

P.O. 209 Complaints and Administrative Investigations

Effective From:	02-04-2020	Effective To:	Current
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I. P.O. 209 - Complaints and Administrative Investigations

1. PURPOSE

- i) To instill public trust and confidence in the Department of Public Safety and its members. Furthermore, to ensure all members of the Department abide by all state and federal laws as well as all established policies.

2. DEFINITIONS

- i) Administrative Investigation - A non-criminal investigation of a DPS Policy & Procedure violation, conducted by an authorized representative of the appointing authority.
- ii) Loudermill Letter - Letter prepared by the Office of Legal Affairs and provided to the employee notifying him of the Department's intention to discipline him.
- iii) Disciplinary action
 - a) Troopers are governed by [LSP Commission Rule 12.2](#)
 - b) DPS Officers are governed by [Civil Service Rule 12.3](#)
 - c) State Civil Service Commission and the Louisiana State Police Commission have recognized that the provisions of R.S. 40:2531 are an unconstitutional infringement on their constitutional authority to hear and decide disciplinary appeals and will not enforce the provisions of the statute. The Louisiana State Police Commission has adopted a set of minimum standards, which govern administrative investigations of Louisiana State Troopers, which are contained in Chapter 12 of the Louisiana State Police Commission Rules.
 - d) The provisions of R.S. 40:2531 may serve as a guideline in conducting administrative investigations of commissioned officers who are governed by the State Civil Service Commission.
- iv) Complaint - An allegation of misconduct against an employee of the Department of Public Safety and Corrections.

3. RECEIVING COMPLAINTS

- i) The supervisor or, in his absence, the acting supervisor, shall receive all complaints.
- ii) Complaints should be received with an unbiased, nonjudgmental attitude by the supervisor taking the complaint.
- iii) All allegations of misconduct shall be recorded on a Personnel Complaint Referral Form ([DPSSP 4424A](#)), and immediately forwarded to the Troop/Section Commander. The form shall be retained for three (3) years.
- iv) A complainant shall never be told to return at a later time or date to file a complaint.
- v) The Troop / Section Commander or his designee shall ensure that the complainant is provided with the Personnel Complaint Affidavit ([DPSSP 4424B](#)). Commanders should document on the Personnel Complaint Referral Form ([DPSSP 4424A](#)) the method by which the complainant is provided access to the affidavit. The affidavit may be filled out in person, mailed, faxed, emailed, or accessed via the internet. If the complainant does not provide a notarized Personnel Complaint Affidavit within thirty (30) calendar days, the Troop / Section Commander may, at his discretion, place the complaint in the closed status. The form shall be retained for three (3) years.
- vi) Upon receipt of the completed Personnel Complaint Affidavit, the Troop / Section Commander has fourteen (14) calendar days to initiate an investigation.
- vii) Upon receipt of the Personnel Complaint Affidavit, the Troop / Section Commander shall determine if the allegation, if sustained, would warrant disciplinary action.
- viii) If it appears that the issue is nothing more than a complainant's lack of knowledge of Department policies and procedures, no investigation needs be conducted and no report needs be filed.

- ix) Once the Troop / Section Commander determines an investigation will be initiated, the Commander shall immediately enter the information into the LSP Non-IA Case Management database or contact the Internal Affairs Section and obtain a tracking number, which will be affixed to all documents related to the specific case.
- x) If the complainant is anonymous, the supervisor accepting the complaint shall complete as much of the Personnel Complaint Referral Form [\(DPSSP 4424A\)](#) as possible, given the information received. The Troop / Section Commander or his designee shall investigate, provided the complaint contains sufficient factual information to warrant an administrative investigation.
- xi) In cases where the identity of the commissioned officer is unknown, the investigator should use all available means to determine positive identification.
- xii) Each Troop / Section Commander shall create a complaint file and each complaint handled at the Troop / Section level will be retained in a secure location for a period of three (3) calendar years.

