



MYRTLE BEACH POLICE DEPARTMENT

ADMINISTRATIVE REGULATIONS AND OPERATING PROCEDURES

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Approved By:

I. PURPOSE

The purpose of this policy is to ensure the integrity of the Police Department and its employees by establishing procedures for handling complaints about employees of the department. These procedures will assist in the investigation of incidents and facilitate solutions for corrective action, which may range from fixing a minor miscommunication to a much broader need for department-wide training, to separation from employment, or criminal prosecution.

In furtherance of the purpose of this policy, the Myrtle Beach Police Department will fully investigate all allegations of employee misconduct irrespective of the source, i.e., from within or from outside the department, and whether the complainant is known, or anonymous.

II. DEFINITIONS

A. Complaint: For purposes of this procedure, a complaint is an allegation of misconduct, or an incident that triggers an internal investigation. Complaints are separated into two categories for the purpose of determining who will conduct the investigation.

1. Class "A" Complaints – A classification used by the Department regarding complaints or incidents involving acts or omissions that may be illegal; may cause physical or monetary harm to a person, group, or organization; or may bring disrepute to the Department. This class of complaints will normally be assigned to OPS to complete an investigation. Examples of Class "A" Complaints include, but are not limited to:

- i. Corruption;
- ii. Brutality;
- iii. Excessive or Misuse of Force;
- iv. Breach of Civil Right;
- v. Criminal Misconduct;
- vi. Discharge of Firearms;
- vii. Prisoner death, suicide attempts, or serious injury;
- viii. Department vehicle collisions involving death or great bodily injury;
- ix. Sexual Harassment;
- x. Bias Based Profiling;
- xi. Failure to Act or Render Assistance;
- xii. Failure to Comply with Drug & Alcohol Testing;
- xiii. Failure to Follow Computer Security Protocol;
- xiv. Failure to Report Violations of the Law;
- xv. Failure to Supervise;
- xvi. Hostile Work Environment;

- xvii. Unlawful Entry to Land/Structure;
- xviii. Improper Handling of City Funds;
- xix. Improper Weapons Handling;
- xx. Misuse of Sensitive Information;
- xxi. Lying, cheating, or stealing;
- xxii. Any complaint not listed above that could damage the reputation of the Department or its personnel.

2. Class "B" Complaints – A classification used by the Department regarding complaints alleging infractions of Departmental Procedures. These complaints will normally be assigned to a member of the employee's chain of command to investigate.

- B. Complainant: Anyone who initiates a complaint, formally or informally, against an employee of this department. A complainant may be anonymous.
- C. Criminal Investigations: These investigations involve employee conduct that is alleged to have violated any provision of the constitution, state or federal, as well as any criminal law or regulation, local, state or federal.
- D. Office of Professional Standards (OPS): This office is staffed by certified police officers specifically charged with tracking and investigating complaints against employees of this Department. The ranking member of the unit has the authority to report directly to the Chief of Police.
- E. Supervisors: Any employee of the Department holding the rank of Corporal or above.

III. RECEIPT OF COMPLAINTS

A. Complaints Process: OPS or any employee will provide information to members of the public on the process of filing a complaint and make every effort to facilitate the convenient, courteous, and prompt receipt and processing of all personnel complaints. Employees shall not discourage, intentionally delay or otherwise interfere with anyone attempting to make a complaint.

B. Resolution prior to investigation:

- 1. By taking the time to listen to the complainant during the initial complaint, it may be possible to resolve an issue without requiring a more formal investigation. Some complaints may arise out of a misunderstanding or a lack

of knowledge of police procedures and functions. For example, a complainant may state the officer never read them their rights after arrest or the issuance of a citation. An explanation to the complainant captured by BWC or other recording may be sufficient to address the complaint with no further action needed. In other instances, Supervisors and OPS are encouraged to mediate complaints which may be resolved during initial contact with the complainant.

