



**CHAPTER 34
PROFESSIONAL STANDARDS**

Effective: July 2007

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34.0 PURPOSE

The purpose of this chapter is to provide guidelines about the processes for examining a member's conduct or work performance, giving praise or compliments / commendations, asking a question or making an inquiry and conducting administrative reviews.

34.1 POLICY

It is the policy of the Golden Police Department to accept all comments, commendations, inquiries and complaints regarding its members or procedures. To ensure the overall integrity of the department, all complaints will be thoroughly and impartially investigated, regardless of their source. Members will cooperate and assist in the expeditious processing of all professional standards related matters, fully disclose their actions pertaining to any investigation, and keep any involvement confidential, except as required by law.

34.2 OBJECTIVES

The objectives of Professional Standards processes are to:

- A. Provide praise – The public should have a means to recognize department members for their service.
- B. Protection of the public – The public has the right to expect efficient, fair, and impartial police services. Therefore, any misconduct by members must be detected, thoroughly investigated and properly adjudicated to assure the maintenance of these qualities.
- C. Protection of the department – The department is often evaluated and judged by the conduct of individual members. It is imperative that the entire organization not be subjected to public censure because of a few of its personnel. When an informed public knows that its police department honestly and fairly investigates and adjudicates all allegations against its members, public trust is engendered.
- D. Protection of members – Members must be protected against false allegations of misconduct. This can only be accomplished through a consistently thorough investigative process.

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- E. Termination of unfit personnel – Personnel who engage in serious acts of misconduct or who have demonstrated they are unfit for law enforcement work must be terminated for the protection of the public, the department and its members.
- F. Correction of procedural problems – The department is constantly seeking to improve efficiency, effectiveness and training. Occasionally, personnel investigations disclose faulty procedures that would otherwise have gone undetected. These procedures can then be improved or corrected.

34.3 INFORMATION AVAILABLE TO THE PUBLIC

Information about procedures related to Professional Standards processes will be made available to the public for them to provide information about the department or its members. Informational resources include, but are not limited to:

- A. Brochures or other documents available at the department's lobby.
- B. The department's website.
- C. The distribution of business cards by members as required by § 24-31-309 (4)(a), C.R.S. when conducting traffic stops that do not result in the issuance of a summons or an arrest for the purpose of collecting citizen comments regarding a member's conduct.

34.4 INFORMATION REVIEW / CLASSIFICATION

Upon receipt, information related to Professional Standards processes will be reviewed and classified based on the specific nature / content of the information.

- A. Commendation - An expression of praise or admiration for a member's actions and/or service rendered.
- B. Complaint – An expression of dissatisfaction directed at a member's conduct or an alleged violation of a law, department directive or service provided.
- C. Inquiry - A communication directed at the questioning of a member or the department action **without** an underlying complaint, i.e., a person

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unfamiliar with law enforcement and the criminal justice system has a question regarding information, observation or treatment received.

D. Administrative Review:

1. Used to follow-up on situations where the department was involved but any questions or complaints are directed towards other entities, i.e., contracted tow company, another city department; or
2. Used to help evaluate the appropriateness of internal matters such as directives, practices or training.

Throughout any investigation and/or review process, nothing is intended to prevent reclassification based on additional information that is obtained.

34.5 RECEIVING / RECORDING INFORMATION

Information related to a Professional Standards process can be received from any source, internal or external, to include, but not limited to:

- A. In-person.
- B. Telephone.
- C. Facsimile.
- D. Mail.
- E. Email or other electronic methods.

Any member can receive / obtain and record information related to a Professional Standards process. At the time the information is received, it is in the best interest of customer service and the completeness of any investigation to obtain as much information as efficiently and professionally possible.

- A. Information will be recorded using the *IAPro Software Web Application (BlueTeam)* and forwarded directly to Professional Standards.
- B. Entry of personal data, i.e., complainant, location, classification of information, will be entered into the applicable data fields.

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- C. Narratives and other supplemental documents will be forwarded electronically as attachments through the software.

Members are encouraged to try and handle / resolve a matter following the receipt of any information. Any actions by a member shall be documented to minimize any subsequent duplication of efforts.

When Professional Standards receives the information, it will be entered into the *IAPro Software* and assigned a control number. The names of the complainants and members are electronically cross-indexed by the software.

