

**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: October 6, 2022

RESPONSIBLE AUTHORITY: DEPUTY DIRECTOR 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 these who exercise law enforcement authority. This requires procedures for adequate and expeditious processing of allegations of misconduct by employees.

All employees will comply with agency rules, regulations and directives. All employees will be held strictly accountable for properly exercising the authority they have been given. At the same time, employees must be protected against false allegations of misconduct. This can only be accomplished through a consistently thorough investigative process.

PROCEDURES:

A. Internal Affairs Function

- 1) The Deputy Director of Law Enforcement is responsible for the administration of internal affairs function. An Internal Affairs Officer (IAO) will assist the Deputy Director 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 separate from the personnel and other records.
 - (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.
 - (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 both the IAO and each Region Captain or section head.

B. Categories of Complaint

- 1) Low Infraction-Allegations that involve:
 - (a) Misunderstandings between a citizen and an employee.
 - (b) Breaches of policies or directives of 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 felonious conduct may be reported to SLED or other appropriate law enforcement authority.

C. Procedure for Accepting Allegations Against Agency Members

- 1) Any citizen complaint, regardless of category, shall be accepted whether it is in person, by phone, or in writing, and an appropriate investigation conducted. Irrational complaints and complainants who exhibit behavior generally associated with some form of dementia or substance abuse may be noted.
- 2) An employee who received an initial complaint shall direct the complaint or written complaint to the affected Region Captain or Deputy Director for Law Enforcement.

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

D. High Infraction

- 1) In all high infractions, the Deputy Director for Law Enforcement will be notified in a timely manner of the allegation. In addition the agency will acknowledge receipt of the complaint in the appropriate manner.

E. Assignment of the Investigation

Allegations of a high infraction shall be assigned for investigations in the following manner:

- 1) The Deputy Director 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

- 1) The Employee of an internal affairs investigation will be informed of any allegations usually from the affected Captain, provided that investigations conducted by external authorities may control when the officer is informed.

G. Responsibilities of Employee

- 1) 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 criminal conduct which will not be prosecuted.

H. Polygraph Examinations

- 1) The polygraph may be used in any matter for detection of deception, provided no employee shall be required to submit to examination except with the expressed approval of the Deputy Director for Law Enforcement or Director. Any ordered examination must be in accordance with the "Garrity" decision of the United States Supreme Court. 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

- 1) The Deputy Director for Law Enforcement or Director may require an employee in any matter to submit to any following test or disclosure when specifically directed and narrowly related to the subject of an internal investigation. Medical or laboratory examination of the employee, to include chemical tests such as blood, breath, and urine.
 - (a) Photographs of the employee
 - (b) Audio or video recording
 - (c) Participation in a line-up
 - (d) 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) For high infractions, internal investigations will be completed within 180 days from the start of 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 Deputy Director for Law Enforcement or the Director informed.
- 3) Employees have the right
 - (a) to be treated fairly,
 - (b) to be informed of allegations,
 - (c) to have complaints investigated, and
 - (d) to be afforded an opportunity to present evidence on their behalf.

K. Adjudication of Allegation of Employee Misconduct

- 1) For high infractions, internal investigations will be completed within 180 days from the start of 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 Deputy Director for Law Enforcement or the Director informed.
- 2) For low infractions, internal investigations will be completed within 180 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 the Director or respective Captain citing the extenuating circumstances. Throughout the investigation, the assigned investigator will keep the Deputy Director for Law Enforcement or Director or affected Captain informed.
- 3) Upon conclusion of an investigation the investigator will forward all information to the Deputy Director for Law Enforcement or Director or other senior staff members, or affected Captain.

- 4) The Deputy Director for Law Enforcement or Director 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.
- 5) If the allegation is sustained based on the facts of the investigation, the Deputy Director 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.
- 6) Complainants will be informed at the conclusion or resolution of an investigation.
- 7) 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.

NOTE: In all investigations where the complaint is classified as “Unfounded”, “Exonerated” or “Not Sustained” the employee will be notified in writing that the investigation has been closed and how the investigation was classified.

- L. Relief From Duty** - The Director, Deputy Director, or authorized designee may immediately relieve any officer from duty under circumstances including:
- 1) When there is just cause to believe that the officer 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 officer, while on-duty, is impaired from an unknown substance or consumes any substance that causes the member to be impaired.
 - 3) When a member is arrested or the subject of a criminal investigation
 - 4) When a member is the subject of an administrative investigation for any allegation that involves:
 - a. Officer misconduct as defined in South Carolina State Statute §23-23-150
 - b. Violation(s) of agency or city policy/procedure that are serious in nature or may cause loss of credibility/confidence in the member’s ability to perform their duties
 - c. Pending the outcome of any investigation when it appears that the action is in the best interest of the department.
 - 5) When a member’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

- 1) In the event of any criminal prosecution resulting from an investigation of alleged officer misconduct, the Deputy Director for Law Enforcement or his designee will maintain communication with the appropriate investigating agency and or prosecutor.

N. Notification of High Authority

- 1) The Deputy Director 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

- 1) All substantiated complaints must be reported to the South Carolina Criminal Justice Academy via designated online forms within 15 days of separation. Substantiated complaints include those offenses where an officer was suspended or meets any of the other criteria as stated in South Carolina Code of Regulations 37-025.

APPROVED:



A.C. Frampton, Colonel