



COMPLAINTS AGAINST CIVILIAN PERSONNEL

Directive 5 - 102

Date of Revision: February 2016 Amends/Cancel: 5-102 January 2015

I. PURPOSE

To establish standards and procedures for processing administrative complaints against civilian employees.

II. POLICY

The MSP will investigate all complaints against civilian employees, including complaints that are received anonymously, in a fair and timely manner according to established procedures and laws.

III. DEFINITIONS

- A. Complaint: an allegation, if proven factual, which would constitute misconduct.
- B. Record: in the appropriate context, such as interviews and interrogations, includes audio recordings or audio and video recordings.

IV. PROCEDURES

A. RECEIVING COMPLAINTS

1. A complaint may be received by any employee at any time, however, the employee first acquiring knowledge of the complaint will immediately notify a supervisor, who will take the initial complaint.
2. It is imperative that complainants are met with respect, courtesy, and understanding; a cynical or negative attitude only aggravates the situation and does nothing to further the core values or mission of the MCP.
3. The employee receiving the complaint will:
 - a. record complaints on a Form 176, Complaint Against Personnel;
 - a. make every effort to identify the complainant;
 - b. record anonymous complaints regardless of where the alleged violation occurred; and
 - c. immediately forward the Form 176, with an attached routing slip, through their commander, to the commander of the employee against whom the complaint is made.

4. If the employee who is the subject of the complaint is not assigned to the detachment receiving the complaint the:
 - d. complaint will be accepted and forwarded as required; and
 - e. complainant will not be directed or referred to the employee's work assignment in order for the complaint to be filed.
5. Employees desiring to file a complaint against another employee will complete a Form 176, sign the Form 176, and forward it to the involved employee's commander.
6. Employees receiving a complaint will not discuss the nature of the complaint with the involved employee or other unauthorized persons.
7. Complaints received by the Chief's office will be forwarded to the appropriate detachment.

C. INITIAL RESPONSIBILITIES OF THE EMPLOYEE'S COMMANDER

Commanders will:

1. review the Form 176 to determine the seriousness of the complaint;
2. advise the complainant that the complaint has been received and will be reviewed;
3. ensure that a copy of the Form 176 is immediately faxed or emailed to the Criminal Investigations Section (CIS) Supervisor and Operations Commander;
4. contact the CIS Supervisor to obtain a tracking number; and to consult on the appropriate assignment of the investigation;
5. obtain a delegation of authority to investigate the matter from the Chief or Deputy Chief;

D. DISCRETIONARY RESPONSIBILITIES OF THE EMPLOYEE'S COMMANDER

1. Commanders have the authority and discretion to resolve minor complaints or violations when formal disciplinary action is unnecessary.
2. A complaint is considered a minor violation when it involves:
 - a. errors in judgment; or
 - b. incidents that can be resolved to the employee's commander's satisfaction.
3. Cases resolved under this paragraph require the employee's commander to:
 - a. notify the Operations Commander, by endorsement, how the case was resolved;
 - b. contact the complainant by letter advising him of the final disposition of the case; and
 - c. forward the Form 176 with a copy of the endorsement and a copy of the case disposition letter (letter of notification to the complainant) to the CIS Supervisor.

E. INVESTIGATION PROCESS FOR COMPLAINTS AGAINST CIVILIAN EMPLOYEES

1. The investigative procedures that will be used to investigate allegations of misconduct against civilian employees are essentially the same as those used when the allegation involves a law enforcement employee, with the exception that LEOBR guidelines do not apply.
2. These investigative procedures may be found in Directive 5-105.

F. STATEMENTS FROM THE ACCUSED EMPLOYEE AND WITNESSES

1. Prior to taking any written or verbal statement from an accused employee, the supervisor conducting the interview will:
 - a. provide the employee with a written notice of the allegations prior to the initial interview of the employee by means of the MCP Form 177 – Civilian Notification of Complaint; and
 - b. order the employee to provide only truthful responses.
2. As a general rule, the interrogation of the employee occurs after the complainant and all witnesses have been interviewed.
3. The verbal statements of the employee should be recorded when appropriate (e.g., more serious violations).
4. Sworn officers may be interviewed as witnesses during the course of a civilian disciplinary investigation; however, if the investigator reasonably believes that the sworn officer may also become a subject of the investigation, he must ensure that the procedures in Directive 5-104 are followed.

