

**SOUTH CAROLINA DEPARTMENT OF NATURAL RESOURCES
LAW ENFORCEMENT DIVISION DIRECTIVE**

DIRECTIVE #: D 321

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SUBJECT: COMPLAINT PROCEDURE - INTERNAL AFFAIRS DATE: NOV 21, 1997

RELATED DIRECTIVES, STANDARDS, ETC.:

LAST REVISION: May 26, 2023

RESPONSIBLE AUTHORITY: LT. COLONEL OF LAW ENFORCEMENT

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PURPOSE: The purpose of this directive is to establish guidelines and procedures for receiving, reporting, investigating, and adjudicating allegations of officer misconduct.

DIRECTIVE: It is essential that the Division's personnel and the citizens of this state have confidence in those who exercise law enforcement authority. This requires procedures for adequate and expeditious investigations of allegations of misconduct by employees.

PROCEDURES:

A. Internal Affairs Function

The Lt. Colonel of Law Enforcement is responsible for the administration of internal affairs function.

- 1) An Internal Affairs Officer (IAO) will assist the Lt. Colonel for Law Enforcement with this responsibility, by:
 - (a) Receiving, documenting, and maintaining files on all information pertaining to allegations of employee misconduct. These files will be maintained in a secure area.
 - (b) Conducting, supervising, or coordinating the investigation of alleged or suspected misconduct within the Law Enforcement Division or within other Divisions upon authorization from the Director or Lt. Colonel.
 - (c) Maintaining the confidentiality of all internal affairs investigations and records to the maximum extent allowed by law.

- 2) Appropriate logs for complaints will be maintained by the Lt. Colonels' office.

B. Nature of Complaint

- 1) Low Infraction Allegations that involve:
 - (a) Misunderstandings between a citizen and an employee.
 - (b) Breaches of policies or directives of a less serious nature.
- 2) High Infraction
 - (a) All allegations brought against an employee of a criminal nature or serious enough to warrant personnel action such as suspension or termination. Allegations of criminal conduct may be reported to SLED or other appropriate law enforcement authority.
- 3) All complaints shall be reviewed by the internal affairs function.
- 4) Line supervisors may investigate a low infraction allegation.
- 5) The Lt. Colonel for Law Enforcement will be notified in a timely manner of all allegations of high infractions. In addition, the agency will acknowledge receipt of the complaint in the appropriate manner.
- 6) Any investigation of an employee regarding a minor policy breach or of a non-serious nature conducted by line supervisor, must be fully documented. The results of the investigation, along with all accompanying documentation will be forwarded to the Lt. Colonel's office for review and retention.
- 7) An internal affairs investigation is required following allegations against an employee of a criminal nature, or which involve a lack of candor, unless more appropriately referred to another jurisdiction.
- 8) An internal affairs review is required following allegations serious enough to result in suspension, devotion, or termination of an employee, including circumstances where another jurisdiction conducts the investigation.

C. Procedure for Accepting Allegations Against Agency Members

- 1) The department shall provide any citizen information on how to file a complaint against the department or its employees. Complaints may be submitted in person, in writing or by phone.
- 2) All complaints will be accepted and investigated.
- 3) Any employee receiving a complaint on an employee shall forward such complaint to the office of the Lt. Colonel to be assigned for investigation.

IMPORTANT: Nothing contained herein should be constructed so as to prevent any person with information about misconduct from going directly to the Lt. Colonel for Law Enforcement.

D. Assignment of the Investigation

- 1) Allegations of any infraction shall be assigned for investigations in the following manner, the Lt. Colonel for Law Enforcement shall assign a supervisor to investigate the allegation as soon as possible or refer the matter to the IAO or another investigative agency if he feels it is warranted.

F. Notification to Officers of Internal Affairs Investigation

Any employee who is the subject of an internal affairs investigation will be informed of any allegations in writing by the Lt. Colonel for Law Enforcement or his designee. Investigations conducted by external authorities will dictate how and when the subject is informed.

G. Responsibilities of Employee

Employees will cooperate fully with any internal investigation. Employees are expected to answer questions specifically and narrowly related to the subject of the investigation and may be compelled to answer questions relating to non-criminal conduct or in compliance with Garrity v. New Jersey, 385 U.S. 493 (1967).

H. Polygraph Examinations

Employees who are the subject of an investigation may be requested to submit to a polygraph examination in order to determine deception. No subject may be compelled to submit to a polygraph examination without approval of the Colonel or Lt. Colonel of law enforcement. Any ordered examination must be in accordance with Garrity v. New Jersey, 385 U.S. 493 (1967). Refusal to submit to such examination may result in disciplinary action in accordance with the Standards of Disciplinary Action Policy #701.03.

