



South Carolina Department of Public Safety Office of Professional Responsibility Operational Procedures

I. Complaint Procedures

All allegations or complaints received by the Office of Professional Responsibility (OPR) will be evaluated by the chief investigator and reported to the director in order to determine if an investigation will be initiated. The chief investigator may, with the concurrence of the director, refer matters of a minor nature to the appropriate deputy director or division head for proper handling. An investigation will generally be initiated upon receiving an allegation or complaint which meets the following criteria:

1. An identified source who reports apparently accurate information, or an anonymous source who reports sufficient factual information alleging or complaining that;
2. an identifiable agency employee;
3. has committed a violation that falls within the investigative responsibility of the OPR;
4. warrants further inquiry by the employee's deputy director or division head.

Despite the nature of any complaint, the director will be informed of the allegations made against any agency employee and he will also be advised of the investigative course of action taken to resolve the complaint.

II. Investigations

Investigations conducted by the OPR should be completed within 180 days of case assignment and submitted to the chief investigator for review unless unforeseen circumstances arise which prohibit the timely completion of any such investigation. If it is determined that an investigation may possibly exceed the specified 180 day time period, the chief investigator, with the concurrence of the director, may authorize an extension as necessary to ensure the proper completion of any such investigation. If an investigation is referred to another agency due to criminal allegations, conflict of interest, or other circumstances that prove to be an impediment to conducting a thorough investigation, the

chief investigator, with concurrence of the director, may suspend the investigative process, or hold the investigation in abeyance until further action is warranted. Upon conclusion of the investigative process, all OPR investigations are forwarded to the director and appropriate deputy director for review.

III. Notification of Complainant(s)

Upon receipt of a complaint by the OPR, the chief investigator will forward written correspondence to the complainant acknowledging receipt of the complaint. Once an investigation is initiated, the assigned investigator may contact the complainant in order to clarify a point of inquiry related to the investigation, or to schedule an interview with the complainant if necessary. All information obtained by OPR investigators during the investigative process is considered confidential, but may be subject to examination by authorized individuals in accordance with the Freedom of Information Act (FOIA). The employee's rights to privacy and due process must be protected during the investigation.

If a complainant requests updates concerning the status of an ongoing investigation, they may be referred to the assigned investigator. The chief investigator will confer with the director prior to disseminating any information concerning the investigation. At the conclusion of the investigation, the chief investigator shall notify the complainant in writing that the investigation has been completed.

IV. Notification of Employee(s)

The Employee will be notified in writing when they are the subject of an OPR investigation, unless such notification may possibly jeopardize the integrity of the investigation. The correspondence will inform the employee of their responsibilities regarding SCDPS Policy Directive 100.07, "Office of Professional Responsibility".

V. Investigative Authority

In accordance with SCDPS Policy Directive 100.07, "Office of Professional Responsibility", any agency employee may be subject to the following stipulations during the course of any administrative/internal investigation conducted by agency personnel:

1. Any employee can be required to submit to a drug test in accordance with SCDPS Policy Directive 200.04, "Alcohol and Drug Testing";

2. A photograph may be taken of an employee and used as an investigatory tool during an investigation;
3. Financial statements, bank records, telephone records, and any additional records of significance may be obtained by investigators and utilized during the course of any investigation. If an investigator's request for any such documentation is denied by the record holder or voluntary disclosure for the requested documentation is not granted, the chief investigator will confer with the Office of General Counsel (OGC) in order to determine the most appropriate course of action that may be utilized to obtain the requested documentation.
4. Instruments for the detection of deception are authorized for use by investigators during the course of an investigation. Polygraph examinations may be conducted utilizing the OPR polygraph examiner, or resources from outside agencies. Any polygraph examiner used must be properly trained and certified as required by State law. Investigators should coordinate the use of a polygraph with the chief investigator. An employee who is subject to a polygraph examination will be given twenty four (24) hour notification prior to submitting to any such examination. All polygraph examinations will be conducted in accordance with department policies and State law.

VI. Investigative Process

OPR investigators shall be finders of the fact and they will avoid creating an inference of guilt on the part of any employee during the investigative process. Innuendos or opinions will not be stated in the final report. OPR will report the facts as developed through the investigation directly to the director or his designee. Final investigative reports will be prepared by the assigned investigator setting forth the specific allegation(s) and the methodology used during the course of the inquiry. All investigative reports will present the facts of the inquiry in a concise, objective, and totally impartial manner.

OPR investigative case files shall be considered for closing when:

- A. Every possible fact and investigative lead has been thoroughly explored and reported.
- B. All requisite judicial, disciplinary, and adverse actions have been instituted or concluded.

- C. The employee has been informed in accordance with SCDPS Policy Directive 400.08, "Disciplinary Action Policy" that the investigation has been concluded.
- D. Regardless of the employee's employment status with the department, the investigative process will be completed. However, OPR will ensure that all necessary information has been gathered and that no further action, such as referral for criminal prosecution, is warranted.

Once a case has been completed, a closing form will be used to request that the appropriate deputy director make the determination regarding any additional course of action.

VII. Confidentiality of Records

The OPR maintains a record documenting all complaints registered against a departmental employee. After the completion of disciplinary actions and appeals, all copies of the final investigative report shall be returned to OPR for safe keeping. No copies of the final investigative report shall be permanently maintained outside of OPR.

All closed OPR files will be securely maintained under the direct control of OPR and in accordance with the retention guidelines established by the department. Limited access to closed files may be granted to those individuals who demonstrate a bona fide need-to-know as determined by the chief investigator, with concurrence of the director or his designee.

VIII. Statistical Reporting

The OPR produces an annual statistical analysis for the use of the director.

VIII. Public Information

Posters informing the public about the OPR have been produced and distributed throughout the state and are posted in public areas of DPS buildings. These posters contain a toll free number which the public can use in registering complaints against an employee of the department. When the public utilizes the toll free number, they are placed in contact with a member of the OPR staff who takes the complaint and explains the investigative process to the complainant. SCDPS personnel shall be familiar with notification procedures should they be asked for assistance from a member of the public, or if they have a complaint to register against a departmental employee.

X. Critical Incidents Requiring Notification of the Director

Upon being notified of an incident involving a departmental employee that may reflect negatively upon the department, the OPR is required to notify the director by the most expeditious means possible. This procedure is not all inclusive and additional situations may arise which require immediate notification of the director by personnel that are not affiliated with the OPR. These exceptions will be evaluated and reported on a case by case basis. Situations requiring the immediate notification of the director include, but are not limited to the following:

1. The arrest of any departmental employee;
2. any traffic related incident involving an employee of the department that is reported to the OPR by a citizen or anonymous complainant;
3. any incident involving the discharge of department issued firearms (except in authorized practice, training, qualification, or the humane killing of animals). Other incidents involving the alleged improper use of force will be investigated by the OPR.

OPR personnel are on-call twenty-four (24) hours a day and they may be requested or required, in accordance with department policy, to respond to certain incidents involving a department employee.

Signature Redacted

Chief Investigator

4-26-10

Date