G. WRITTEN REPORTS

1. Generally, a recorded interview/interrogation is preferred, however, employees may still be required to submit reports detailing the facts concerning their involvement in an incident.
2. Before ordering a report from an employee where criminal charges may result, the supervisor will consult with the investigator of the criminal complaint.

H. COMPELLED TESTS

1. Employees may be compelled to submit to blood tests, breath tests and urinalysis tests for controlled dangerous substances.
2. Employees may be compelled to submit to other forensic testing (e.g., providing handwriting samples or hair samples) as may be required to conduct a thorough investigation.
3. Employees may be compelled to disclose financial information to the extent consistent with or required by federal or State law.
- 4.

I. POLYGRAPH EXAMINATIONS OF CIVILIAN EMPLOYEES

Employees may voluntarily submit or be ordered to submit to polygraph examinations.

J. FAILURE TO COMPLY

1. Before ordering an employee to submit detailed reports; or submit to an interrogation, interview, blood, breath, or urine tests, and/or polygraph examination; the employee must first be advised that:
 - a. information supplied through an employee's answers will not be used against him in subsequent criminal proceedings.
2. the following actions are separate violations of the rules of conduct, constitute grounds for additional disciplinary action:
 - a. refusal to cooperate in an investigation;
 - b. refusal to submit to a blood alcohol test, or a blood, breath, or urine test for use of controlled dangerous substances;
 - c. refusal to submit to a polygraph examination, an interrogation or an interview; and
 - d. refusal to submit a detailed report.

K. INVESTIGATIVE REPORT FORMAT

The completed investigation case file will be organized as follows:

1. Routing Slip;
2. Commander's Endorsement;
3. Form 176;
4. Delegation of Authority, if applicable.
5. Investigative Report;
6. Statement of complainant, if different from that of the victim.
7. Statement of victim, if different from that of complainant.
8. Statement of witnesses.
9. Detailed Report from accused employee and/or interrogation transcript.
10. Other statements or detailed reports.
11. Additional exhibits (e.g., photographs, diagrams, charts).
12. Documentation of recent disciplinary actions, if applicable.

L. COMPLETION OF THE INVESTIGATION

The investigator will recommend for each violation, based upon a preponderance of evidence, a finding of:

1. NON-SUSTAINED if the investigation fails to disclose sufficient information to clearly prove the allegation;
2. SUSTAINED if the investigation disclosed sufficient information to substantiate the allegation; or
3. UNFOUNDED if the investigation revealed that the reported incident did not occur.

M. RESPONSIBILITIES OF THE EMPLOYEE'S COMMANDER UPON COMPLETION OF INVESTIGATION

1. An employee's commander, upon receipt of the completed investigation, will prepare an endorsement which will include:
 - a. whether the commander agrees with the investigator's findings.
 - b. If the commander disagrees with the findings, he will state the factual basis for not accepting the investigator's conclusions.
 - c. provide a recommended penalty consistent with progressive disciplinary action, when appropriate.
2. The employee's commander will forward the completed investigation with endorsement to the Operations Commander for concurrence.
3. The employee's commander will meet with the Chief or his designee to discuss the investigation and set a date for the mitigation hearing.
4. Issue a personnel order directing the employee to report for the mitigation hearing.
5. Forward all investigative materials to the Operations Commander.

N. RESPONSIBILITIES OF THE CIS SUPERVISOR

1. Maintain a tracking system for complaints against personnel.
2. Provide a tracking number to a commander upon receipt of a Form 176.
3. Upon receipt of the completed investigation maintain the original case file in a secure location.

O. DISCIPLINARY ACTION

Upon completion of the administrative investigation, any disciplinary action taken against a civilian employee will follow the procedures in Directive 5-103.

P. TIME LIMITS

Administrative charges must be brought against a civilian employee within 30 days after the act that gives rise to the charges comes to the attention of the MCP. Therefore, administrative investigations involving civilian employees will be completed in 15 calendar days unless an extension is granted by the Operations Commander.