



**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF SAFETY**  
**DIVISION OF STATE POLICE**  
**PROFESSIONAL STANDARDS OF CONDUCT**



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**CHAPTER 26-E**  
**PERSONNEL COMPLAINT / INTERNAL AFFAIRS INVESTIGATION**  
**POLICY AND PROCEDURES**

**26-E.1.0 PURPOSE**

- A. To establish procedures for the investigation of citizen complaints and internal affairs investigations concerning allegations of personnel misconduct.
- B. Complaints referred to in this policy concern those received from internal or external sources that allege a Division member has:
  - 1. Committed a criminal or motor vehicle offense.
  - 2. Committed a violation of Division rules, regulations, policies, or procedures.
  - 3. Conducted themselves in a manner that reflects unfavorably upon them or the Division while on or off duty.
- C. The objectives of the personnel complaint / internal affairs investigative function are:
  - 1. Protection of the public: The public has a right to expect efficient and impartial law enforcement services. Allegations of misconduct by Division members shall be promptly and thoroughly investigated.
  - 2. Protection of Division members: Division members must be protected against false allegations of misconduct.

3. Policy development: The Division is constantly seeking to improve its efficiency and effectiveness. Administrative investigations may reveal the need for corrections or improvements to procedures or training.

#### **26-E.2.1 INITIAL COMPLAINT RECEPTION**

- A. Whenever any Division member receives a complaint against State Police personnel from any source, observes or receives information from any source that another employee has allegedly violated any state law, rule, regulation or order of the Division of State Police, they shall immediately notify their commanding officer or supervisor. (Per Division of State Police Rules and Regulations § 1.13.1)
- B. This procedure shall apply to all complaints whether received in person, by telephone, in writing, or from an anonymous source.
  1. The content of the complaint, not the manner in which it is received, shall determine the type of investigation required.
- C. If the Division member being complained about is the receiving Division member's immediate supervisor, the complaint shall be reported to the next higher Division member in the chain of command.
- D. When troop / unit commanding officers receive notification of complaints against members of their troop / unit command, they shall follow the procedures contained elsewhere in this directive.
- E. When troop / unit commanding officers receive notification of complaints against members of another troop, unit or bureau, they shall notify the supervisor of the affected Division member.
- F. Complaints received at Headquarters radio communication facilities, shall be forwarded directly to the duty Communications Supervisor.
  1. When the duty Communications Supervisor receives notification of complaints against members of another troop, unit or bureau, he shall notify the supervisor of the affected Division member.
  2. When the duty Communications Supervisor receives notification of complaints against a member of Headquarters radio communication, he shall notify the Support Services Commander.
- G. If the identity of the Division member being complained about is unknown, the following procedures shall be followed:
  1. If the complaint is received on a weekday, the complainant shall be referred to the field area commander or, if unavailable, to the appropriate bureau commander. Upon receipt of the complaint, the receiving staff officer shall assign a supervisor the task of completing the procedures set forth in this policy.

2. If the complaint is received on a weekend, the complainant shall be referred to the weekend duty officer who shall assign a supervisor the task of completing the procedures set forth in this policy.

H. All complaints received directly from a complainant by the Director's office shall be assigned for investigation by the Professional Standards Unit Commander.

#### **26-E.2.2 DIVISION MEMBERS AUTHORIZED TO OFFICIALLY ACCEPT CITIZEN COMPLAINTS**

A. Commanding officers and supervisors are authorized to officially receive complaints.

B. All other Division members shall refer complainants to a supervisor or commanding officer.

1. When complaints are made in person or by telephone, referrals will be made by either immediately directing the complainant to a supervisor or commanding officer or obtaining the complainant's name, address and telephone number so that they may be contacted.

2. When supervisors or commanding officers are not immediately available, radio communications personnel shall utilize the Division Member Complaint Form (DSSP 287) to obtain necessary information from complainants. No information other than that required for the form shall be discussed with the complainant.

C. Authorized personnel shall be responsible for:

1. Completion of Complaint Reception Reports (DSSP 293).
2. If appropriate to do so at the time of complaint reception, completion of the Release of Medical Information to New Hampshire State Police (DSSP 295).
3. If appropriate to do so at the time of complaint reception, obtaining written statements of the complainant and any witnesses accompanying the complainant.
4. Notification of:
  - a. Commanding officers, in the case of supervisors
  - b. The Professional Standards Unit Commander in the case of commanding officers.