34.6 PRELIMINARY NOTIFICATIONS

Preliminary notifications as part of any of the Professional Standards processes may be in either hard copy or electronic format via email. If received via email, members shall acknowledge receipt through an email receipt (read receipt) using Microsoft Outlook.

- A. Members must have their email configured to allow for read receipts.
- B. Members must send a receipt in response to request for a read receipt.
- C. If a member is not prompted for a read receipt, or does not respond with a read receipt for any reason, the member will respond to the message originator by email and acknowledge receipt.

Commendation notifications:

- A. Named member(s), their supervisor(s) and the Chief of Police will be notified.
- B. Notification to the City Manager or others will be at the discretion of the Chief of Police.

Complaint notifications:

- A. The complainant(s), if known, will be notified in writing of, at minimum, the receipt of the complaint and the name of the assigned investigator.

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- B. The affected member will be notified as soon as practical unless the action would jeopardize any investigation. When notified, the member will be informed, in writing, of:
1. A brief description of the allegation(s).
 2. The name of the complainant unless it would jeopardize the investigation.
 3. The affected member's rights and responsibilities relative to any investigation as outlined in the *Rights and Responsibilities of Members Under Investigation* section of this chapter.
 4. Identification of those persons the affected member may speak to about the investigation.
- C. The affected member's supervisor, Division Head and the Chief of Police will be notified.
1. If a complaint involves an allegation of serious misconduct, the Chief of Police will be notified as soon as possible.
 2. Whenever practical, any notification made to the supervisor, Division Head and the Chief of Police will be made prior to the involved member being notified.
- D. Notification to the City Manager or others will be at the discretion of the Chief of Police.
- E. Throughout any investigation or review process, a member who is not originally named but becomes a subject under investigation will be notified as outlined in this section.

Members will be notified, as necessary, upon receipt of inquiries and administrative reviews based on the type / content of the information received.

34.7 RIGHTS AND RESPONSIBILITIES OF MEMBERS UNDER INVESTIGATION

Whenever a member is under investigation **alleging misconduct** the investigation shall be conducted with the following considerations:

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- A. Members who are the subject of an investigation are ordered not to speak with anyone about the investigation except those who have been identified during the notification process; and if applicable the member's legal counsel.
- B. When possible, the member, who is the subject of an investigation, shall be given advanced notice of any scheduled interview. Advance notice shall not be given in cases of extreme sensitivity, such as, when evidence could be removed, destroyed, or altered, or potential witnesses intimidated or suborned.
- C. The member being interviewed shall be treated with respect.
- D. Investigative interview questioning will be specifically directed and narrowly related to the performance of official duties, fitness for duty, alleged violation of city or department rules, regulations, policy, procedures, guidelines, laws or orders. Members shall answer all questions that relate to the conduct under investigation honestly, completely and to the best of their knowledge and ability. The member must answer questions even if the answers may result in departmental sanctions. Failure to do so shall constitute a separate violation and will result in dismissal.
- E. Interviews shall be conducted at a reasonable hour, preferably when the member is on duty. If that time frame conflicts with the work schedule of the investigator, a reasonable time will be agreed upon by the investigator and the member. If the seriousness of the investigation requires immediate action, the investigator may proceed as needed.
- F. Interview sessions will be for reasonable periods and will allow for reasonable personal necessities and rest periods.
- G. Members subject to an interview for administrative purposes may not, unless permitted by the Chief of Police, have an attorney present during the interview. The Chief of Police will generally extend courtesy to the member to have an identified representative present, who could be an attorney. This cannot be a member involved in the same allegation. The representative must be willing to accept the terms and conditions for participation.

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34.8 INVESTIGATION

Any time the department determines that it is necessary to investigate events or circumstances an investigation will be initiated.

To ensure the integrity of departmental operations and all members, the department will investigate all allegations of misconduct, regardless of their source. Anonymous complaints will be thoroughly reviewed for validity and disregarded only if it is determined the complaint is without merit.

34.8.1 Authority to Investigate

Professional Standards and/or any assigned investigators, regardless of rank, act **directly** under the authority of the Chief of Police while conducting a professional standards investigation.