2. Mediated complaints will be logged by OPS in the Case Management System and routed through the employee's chain of command for review or approval.
 3. Supervisors and OPS may review available video to help them mediate these complaints. When appropriate, the Supervisor or OPS may review the video with the complainant if it would provide the complainant with a better understanding of the events.
- C. Receipt: Complaints will be received in any form to include, but not limited to, in person, by telephone, by U.S.P.S. mail, email, through our website, and any other form of delivery. If a complainant is identified, OPS will notify them in person, by phone, or in writing when the complaint is received and if there are any significant updates to the timeline of completing the investigation.
- D. OPS Voicemail: For the convenience of the public, an OPS contact telephone number, (843) 918-1380, will be maintained and posted on the department's website along with instructions on processing the complaint. Upon receipt of complaints via the OPS voicemail system, OPS will attempt to contact the complainant and complete a Citizen's Complaint Form. If the complainant refuses to participate further, then OPS will process the complaint with the available information.
- E. Civil Process: Please refer to policy 269 for procedures regarding service of legal complaints by civil process.
- F. First Available Supervisor: In the event OPS or the Supervisor of the officer to whom the complaint is directed is not available, then the first available supervisor will complete a Citizen Complaint Form. The first available supervisor will address any emergency issues. The first available Supervisor will then forward the Citizen Complaint Form along with a summary of any actions taken to OPS.
- G. Citizen Complaint Form: A Citizen Complaint Form shall be completed by the Complainant or the Supervisor who receives the complaint. After the Complainant has completed the form, the Supervisor shall review the form and shall clarify anything that is illegible or incomplete. Supervisors will record interviews whenever practical. Supervisors will also record anything of significance, such as a complainant's intoxication level, which has bearing on

their perception and credibility, and any visible injuries, or lack thereof in their report. After receipt of consent, Supervisors will take photographs where appropriate. Supervisors will accept evidence, such as photographs, video/audio recordings or other documentation a Complainant desires to submit. Lastly, Supervisors will ask the Complainant to sign the Citizen's Complaint Form. If a Complainant is unable to complete a form, unable to sign the form, or refuses to sign the form, Supervisors will annotate who completed the form or why the form was left unsigned.

- H. Logging, Tracking and Final Disposition of the Complaint: Once the Citizen Complaint Form is completed and any other information and documentation has been collected, the complaint will be forwarded to OPS, who is solely responsible for logging complaints. Once logged, OPS will notify the Chief of Police and the Assistant Chief of Police. The complaint will be assigned to OPS or the employee's supervisor for investigation. After the final disposition of a complaint has been approved, the divisional captains will be responsible for forwarding the final disposition to OPS to be logged.

IV. ASSIGNMENT OF COMPLAINTS

- A. Assignment: All complaints will be reviewed by OPS and assigned a case number in the OPS Case Management System. OPS will forward complaint paperwork to the Chief of Police and the Assistant Chief of Police. After reviewing the complaint, the OPS Lieutenant or designee will assign the complaint to an OPS Investigator or a Supervisor. Unless directed otherwise by the Chief of Police or Assistant Chief of Police, Class "A" Complaints will be assigned to OPS, and Class "B" Complaints will be assigned to the employee's supervisor.
- B. Chief's Discretion: The Chief of Police or the Assistant Chief of Police may:
 - 1. Assign OPS to investigate any complaint, regardless of the classification.
 - 2. Request an outside agency to investigate any employee's actions. OPS may be assigned to conduct a parallel investigation to ensure the employee's actions were in compliance with Department procedures.
 - 3. Direct OPS or a Supervisor to initiate an investigation into any matter that warrants such.

V. INVESTIGATION OF COMPLAINTS

- A. Authority to Investigate: No employee will initiate or participate in an investigation of another employee without prior approval of the Chief of Police or Assistant Chief of Police.

- B. The Investigation: All investigations will be completed within twenty business days, unless the Chief of Police or Assistant Chief of Police grants an extension, and a written Final Report of Findings will be submitted to the appropriate Division Commander.
- C. When an employee becomes the subject of an internal investigation, the Office of Professional Standards will make written notification to the employee advising the nature of the allegation and the rights and responsibilities of the employee relative to the investigation. There is no requirement to notify an employee if the notification would jeopardize an ongoing investigation.
- D. Review: The appropriate Division Commander(s), the Assistant Chief of Police, or the Chief of Police will review the investigative file and the Final Report of Findings for all complaints. The Chief of Police will review the investigative file and the Final Report of Findings for all sustained complaints.