#### **26-E.3.0 NUMBERING AND CLASSIFICATION OF COMPLAINTS**

A. All complaints shall be assigned sequential case numbers by the Professional Standards Unit Commander at the time he is notified of the complaint by the troop / unit commanding officer or his designee.

1. The case number shall be recorded on all documents submitted with the investigative case file.
- B. "Personnel Complaint" (PC): Allegations of non-criminal misconduct, minor motor vehicle violations or minor violations of Division Rules and Regulations or procedures.
1. PC administrative investigations will be conducted by the troop / unit commander or his designee.
- C. "Internal Affairs" (IA) Complaint:
1. Non-criminal: Allegations of serious violations of Division Rules and Regulations or procedures shall be administratively investigated by the Professional Standards Unit Commander or his designee.
  2. Criminal: Allegations of criminal misconduct and serious infractions of motor vehicle laws will be investigated as criminal cases first and administrative cases second.
    - a. A criminal case number shall be drawn.
    - b. The criminal case investigation shall be done in addition, but separately, to any associated internal affairs administrative investigation.
      - (1) The Professional Standards Unit Commander should coordinate with the appropriate prosecuting authority prior to the initiation of any administrative investigation.
    - c. Criminal investigations will be conducted at the direction of the prosecuting authority, the Director, and / or the Director's designee.
- D. Non-actionable Complaints (NA): Complaints alleging misconduct which are quickly determined not to be violations of law or Division Rules and Regulations or procedures and which require no further action or investigation.
1. This category includes, but is not limited to, citizens who have received a summons from a Division member and their only complaint is that they do not think they should have received a summons.
  2. It is important that such complaints receive a case number and be documented to preserve an accurate record of the reception and disposition of the complaint.

#### **26-E.4.1 PROFESSIONAL STANDARDS UNIT COMMANDER RESPONSIBILITIES**

- A. The Professional Standards Unit Commander shall be responsible for the administration of the Division's personnel complaint / internal affairs investigative function:

1. Ensuring that all complaints against the Division are investigated in a prompt, fair and thorough manner.
  2. After consultation with troop and unit commanders, classifying of complaints as Personnel Complaints, Internal Affairs or Non-actionable complaints.
  3. Assigning PC / IA / NA case numbers.
  4. Maintaining records of all complaints and investigations.
    - a. Records shall be kept in locked containers under the control of the Professional Standards Unit Commander or his designee.
  5. Maintaining the confidentiality of all complaint investigations and records.
  6. Maintaining liaison with the appropriate prosecuting authority when allegations involve criminal misconduct.
    - a. If the prosecuting authority declines criminal prosecution, that determination shall be requested in writing and the investigation shall proceed administratively.
  7. Compiling statistics and preparing reports on an annual basis as prescribed by the Director.
  8. Ensuring that documentation required by the New Hampshire Police Standards and Training Council is filed as prescribed by the Council's Administrative Rules.
  9. Ensuring that the Director and the appropriate command staff are apprised of allegations of Division member misconduct in a timely manner.
  10. Notifying Division members that a complaint has been filed alleging misconduct and that they are the subject of a personnel complaint / internal affairs investigation. Notification to Division members will not be made if, in the judgement of the Professional Standards Unit Commander, such notice would jeopardize the integrity of the investigation.
- B. The Professional Standards Unit Commander shall have the authority to report directly to the Director on all matters relating to the investigation of Division member misconduct.
1. The Professional Standards Unit Commander shall make immediate notification to the Director of criminal offenses, serious violations of Division Rules and Regulations and procedures or complaints which are likely to quickly become public knowledge.
  2. The Professional Standards Unit Commander shall periodically notify the Director of less serious violations or complaints.

