted in accordance with Maine State Civil Service Laws, including, but not limited to, 5 M.R.S.A. § 7070(2)(E);

2. Must be conducted in accordance with applicable State of Maine, Department of Public Safety, and Maine State Police policies;
  3. Must be conducted in accordance with the applicable union contract; and  
Must ensure that any officer against whom a complaint is made is afforded due process.
4. DISPOSITION OF COMPLAINTS **MLEAP 2.04**
  - A. Once an investigation is completed to the satisfaction of the Lieutenant Colonel, then the Lieutenant Colonel shall determine the disposition of the matter.
  - B. Each investigation must result in one of the five following dispositions:
    1. “Unfounded,” meaning that the complaint has no factual basis;
    2. “Exonerated,” meaning that the complaint has a factual basis, but the conduct of the officer who is the subject of the complaint was lawful or justified and proper;
    3. “Not sustained,” meaning that no sufficient evidence was found during the investigation to either prove or disprove one or more complaints made against an officer;
    4. “Sustained,” meaning that sufficient factual evidence was found during the investigation to support, by preponderance of the evidence, one or more complaints made against an officer; or
    5. "Informational," meaning that the case is remanded back to the applicable Unit so that job performance counseling of the officer who was the subject of the investigation may occur.
5. APPEAL PROCESS FOR DISCIPLINARY ACTIONS **MLEAP 2.08**
  - A. The process to appeal disciplinary action is outlined in respective, applicable contracts. See the “Maine State Trooper’s Association Contract” and the “Maine State Employees’ Association Contract”.
  - B. Appeals may be made when disciplinary action is imposed as a result of an investigation that occurs pursuant to this policy, and as otherwise permitted by applicable law and contracts.
6. FINAL ACTION ON COMPLAINTS
  - A. After an investigation has concluded and a disposition has been reached, final action by the Maine State Police shall be taken with respect to a complaint.

1. If a complaint is disposed of as “Unfounded,” “Exonerated,” “Not Sustained,” or “Informational,” the OPS shall notify the Unit Commanding Officer or Director of that result, who then shall notify the sworn officer against whom the complaint was made.
  2. If a complaint is disposed of as “Sustained,” the Colonel shall take appropriate administrative, including, if warranted, disciplinary action.
    - a. In taking final action with respect to a complaint, the Colonel shall comply with any reporting requirements of the Maine Criminal Justice Academy Board of Trustees, as required by Maine law.
7. NOTIFICATION OF THE COMPLAINANT OF THE FINAL DISPOSITION OF AN INVESTIGATION **MLEAP 2.10** [MCJA MS 9.11]
  - A. Once an investigation has concluded and a disposition of has been determined, the OPS may notify the complainant as follows:

*“I am writing to let you know that we reviewed your recent complaint about one of our officers and have taken appropriate action. Thank you for bringing your concerns to our attention.”*
  - B. If disciplinary action against an officer who is the subject of the complaint is imposed or upheld, then — pursuant to 5 M.R.S.A. § 7070(2)(E) — OPS may send, upon request, the complainant a copy of the “final written decision” — as that term is defined in 5 M.R.S.A. § 7070(2)(E) — relating to that disciplinary action.
8. DISCLOSURE OF OPS INVESTIGATION-RELATED RECORDS AND INFORMATION
  - A. Disclosure of records and information relating to complaints against employees, investigations thereof, and any subsequent disciplinary action must comply with the Freedom of Access Act (FOAA), 5 M.R.S. § 7070(2)(E), and any other applicable Federal, State, and Local laws, rules and regulations. **MLEAP 2.09**
9. COMPLIANCE WITH 25 M.R.S. § 2807 REQUIRED [MCJA MS 10.4]
  - A. Notwithstanding any other provision of law, in the event that a Maine Criminal Justice Academy-certified Maine State Police officer is convicted of a crime or violation or engages in conduct that could result in suspension or revocation of the individual's certificate



pursuant to 25 M.R.S. § 2806-A and the Colonel has knowledge of the conviction or conduct, the Colonel shall within thirty (30) days notify the Director of the Maine Criminal Justice Academy with the name of the officer and a brief description of the conviction or conduct.

## **ATTACHMENT**

*“Maine State Police Complaint Form”*



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- ATT 1.docx

### **NOTICE**

**THIS GENERAL ORDER IS FOR USE OF THE MAINE STATE POLICE AND NOT FOR ANY OTHER AGENCY. THE GENERAL ORDER IS NOT INTENDED TO BE RELIED UPON BY ANY OTHER INDIVIDUAL OR PRIVATE OR PUBLIC AGENCY. THE GENERAL ORDER EXPRESSLY DOES NOT CREATE, AND IS NOT INTENDED TO CREATE, A HIGHER LEGAL STANDARD OF SAFETY OR CARE IN AN EVIDENTIARY SENSE WITH RESPECT TO THIRD-PARTY CLAIMS. VIOLATIONS OF THIS ORDER ONLY MAY FORM THE BASIS FOR ADMINISTRATIVE SANCTIONS BY THE MAINE STATE POLICE.**