

LEGISLATIVE RESOURCE SHEET | 2018 SESSION

Minnesota Chiefs of Police Association

ISSUE/LEGISLATION:

LAW ENFORCEMENT INTEGRITY ACT

The MCPA supports allowing for a Minnesota Licensed Peace Officer to be terminated from public employment without opportunity to challenge the remedy of termination should the basis for termination be willful or intentional dishonesty, deception, or similar unethical or illegal conduct that is deemed sufficient to imperil their credibility in court testimony. The MCPA does not support limiting an officer's due process right to arbitration.

PROPOSAL STATUS

MCPA will actively support this proposal as part of its 2018 Legislative Agenda

- A licensed peace officer, as defined in MS 626.84, may be terminated from public employment when a peace officer is found to have engaged in willful or intentional dishonesty, deception, or similar unethical or illegal conduct that a prosecuting authority deems sufficient to require disclosure in accordance with the Brady vs. Maryland United States Supreme Court decision.

BACKGROUND

Nothing in this provision limits the accused peace officer's ability to access any and all due process rights to challenge an assertion of willful or intentional dishonesty, deception, or similar unethical conduct

When upon thorough investigation, an employing law enforcement agency identifies Brady qualifying conduct as previously described, the chief law enforcement officer shall submit a summary of the findings to the local county attorney or state attorney general in the case of peace officers employed by a state agency

The disciplinary summary of findings report shall include sufficient details to establish the agency's basis for findings at the clear and convincing burden of proof. The report

shall not include the name of the accused peace officer or other clearly identifying characteristics from the investigative summary and findings.

The prosecuting authority shall within 10 business days provide the chief law enforcement officer with a written determination whether the alleged conduct requires a Brady-Giglio determination in accordance with the rules of criminal procedure or if additional information is required.

If the prosecuting authority determines Brady status based on the alleged conduct, the employing law enforcement agency serve notice upon the accused peace officer and peace officer's collective bargaining unit, notice of intent to terminate the peace officers employment based upon engagement in conduct supporting a Brady determination.

If the prosecuting authority deems the conduct to warrant Brady-Giglio status the employer may take immediate action to terminate the peace officer's employment. In accordance with collective bargaining agreement may engage binding arbitration. The focus of arbitration is limited to the alleged conduct as opposed to the employer's proposed remedy. If the designated arbitrator determines the employer has not met the requisite burden of proof to establish that the employee engaged in willful or intentional dishonesty, deception, or other serious unethical conduct that would require disclosure in accordance with Brady - Giglio decisions

When a law enforcement agency sustains a complaint of conduct in accordance with the generally accepted investigative practices and evidentiary levels, the chief law enforcement officer will notify the accused peace officer and their collective bargaining unit within five business days.

In accordance with the collective bargaining agreement, the accused officer desiring to challenge the finding of willful or intentional dishonesty, deception, or similar unethical conduct that could require disclosure in accordance with Brady - Giglio and may be sufficient to imperil the peace officer's credibility in court testimony, may initiate a grievance to move immediately to binding arbitration.

Nothing in this Act shall limit the authority of the prosecuting authority from determining a Brady-Giglio status regardless of the outcome of binding arbitration. However, in the circumstance where an arbitrator rules that the employer did not meet the required burden of proof, the employer may not implement the remedy of termination, but the prosecutor's determination may not supersede the determination by a duly qualified prosecutor.