- C. The Professional Standards Unit Commander shall provide written notification to complainants:
  - 1. Acknowledging the Division's receipt of complaints,
  - 2. Identifying the Division member responsible for conducting the investigation, and
  - 3. Describing the general process that will be followed by the Division in addressing the allegations of misconduct.
- D. Upon completion of administrative investigations;
  - 1. Personnel Complaint Investigations: Upon receipt of the investigative report from troop / unit commanding officers, the Professional Standards Unit Commander will review the report and forward same to the appropriate command staff member for review.
  - 2. Internal Affairs Investigations: Upon completion of the investigation by the Professional Standards Unit Commander or his designee, the investigative report will be forwarded to the appropriate command staff member for review.
  - 3. Non-Actionable Complaints: Review and file Complaint Reception Reports (DSSP 293) upon receipt from troop / unit commanding officers.
- E. Upon completion of review and recommendations by appropriate command staff members, the Professional Standards Unit Commander shall forward the investigative report to the Director.
- F. Following review and approval by the Director, the Professional Standards Unit Commander will:
  - 1. Provide written notification to the complainant and the Division member of the investigative findings and final disposition.
  - 2. In criminal investigations, forward a copy of the criminal investigative report directly to the appropriate prosecuting authority.
  - 3. File the investigative report in the Professional Standards Unit files.
    - a. With the exception of formal disciplinary actions or matters otherwise approved by the Director, no record of a personnel complaint or internal affairs investigation shall be maintained in the personnel file of the Division member.

#### **26-E.4.2 TROOP / UNIT COMMANDER RESPONSIBILITIES**

- A. Ensuring proper complaint reception procedures are followed.

- B. Notifying the Professional Standards Unit Commander of all complaints received.
  - 1. The Professional Standards Unit Commander will be notified immediately of any complaint that involves serious misconduct.
  - 2. All other complaints will be reported to the Professional Standards Unit Commander within twenty four (24) hours of receipt of the complaint.
  - 3. In the absence of the Professional Standards Unit Commander, commanding officers will notify the Investigative Services Commander.
  
- C. In the case of Non-Actionable Complaints:
  - 1. Completing a Complaint Reception Report (DSSP 293) and describing the reason the complaint was classified as Non-Actionable.
  - 2. Forwarding the Complaint Reception Report (DSSP 293) to the Professional Standards Unit Commander.
  
- D. With the concurrence of the Professional Standards Unit Commander, assigning administrative and criminal investigators.
  - 1. Personnel Complaint Investigations shall be conducted by line supervisory personnel.
  - 2. Internal Affairs Investigations shall be conducted by or at the direction of the Professional Standards Unit Commander.
  
- E. Preserving all radio communication audio tapes, logs, or other records that might be needed during the investigation to properly adjudicate the allegation(s) of misconduct.
  
- F. Notifying the Professional Standards Unit Commander immediately of any significant developments and providing periodic updates concerning the progress of the investigation.
  
- G. Upon receipt of a personnel complaint investigation, the troop / unit commander shall review it and attach his findings and recommendations and forward same to the Professional Standards Unit Commander.
  
- H. After Personnel Complaint investigation reports sustaining misconduct have been reviewed by the Professional Standards Unit Commander and appropriate command staff and reviewed and approved by the Director, the troop / unit commander is authorized to issue a written warning in accordance with the New Hampshire Division of Personnel Administrative Rules (Part Per 1001.03) as a form of discipline if applicable. Greater forms of discipline must be imposed by the Director or his designee.

1. In cases where troop / unit level corrective action is taken, the troop / unit commander shall be responsible for conducting and documenting the remedial measures taken with the Division member. A supplemental report outlining the actions taken shall be forwarded to the Professional Standards Unit Commander for inclusion in the respective internal investigative case file.

#### **26-E.4.3 COMMAND STAFF RESPONSIBILITIES**

- A. Appropriate command staff members shall review all administrative investigative reports, troop / unit commander recommendations, add their own recommendations and return the investigative report to the Professional Standards Unit Commander.

#### **26-E.4.4 DIRECTOR'S RESPONSIBILITIES**

- A. Review reports and recommendations of administrative investigations.
- B. Authorize corrective or disciplinary actions in accordance with the Division's Rules and Regulations and the New Hampshire Division of Personnel Administrative Rules.