4. INVESTIGATIVE AUTHORITY

- i) The Internal Affairs Section shall investigate use of force complaints which result in the complainant receiving medical treatment, bias-based / racial profiling complaints, and all other complaints as directed by the Appointing Authority.
- ii) Troop / Section Commanders shall be responsible for investigating minor property and procedural complaints. Commanders may delegate this responsibility to a supervisor.
- iii) If the Troop / Section Commander or his designee begins an administrative investigation and determines that the complaint is more serious than originally thought, he should suspend his investigation and promptly request through the chain-of-command that Internal Affairs assume the investigative responsibility. The Commander shall forward a summary of the administrative investigation together with all documents and related evidence through the chain-of-command to the Superintendent.
- iv) If during an administrative investigation facts are revealed that indicate a potential violation of criminal law, the investigation will be suspended and immediate notification made to the Superintendent for a decision of whether a criminal investigation is warranted.
- v) Complaints relative to differences of opinion between police officers and citizens over the issuance of traffic citations do not come under the purview of this order. The complainant should be advised to pursue the matter through the judicial system for resolution. However, such a complaint which also alleges any violation of law or policy shall be investigated in accordance with the procedures outlined in this order.

5. GUIDELINES FOR CONDUCTING AN ADMINISTRATIVE INVESTIGATION

- i) When the Troop / Section Commander initiates an administrative investigation, he shall promptly notify the employee in writing that he is the subject of an administrative investigation. The notification shall include the specific type of allegation under investigation and the employee's responsibility, as referred to in this order. Employee notification may be withheld if such notification might impede the investigation or if the nature of the allegation(s) warrants a delay.
- ii) General Guidelines
 - a) Care should be taken with regard to confidentiality of the investigative procedures at all times.
 - b) All interviews should be conducted in secure areas to ensure the confidentiality of information provided.
 - c) These guidelines are not intended to be all-inclusive. Additional steps may be necessary and required, depending on the complexity of the particular case.
 - d) All DPS employees having knowledge of the alleged incident or information related thereto shall be required to provide a recorded statement. All other persons / witnesses having knowledge of the alleged incident or information related thereto should be required to provide a recorded statement.

- e) The Department's preferred method of obtaining a recorded statement is via digital audio recording. However, in the event this is not feasible for the interviewing of complainants or witnesses, a written statement may suffice.
 - f) The Department requires that prior to formal questioning or interviewing of any Department of Public Safety Employee, the employee shall be advised of his administrative rights as noted on the Administrative Advice of Rights Form ([DPSSP 6681](#)). The entire session, to include the reading of the Administrative Advice of Rights Form, shall be recorded.
 - g) The accused officer(s) or witness officer(s) should not be permitted to read the written statement of the complainant or witness(es) until the administrative investigation is concluded. For purposes of this order, an investigation shall not be deemed concluded until a commissioned officer has exhausted all appeal rights.
 - h) Upon written request of the officer under investigation, he shall be provided a recorded copy of his recorded statement.
- iii) Investigative Procedure
- a) Request the complainant complete and sign a Personnel Complaint Affidavit ([DPSSP 4424B](#))
 - b) Contact the complainant to obtain a written / audio recorded statement of the allegation(s).
 - c) Question the complainant with regard to:
 - 1) The date, time, and place of incident
 - 2) The names, addresses, phone numbers, and other relevant information for any witnesses
 - 3) The name of employee(s) involved, and physical descriptions, if possible
 - 4) The nature and extent of any injuries sustained by the complainant, and if medical treatment was provided, name of physician and/or location where treatment was rendered
 - 5) Any opinion the complainant may have as to why the incident transpired
 - d) Request the complainant sign a Medical Release Form ([DPSSP 4425](#)), if needed during the course of the investigation.
 - e) Request the complainant provide documentation which may be relevant to the investigation including, but not limited to:
 - 1) Medical records
 - 2) Citations
 - 3) Property damage
 - 4) Photographs
 - 5) Video
 - f) Take photos of any visible injuries sustained by the complainant or of any property damage associated with the complaint.
 - g) Gather and review all departmental records or reports which may relate to the incident. These documents also serve as a basis for questioning the complainant, witnesses or officers. These records include, but are not limited to:
 - 1) Arrest reports
 - 2) Case reports
 - 3) Crash reports
 - 4) Intoxilyzer test results
 - 5) Audio/Video tapes
 - 6) Desk log
 - 7) Radio log
 - 8) All other written statements
 - h) Interview all other civilian witnesses.
 - i) Interview all other departmental witnesses.