34.8.2 Assignment of Investigation

An investigation involving misconduct can be assigned to the member's supervisor, another supervisor, any Division Head, an external criminal justice agency / investigator or Professional Standards. Assignment will generally be as follows:

- A. Professional Standards will investigate, unless otherwise ordered by the Chief of Police:
 1. All allegations of serious misconduct (on or off duty) which includes, but is not limited to, criminal misconduct or serious deviations from department or city directives, i.e., false arrest, harassment based on discrimination, perjury, falsifying official documents / reports, civil rights violations, excessive use of force, bias based policing.
 2. Incidents involving the discharge of a firearm, including off duty and accidental situations, excluding firearms training, recreation, or on duty animal destruction.
 - a. The professional standards investigation may be conducted in addition to any investigation conducted by the First Judicial District Law Enforcement Critical Incident Response Team (CIRT).

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- b. Incidents involving members assigned to the Jefferson County Regional S.W.A.T. Team or any multi-jurisdictional task force are also subject to investigation.
- 3. Any situation where any action of a member, while acting in an official capacity, results in death or serious bodily injury to any person.
 - B. Allegations of minor misconduct (on or off duty) will be referred to a supervisor for investigation unless otherwise ordered by the Chief of Police. Minor misconduct includes, but is not limited to, minor deviation from department or city directives, discourtesy, misuse or abuse of equipment, work attendance, demeanor, attitude or other administrative violations.
 - C. Scheduling considerations will be taken into account when assigning an investigation.
 - D. In all cases, the assigned investigator will keep the Chief of Police, through Professional Standards, apprised of the investigation.

Inquiries and administrative reviews can be conducted by any member of the department, another criminal justice agency / investigator.

When any case is assigned to a Division Head, the actual investigation may be delegated to a watch commander or supervisor.

34.8.3 Commencement / Timeliness of Investigation

Professional standards investigations will be initiated within 7 business days following notification of an event unless otherwise directed by the Chief of Police. Once initiated, the investigation phase will be completed in a timely manner; 30 business days from the date of initiation.

Extensions may be requested from the Chief of Police through Professional Standards. The investigator cannot extend the investigation phase without approval from the Chief of Police. When an extension has been authorized, the affected member will be notified unless such information would jeopardize the case. The complainant will be notified, as needed.

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Should a complainant inquire about the status of the investigation, they will be given an update unless such information would jeopardize the case.

34.8.4 Investigative Procedures

The investigation will be conducted using standard investigative procedures. The Chief of Police may require the member to submit to any or all of the following procedures in which case the member will receive a signed order from the Chief:

- A. Medical or laboratory examination.
- B. Photographs, other than those on file.
- C. Audio or video recordings, other than those on file.
- D. Participation in a line-up.
- E. Submission of financial disclosure statements.
- F. Use of instrument(s) for the detection of deception.

34.8.5 Investigation of Non-Criminal Conduct

If a member is under investigation and the scope is non-criminal in nature, the member will be so advised. This may include an administrative advisement (Garrity). The member will be interviewed whether or not the administrative advisement is given. When the administrative advisement (Garrity) is given, statements or other evidence directly obtained or provided by a member cannot and will not be used in a criminal investigation.

34.8.6 Investigation of Criminal Conduct

If a member is under investigation and the scope is criminal in nature:

- A. The member will be advised of the criminal nature, unless it would jeopardize the criminal investigation.
- B. The criminal investigation shall generally proceed first. In the event the criminal investigation is within the department's jurisdiction, it will be conducted by an investigator assigned by the Chief of Police. This may be in conjunction with an external criminal justice agency / investigator.

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- C. Professional Standards will monitor the progress and outcome of the investigation to determine if there are any violations of city or department directives. Lack of evidence to substantiate a criminal charge does not preclude an investigation into violations of city or department directives.
- D. The member under investigation will be responsible for keeping Professional Standards apprised of the progress of any criminal case being conducted by an external agency or investigator. The member will provide updates as directed.

34.8.7 Investigations Where Criminal Conduct is Discovered

In cases where apparent criminal conduct is discovered during an investigation:

- A. The professional standards investigation will be paused briefly and the appropriate authorities advised.
- B. The Chief of Police will be notified immediately.

34.8.8 Findings

After receiving, collating and reviewing all of the investigative reports and information, the investigator will arrive at a finding.