#### **26-E.4.5 DIVISION MEMBER RIGHTS AND RESPONSIBILITIES**

- A. Administrative investigations:
  1. Administrative investigations shall be conducted of alleged misconduct which involves violations of Division Rules and Regulations and procedures or criminal misconduct in which a prosecuting authority has declined criminal prosecution of the Division member and/or has directed the Division to proceed administratively.
  2. Garrity Warning requirements: Prior to conducting an administrative interview with an accused / suspected Division member, the investigator shall inform the Division member of the Garrity Warning requirements utilizing a Garrity Warning (DSSP 294). The investigator shall clearly define, and obtain the Division member's understanding of, the scope of the interview. The investigator shall then obtain the Division member's signature on the Garrity Warning.
- B. Criminal Investigations: If a criminal prosecution is being considered, Division members shall be informed of their constitutional rights before any questioning, when applicable. Division members shall also be advised that if they assert their rights to refuse to answer incriminating questions, no adverse administrative action will be taken.
- C. Right to association or union representation:
  1. Division members under administrative investigation shall have the right to association or union representation during an investigative interview, if so requested by the member, whenever the member reasonably believes that the



interview may result in disciplinary action against him. The association or union representative's role at the investigative interview is to consult with the Division member. The association or union representative shall not participate in the interview in any way unless requested to do so by the investigator and shall not convert the interview into an adversary proceeding. The Division is free to insist upon hearing the Division member's own account of the matter(s) under investigation.

2. The Division member is solely responsible for making arrangements to have an association or union representative in attendance at the interview. Under no circumstances will the investigation be compromised or unreasonably delayed because of the Division member's, association's or union's failure to obtain or provide an association or union representative in a timely manner.
3. An association or union representative who is involved in or is a subject of the same investigation as the Division member shall not represent nor participate in assisting the Division member during the interview process.
4. In lieu of an association or union representative, a Division member may have one person of his choosing in attendance with him at the interview subject to the same limitations as outlined above.
5. A Division member's right to association or union representation does not extend to or otherwise apply to non-disciplinary administrative matters.
6. Division members shall not, in any manner, interfere with an ongoing criminal or administrative investigation of misconduct.

#### **26-E.4.6 CONFIDENTIALITY REQUIREMENTS FOR ALL DIVISION MEMBERS**

- A. Division members shall be held accountable for ensuring that the contents of Personnel Complaints and Internal Affairs investigations are held in the strictest confidence.
- B. Division members who receive information concerning alleged misconduct on the part of another Division member or facts relating to a matter under investigation shall not discuss or otherwise disclose this information to any other person other than the appropriate Division investigators. Failure to comply may constitute wilful insubordination and subject the Division member to disciplinary action.
- C. Unless otherwise provided for by law, the foregoing provisions shall not prohibit a Division member from discussing the matter with association, union, or legal representatives.

#### **26-E.5.1 INVESTIGATIVE PROCEDURES**

- A. Criminal Investigations conducted on Division members in response to complaints received from the public shall be in accordance with all constitutional protection and regular criminal investigative techniques.

1. Criminal investigations shall not receive any information from any administrative investigation.
- B. Administrative Investigators for both personnel complaints and internal affairs investigations shall be responsible for:
1. Obtaining a detailed signed written statement from the complainant if possible.
    - a. The statement should be sworn, if the investigator deems it appropriate.
  2. Ensuring that an Authorization for Release of Medical Information to New Hampshire State Police (DSSP 295) is completed when applicable.
  3. Interviewing relevant witnesses.
    - a. If appropriate, statements from witness should be sworn.
  4. When it is appropriate to notify the accused or suspected Division member that he is the subject of a personnel or internal affairs complaint, a Garrity Warning (DSSP 294) shall be utilized to ensure the Division member is aware of the nature of the allegation and his duties and rights with regard to the administrative investigation of the allegation.
    - a. The Division member may also be provided with a copy of any written complaint received from a source external to the Division.
    - b. The investigator shall clearly define the scope of the interview and obtain the Division member's understanding of same.
    - c. The investigator shall obtain the Division member's signature on the Garrity Warning.
    - d. Distribution:
      - (1) The original of the DSSP 294 shall be submitted with the completed investigative report.
      - (2) A copy of the DSSP 294 shall be provided to the accused or suspected Division member.
  5. Interviewing the accused or suspected Division member after proper notification of GARRITY rights.
  6. During the course of internal affairs investigations, if conditions are such that certain investigatory procedures are appropriate, Division members may be compelled to provide specialized information or submit to testing or examinations. These procedures shall be specifically directed and narrowly

related to the matter under investigation and conducted only with the express authorization of the Director or his designee.