- j) Interview the accused officer(s).
 - k) Final Report Preparation
 - 1) Review all documents, statements, and other evidence and prepare a complete and thorough final report.
 - 2) Opinions which cannot be substantiated should not be included in the report.
 - 3) Indicate a final conclusion / disposition for each allegation in accordance with the definitions outlined below.
 - (i) Unfounded - The allegation is false, not factual.
 - (ii) Exonerated - The incident did occur, but is lawful, proper, or otherwise justified under existing conditions.
 - (iii) Not sustained - There is insufficient evidence to prove or disprove the allegation.
 - (iv) Sustained - The allegation is supported by sufficient evidence.
 - 4) If any allegation is sustained, the final report should cite the specific Procedural Order(s) violated by the employee. The Troop / Section Commander should include recommendations for disciplinary action, training, or other corrective action, in the final report.
 - 5) At the conclusion of the administrative investigation, a written report of findings shall be provided to the employee and the complainant. If the employee receives a final letter of disciplinary action, it will suffice as notification.
6. INVESTIGATION ROUTING / DISPOSITION
- i) All requests for an Internal Affairs investigation shall be promptly forwarded through the Commander's chain-of-command to the appointing authority, via email or written correspondence. After review by the appointing authority, he may direct in writing the Internal Affairs or Troop / Section Commander to investigate the complaint.
 - ii) The Internal Affairs Commander shall notify the appointing authority as soon as possible when there is a serious violation of policy or law. The written report shall be forwarded through his chain-of-command to the Superintendent for final disposition.
 - iii) Investigators shall complete all administrative investigations within sixty calendar days.
 - iv) If extenuating circumstances result in the administrative investigation exceeding applicable deadlines, the Troop / Section Commander shall request an extension through his chain-of-command to the State Police Commission (SPC) or the SPC Executive Director. Extension requests to the SPC or the SPC Executive Director shall be submitted in a timely manner to ensure sufficient time to petition the LSP Commission. The appointing authority can enter into a written agreement with the police employee extending the investigation for up to an additional 60 days.
 - v) The investigating Commander shall ensure the report is finalized and properly routed in order for the appointing authority to make a determination of appropriate action within sixty (60) days of initiating the investigation, unless an extension has been applied for and granted. Routing of the final report is as follows:
 - a) Internal Affairs Investigator or Troop / Section Investigator routed to Troop / Section Commander for review and recommendation of the disciplinary action.
 - b) Troop / Section Commander to the applicable Commander for review and recommendation of disciplinary action.
 - c) Commander to Office of Legal Affairs for review and written opinion.
 - d) Office of Legal Affairs to Disciplinary Review Committee members for final review and recommendation to the Superintendent for disposition.
 - vi) If the appointing authority determines that disciplinary action is not warranted, then the original administrative investigative report will be forwarded to the Internal Affairs Section to be filed accordingly.