- A. Findings for investigations involving misconduct:
 - 1. Proper Action – The member acted lawfully and within department or city directives.
 - 2. Substantiated – Allegation is supported by a preponderance of the evidence.
 - 3. Unsubstantiated – Insufficient evidence to prove or disprove the allegation.
 - 4. Outcome Not Based On Complaint – Outcome not alleged in the complaint but disclosed by the investigation, i.e., policy failure, misconduct not based on complaint, training issue.
 - 5. Unfounded – The allegation is false or not factual.

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6. Exceptionally Cleared – Accused member is no longer a member of the department at the conclusion of the investigation.
- B. The finding for inquiry and administrative review investigations will be closed.

34.9 PROFESSIONAL STANDARDS INVESTIGATIVE REPORT

At the conclusion of the investigation, the investigator shall prepare a report containing the following:

- A. Allegation (if there was misconduct).
- B. Investigation.
- C. Conclusion of facts (if there was misconduct).
- D. Findings.

34.10 INVESTIGATION REVIEW / CLOSURE

Efforts will be made to move the completed investigation through the review process as expeditiously as possible. It is unrealistic to target time frames. Case reviews may involve persons external to the department. As such, the department has limited control over the amount of time the review may take.

Throughout the investigation review / closure process, notifications may be in either hard copy or electronic format via email. If received via email, members shall acknowledge receipt as described in the *Preliminary Notifications* section of this chapter.

For investigations involving misconduct:

- A. The report (including all pertinent supportive information) will be forwarded to the investigator's Division Head for composition review. The Division Head will review the report **solely** for composition to include accuracy, completeness and grammar, appropriateness of violations alleged, conclusions and findings. Once reviewed, the report will be forwarded through the affected member's chain of command for further review and recommendations.

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- B. The affected member's Division Head will review the report and provide their recommendations which will include a course of action(s) to be taken. The Division Head will involve a member's supervisor in making recommendations. The report will be forwarded to the Chief of Police for review.
- C. When the Chief of Police's review and final disposition is reached, the report will be returned to Professional Standards. The Chief of Police, through Professional Standards will:
 - 1. Notify the member's Division Head and supervisor of the final disposition and any corrective and/or disciplinary action that is to be imposed.
 - 2. Notify the involved member in writing of the findings of the investigation. An explanation of the findings as outlined in the *Findings* section of this chapter will accompany the findings.
 - 3. Notify the complainant in writing of the finding of the investigation. No information will be released regarding any corrective and/or disciplinary action.
- D. Division Heads are responsible for carrying any recommendations through to closure and notifying Professional Standards once completed.
- E. The case will be listed as closed after Professional Standards has been notified that any recommendations have reached closure. The case will be filed in Professional Standards in numerical order. Each case will be numbered based on the calendar year and order received, i.e., 2007-001.

Investigations involving inquiries or administrative reviews will be forwarded to Professional Standards. They will direct any reviews, as needed.

**34.11 AUTHORITY OF THE CHIEF OF POLICE DURING A
PROFESSIONAL STANDARDS INVESTIGATION**

During an investigation of any alleged misconduct by a member, the Chief of Police or designee may take any of the following actions:

- A. Continue the member on duty as assigned.

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- B. Continue the member on duty in a different assignment.
- C. Place the member on investigative leave with / without pay pending results of department and/or criminal proceedings.

34.12 INVOKING IMMEDIATE LEAVE

Any Division Head or supervisor is authorized to immediately place a member on leave with pay whenever, in their opinion, such action is in the best interests of the department and/or health, safety or welfare of the city or community. If circumstances permit, the supervisor will notify and consult with a Division Head prior to placing the member on leave.

34.13 CHIEF'S MEETING PROCEDURES

The Chief of Police shall conduct a Chief's Meeting in all cases where disciplinary action is being considered.

A Chief's Meeting is a member's opportunity to provide input directly to the Chief of Police prior to a final decision on disciplinary action. This meeting allows the member whose allegations of misconduct are substantiated an opportunity to present any facts in mitigation, any clarification, and/or to point out any errors or perceived inaccuracies in the investigation. No discipline or job action decisions shall be made at the Chief's Meeting.

Members will be afforded an opportunity to review the investigation file prior to the meeting. Professional Standards will arrange a mutually agreeable time during normal business hours for the review.