I. Further Testing or Disclosures

The Colonel or Lt. Colonel for Law Enforcement may require any employee who is the subject of an investigation to submit to any following tests or disclosures. The tests or disclosures must be specifically directed and narrowly related to the subject of the internal investigation.

- (a) Medical or laboratory examination of the employee, to include chemical tests such as blood, breath, and urine;
- (b) Photographs of the employee;
- (c) Audio or video recording;
- (d) Participation in a line-up; and/or
- (e) Financial disclosure statements.

Failure to follow a direct order of this nature may result in disciplinary action against an employee in accordance with the Standards of Disciplinary Action, Policy #701.03.

J. Employee Rights

- 1) Employees have the same rights guaranteed to all citizens by the Constitution and laws of the State of South Carolina and of the United States.
- 2) Employees have the right to:
 - (a) be treated fairly,
 - (b) be informed of allegations,
 - (c) have complaints investigated,
 - (d) be afforded an opportunity to present evidence on their behalf, and
 - (e) be informed of the results of the investigation in writing.

K. Adjudication of Allegation of Employee Misconduct

- 1) Internal investigations will be completed within 45 days from the start of the initial complaint. If an extension is necessary, the assigned investigator will request an extension from the Deputy Director for Law Enforcement or Director citing the extenuating circumstances. Throughout the investigation the assigned investigator will keep the Colonel, Lt. Colonel or affected Captain informed.
- 2) The Colonel, Lt. Colonel or effected Captain shall review the facts and determine whether the complaint should be classified as:
 - (a) Unfounded - Evidence sufficient to conclude that the complaint is groundless.
 - (b) Exonerated - Actions taken by employee were lawful and proper.
 - (c) Not sustained - Insufficient evidence exists to either prove or disprove the complaint.
 - (d) Sustained - Sufficient evidence exists to conclude the allegation is correct.
- 3) Upon conclusion of an investigation, a written report specifying the results of the investigation will be forwarded all information to the Director, the Colonel, and the Lt. Colonel.
- 4) If the allegation is sustained based on the facts of the investigation, the Lt. Colonel of Law Enforcement, Director, senior staff member or affected Captain will take appropriate disciplinary action in accordance with Standards of Disciplinary Action Policy after consultation with the office of Human Resources.
- 5) If the facts revealed by an investigation indicate that there is substantial evidence that an officer has committed acts which constitute a violation of criminal law, other than minor traffic infractions, then the officer may be deemed to have violated this section, even if the officer is not prosecuted or is found not guilty in court and shall be subject to the appropriate disciplinary action.
- 6) At the conclusion of the investigation, the Complainant shall be informed of the results in writing.
- 7) At the conclusion of the investigation, the employee shall be informed of the results in writing.

L. Relief From Duty - The Director, Colonel, Lt. Colonel, or authorized designee may immediately relieve any officer from duty under circumstances including:

- 1) When there is just cause to believe that the employee is physically, psychologically, or emotionally unable to perform their duties; or is a witness to a traumatic incident.
- 2) When there is just cause to believe that the employee, while on-duty, is impaired from an unknown substance or consumes any substance that causes the member to be impaired.
- 3) When an employee is arrested or the subject of a criminal investigation.
- 4) When an employee is the subject of an administrative investigation for any allegation that involves:
 - a. Law Enforcement Officer misconduct as defined in S.C. Code Ann. §23-23-150;

- b. Violation(s) of department's policies and/or procedures that are serious in nature or may cause loss of credibility/confidence in the employee's ability to perform their duties; and/or
 - c. Pending the outcome of any investigation when it appears that the action is in the best interest of the department.
- 5) When an employee's action (use of force, crash, etc.) in an official capacity, results in death or serious bodily injury to another person.

M. Criminal Prosecution Liaison

In the event of any criminal prosecution resulting from an investigation of alleged misconduct, the Lt. Colonel for Law Enforcement or his designee will maintain communication with the appropriate investigating agency and/or prosecutor.

N. Notification of High Authority

The Colonel or Lt. Colonel for Law Enforcement periodically will apprise the Director of all internal investigations and will promptly inform the Director of all serious allegations made against DNR officers.

O. Notification of SCCJA

All substantiated complaints, where an officer was suspended or meets any of the other criteria as stated in S.C. Code of Regulations § 37-025, must be reported to the South Carolina Criminal Justice Academy via designated online forms within 15 days of separation. All complaints must be submitted on the designated online forms.

APPROVED:



A.C. Frampton, Colonel