- vii) If the appointing authority determines that disciplinary action is warranted, the administrative investigation report shall be forwarded to the Internal Affairs Commander who will ensure that the report is immediately distributed to the Office of Legal Affairs for preparation of the Loudermill letter. Upon receipt of the report, the Office of Legal Affairs shall prepare this letter within 45 business days for the Superintendent's signature.
- viii) After the appointing authority signs the Loudermill letter, it shall be delivered to the Internal Affairs Commander, who shall ensure that it is delivered to the employee within seven (7) calendar days.
- ix) An employee has seven calendar days to respond to the Loudermill letter. If the employee responds, the Internal Affairs Commander shall immediately forward the response to members of the Disciplinary Review Committee. If an employee does not respond, the Internal Affairs Commander shall notify the Office of Legal Affairs that the time for response has expired.
- x) Upon notification that the response time has expired, the Office of Legal Affairs shall prepare a final letter of disciplinary action for the Superintendent's signature.
- xi) After the appointing authority signs the final letter of disciplinary action, it shall be delivered to the Internal Affairs Commander, who shall ensure that it is delivered to the employee.
- xii) When the appointing authority signs the final disposition of an administrative investigation, the investigating Commander shall notify the employee and complainant of the conclusion of the investigation within seven calendar days. A copy of these letters shall be forwarded to the Superintendent.
- xiii) In the event that an employee is dismissed or chooses to resign, Commanders shall ensure that a Resignation and Exit – Interview Report (SF-14), is completed and the appropriate signatures obtained to provide proper notification of an employee's separation from employment.
- xiv) If extenuating circumstances result in a routing process delay exceeding applicable deadlines, the appropriate supervisor shall forward a written explanation through his chain-of-command to the Superintendent.

7. EMPLOYEE RESPONSIBILITY

- i) Internal Affairs investigators or designated Administrative Investigators shall receive the full cooperation of any employee of the Department of Public Safety and Corrections, Public Safety Services, during the course of an administrative investigation. Employees shall obey any lawful order or directive given by the investigator during an investigation.
- ii) Ongoing administrative investigations are considered confidential and as such, officers shall not violate that confidentiality. Those in violation are subject to disciplinary action.

8. DISCIPLINARY REVIEW COMMITTEES

- i) Pursuant to LA R.S. 36:401, et seq, and Louisiana State Police Commission (LSPC) Rules, Chapter 1, and State Civil Service Commission (SCSC) Rules, Chapter 1, the Deputy Secretary of the Department of Public Safety and Corrections, Public Safety Services, is the Appointing Authority for the Office of State Police. The Appointing Authority or his designee may discipline employees in accordance with applicable LSPC or SCSC Rules.
- ii) In order to reach fair and equitable decisions regarding discipline, the Appointing Authority or his designee may consult with anyone in the employee's chain of command and may convene a disciplinary review committee to review the findings of an administrative investigation and make recommendations to him regarding the findings and discipline.
- iii) Fleet crashes, investigations of harassment and discrimination, and shooting reviews are governed by other provisions of policy and procedures.
- iv) The consultation with a disciplinary review committee is in no way intended to usurp the authority of the Deputy Secretary or his designee as he and his designee retain decision making authority. Furthermore, these procedures are not intended to, nor do they create any

additional due process beyond that provided for in LSPC and SCSC Rules.

- v) A disciplinary review committee consisting of the Superintendent and / or the Assistant Superintendent / Chief of Staff, any or all Deputy Superintendents, the Major, and the Captain in the employee's chain of command may be convened.
- vi) Members of any disciplinary review committee may meet in person or otherwise participate in a meeting to consider any administrative investigation.
- vii) The Assistant Superintendent / Chief of Staff should notify committee members of the date and time of any meeting and may also include members of Internal Affairs, the Office of Legal Affairs, any Subject Matter Expert (SME), or anyone else he deems appropriate to the process. The Appointing Authority or his designee may exclude anyone from a disciplinary review committee, and anyone may recuse themselves from a disciplinary review committee for any reason including, but not limited to, any conflict of interest or relation to the employee.
- viii) If an employee submits a response to a Loudermill letter or the Appointing Authority or his designee determines a matter warrants additional consideration, any disciplinary review committee convened to initially consider the case may be reconvened by the Assistant Superintendent / Chief of Staff. The Assistant Superintendent / Chief of Staff may include additional persons in any subsequent meeting to aid the Appointing Authority or his designee in reaching a final decision.
- ix) Any meetings of any disciplinary review committee are considered to be a use of the deliberative process for the determination of findings of administrative investigations and discipline and are therefore privileged and confidential. Furthermore, any legal advice or opinion provided by agency attorneys in connection with administrative investigations and the disciplinary process are subject to the attorney-client privilege. Anyone revealing any information regarding the substance of any disciplinary review committee without the express permission of the Appointing Authority is subject to discipline or other appropriate action.