Generally, the only persons present during the Chief's Meeting will be the affected member, the Chief of Police and the member's Division Head. The Chief of Police reserves the authority to extend the member the courtesy of allowing an identified representative. The representative may be legal counsel, who may serve in an advisory role but cannot be another member involved in the same incident.

After the Chief's Meeting, the member shall be afforded 3 business days to submit in writing any further mitigation, clarification and/or information. This will be for the Chief of Police's consideration prior to any decision being made regarding disciplinary action.

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34.14 CORRECTIVE ACTION AND DISCIPLINE / AUTHORITY TO IMPOSE

In addition to those outlined in this section, the Chief of Police may impose other forms of corrective and disciplinary action deemed appropriate.

For any corrective or disciplinary action resulting in a written reprimand or higher, notification will be made to Human Resources for notation / inclusion in a member's personnel file.

34.14.1 Corrective Action

In addition to any other documentation requirements, any corrective action will be noted in a member's *Supervisor's Employee Log*.

Training:

- A. Training may be utilized by itself or in conjunction with other elements in cases where a lack of knowledge was found to play a prominent role in the infraction.
- B. Corrective action in the form of training may be imposed by the Chief of Police, a Division Head or supervisor.

Verbal counseling / reprimand:

- A. Verbal counseling / reprimand of a member may be used to resolve allegations of misconduct or address work performance matters that need to be corrected.
- B. Corrective action in the form of verbal counseling / reprimand can be imposed by the Chief of Police, a Division Head or supervisor.

Written reprimand:

- A. A written reprimand may be issued as a result of an investigation of alleged misconduct, when there is a finding of misconduct or to resolve work performance matters not constituting misconduct.
- B. Written reprimands will describe the action that constitutes misconduct or unacceptable behavior, any written directive that was violated, and the

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specific incident. Where applicable, it will also set forth any corrective action a member must take.

- C. Corrective action in the form of a written reprimand can be imposed by the Chief of Police or a Division Head.

34.14.2 Disciplinary Action

Disciplinary action, defined by the city as loss of pay, suspension, demotion, or termination, may be used for the violation of city or department directives. Only the Chief of Police can impose disciplinary action.

When disciplinary action is imposed, a member will receive in writing:

- A. A statement citing the reason for the disciplinary action.
- B. The effective date.
- C. A statement of the status of accrued employee benefits that are affected.
- D. A statement that a copy of disciplinary action will be placed in the member's personnel file.

34.15 DISCIPLINARY ACTION CONCERNS

Any member who has concerns regarding any disciplinary action is directed to the *Open-Door Policy* section of the *City of Golden Employee Handbook*.

34.16 FILE CONFIDENTIALITY

The contents of professional standards investigations and files are confidential and are the property of the Chief of Police. The files will be secured and maintained by Professional Standards.

- A. No one will be allowed access to these files without written permission from the Chief.
- B. Any external entity conducting background or other investigations will need to present an order from a court, or a signed waiver and release specifically directed at the review of such files prior to being allowed access.

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The findings and outcomes of professional standards investigations can be included in administrative, informational or other reports, based on department needs.

34.17 PROFESSIONAL STANDARDS ANNUAL REPORT

Professional Standards shall compile the data from the database and prepare an annual report that is approved by the Chief of Police or designee. This report will be structured to include the applicable formats and methods for examination of each area, topic and/or data point tracked by Professional Standards.

- A. A statistical summary of professional standards investigations will be made available to the public and members through the intranet and department's website.
- B. A compilation of information pursuant to § 24-31-309 (4)(c), C.R.S. reflecting the result on calls received as a result of the distribution of business cards on traffic stops that alleged profiling will be made available to the public through the department's website. The information may include any costs incurred by the department for complying with the provisions of the statute. The names of involved members or complainants alleging profiling **will not** be included.

34.18 RETENTION OF PROFESSIONAL STANDARDS FILES

Any hard copies of Professional Standards files will be retained for the remainder of the calendar year. After that time, they will be scanned into electronic form, if not already completed, and the hard copies destroyed. The electronic files will be maintained in accordance with the *Colorado Municipal Records Retention Schedule*. After the retention period has elapsed, the electronic files shall be purged. The purging will exclude those investigations involving ongoing criminal investigations or where civil litigation is pending.