- a. Examples of special investigative procedures which may be compelled during the course of an administrative internal affairs investigation include but are not limited to the following:
  - (1) polygraph examinations
  - (2) medical, psychiatric, or laboratory examinations
  - (3) photographs
  - (4) in-person line up procedures
  - (5) financial disclosure statements
  - (6) work place searches

## **26-E.5.2 REPORTS**

- A. Criminal reports shall be prepared in conformance with Division policy.
  1. Absolutely no mention of any administrative internal affairs investigations, reports or actions shall be included in criminal reports.
    - a. Due to public access to completed criminal investigative reports under the Right to Know Law (RSA 91-A), no reference will be made in the contents of a criminal investigative report to the existence of a corresponding internal affairs investigative report.
- B. Administrative reports:
  1. Administrative internal affairs investigative reports shall make reference to associated criminal investigative reports.
    - a. Because criminal investigations protect constitutional rights and are less intrusive than administrative investigations, information gathered in criminal investigations may be included in administrative investigations, but not vice versa.
  2. Administrative Report format:
    - a. Allegation(s): State as concisely as possible the allegation(s) citing the specific section(s) of criminal and/or motor vehicle law or Division rules, regulations, policies and procedures.
    - b. Details of the complaint: Show a chronological summary of the event or incident.
    - c. Document the response of the Division member: Transcribed audio tape recording and/or detailed written statement.

- d. Findings of fact: Show by numerical listing a summary of the facts uncovered during the investigation to include acts of misconduct not identified in the original complaint.
  - e. Conclusions: Include a definitive statement setting forth the overall investigative findings to include the specific law, rule, regulation, policy or procedure that was or was not violated by the Division member along with supporting justification for these findings. The investigator will characterize the findings in one of the following categories:
    - (1) Unfounded - a determination that the allegation(s) is false or not factual.
    - (2) Exonerated - a determination that the incident occurred but the Division member's actions / conduct were justified, lawful, and proper.
    - (3) Not Sustained - a determination that the facts presented are insufficient to clearly prove or disprove the allegation.
    - (4) Sustained - a determination that the allegation is supported by sufficient evidence to justify a reasonable conclusion of guilt or that sustained acts have been discovered that indicate misconduct not based on the original complaint.
  - f. Recommendations: The investigator shall not make a recommendation as to the type or level of discipline to be imposed.
  - g. Attachments: Enumerate all attached forms, statements, or other supporting documentation.
3. The investigation and all reports shall be completed by the investigator **within 21 days** from the date of assignment and submitted to the appropriate commanding officer. Any extensions to these submission requirements must have the prior approval of the responsible troop / unit commander or the Professional Standards Unit Commander.
- a. Personnel complaint investigation reports shall be submitted through the chain of command to troop or unit commanders who shall in turn submit the report, along with their recommendations, to the Professional Standards Unit Commander.
  - b. Investigators shall submit internal affairs investigation reports directly to the Professional Standards Unit Commander.

#### **26-E.6.0 POLICY FAILURE**

- A. When investigating a complaint, it may be discovered that, even though the particular Division member involved acted properly within the prescribed policy, a revision to

the current policy may be warranted or that the Division member's training was inappropriate. In such cases, the investigating officer will identify the issue(s) and prepare an additional section to his report entitled "Policy Failure".

- B. The investigator's report shall include the following:
  - 1. The specific policy involved.
  - 2. The harm done to the complainant or the problem that it caused.
  - 3. Any recommended changes to the existing policy or training to prevent further problems of the same nature.
  
- C. When the Director determines that a policy or training failure has occurred, the Director shall assign a Division member to be responsible for preparing a recommendation for the appropriate policy or training change.

**CHAPTER 26-E**  
**PERSONNEL COMPLAINT / INTERNAL AFFAIRS INVESTIGATION**  
**POLICY AND PROCEDURES**

Appendix A

COMPLAINT INVESTIGATION FLOW CHART



**CHAPTER 26-E  
PERSONNEL COMPLAINT / INTERNAL AFFAIRS INVESTIGATION  
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Appendix B

COMPLAINT INVESTIGATION FORMS

DIVISION MEMBER COMPLAINT FORM (DSSP 287)

COMPLAINT RECEPTION REPORT (DSSP 293)

GARRITY WARNING (DSSP 294)

AUTHORIZATION FOR RELEASE OF MEDICAL INFORMATION  
TO NEW HAMPSHIRE STATE POLICE (DSSP 295)