VI. INVESTIGATIVE PROCEDURES

- A. Confidentiality: OPS and supervisors are responsible for maintaining the integrity and confidentiality of complaints upon their receipt and during their investigation through to a disposition as well as after their closure.
- B. Completion of Investigations: A complainant may express his or her desire to withdraw a complaint, or even refuse to cooperate further with the investigation of a complaint, but this will not preclude the continuation of the investigation and will not preclude corrective action where appropriate.
- C. Preliminary Investigation: OPS and Supervisors will conduct a preliminary investigation of each complaint and determine the nature and validity of the complaint. Where possible, invalid complaints should be concluded, after a full investigation, without interviewing, or otherwise involving, the employee alleged to have engaged in misconduct.
- D. Relief from Duty:
 - 1. Command officers may relieve an employee from duty and place the employee on administrative leave until the next business day under the following circumstances:
 - a. Conduct by the employee that is criminal, extremely serious in nature, and/or creates potential harm to the officer or others and is personally observed by or reported to a supervisor.
 - b. The employee is unfit for duty due to physical or psychological reasons (i.e., intoxication, use of deadly force, suicidal ideation, etc.).

- c. Situations involving allegations of behavior or conduct that make it in the best interest for the member and/or the department that the member be placed on administrative leave.
- 2. Unless directed otherwise by the Chief of Police, or designee, the command officer imposing administrative leave has the authority and shall require the affected member to surrender his/her badge, ID card and all issued weapons.
 - a. Any employee receiving an administrative leave will be required and directed to report to the Chief of Police at 0900 hours on the next business day. The command officer imposing the suspension will also appear at this time with all necessary reports completed. The Chief will review the case and make a determination as to next steps.
 - b. Employees placed on administrative leave may receive full pay for the duration of the leave unless otherwise directed by the Chief of Police.
- E. Garrity ¹ Form: Given that interviews are not voluntary and cannot, therefore, be shared with solicitors or criminal investigators, OPS and Supervisors must read a Garrity form to any employee prior to interviewing him or her on any matter that could give rise to a criminal matter. ¹ Garrity v. New Jersey, 385 U.S. 493 (1967).
- F. Referrals: If, during the preliminary investigation or thereafter, a supervisor finds evidence of a nature that is normally investigated by OPS, the supervisor will confer with the Division Captain about whether the investigation should be referred to OPS.
- G. Interviews: Interviews of any department employee will be conducted at a reasonable hour to be determined by the urgency of the investigation. If OPS needs to interview an employee, OPS will notify the employee's direct supervisor and Division Captain unless notification would hinder the investigation. The employee to be interviewed shall be informed of the name, rank and division assignment of all officers present and involved in the interview. The employee being interviewed shall not be subjected to offensive procedures, such as offensive language. It shall be permissible for the investigating officer to inform the employee that failure to cooperate or answer questions may result in disciplinary action.
- H. Notification: The employee will be notified of the nature of the allegations made against him or her and shall be informed of the type of investigation being conducted* i.e., criminal, administrative or both. Supervisors will notify employees in person of the final disposition of each allegation.

- I. Cooperation: Employees are required to cooperate in all non-criminal investigations, and such cooperation may include, among other things, a polygraph examination, a breathalyzer, diagnostic tests of body fluids, submitting to a photograph, employee lineups, physical examinations, psychiatric or psychological testing, voice or handwriting analysis, submitting financial records and/or a disclosure statement, or any other test or examination deemed reasonable and necessary to facilitate finding the truth.

VII. SEARCHES

A. No Right to Privacy:

1. City Property: Employees should be aware they have no right to privacy in city owned property to include, among other things, offices, desks, lockers, storage containers, equipment and vehicles, and such property is subject to inspection at any time.
2. Communications: Employees should also be aware they have no right to privacy in communications via city equipment, such as radios, cell phones, landlines, computers, as to the transmissions, storage within the equipment itself or information provided by a service provider.

- ### B. Right to Privacy: Privately owned property to include, among other things, a residence, a vehicle, or a bag (purse, backpack, duffle, etc.) may not be inspected or searched without a search warrant or an exception to the search warrant requirement.

VIII. REPORT OF FINDINGS

- ### A. Final Report: Upon completion of the investigation, OPS and supervisors must complete a final report for review by the chain-of-command.

1. I.R.A.C.: The following method, known as the I.R.A.C. method, is a suggested method for writing the final report in a brief but comprehensive manner:
 - a. Issue: What are the complainant's or complainants' allegations?
 - b. Rule: What rule was violated? (Constitution, federal law, state law, departmental policy, S.O.P., etc.)
 - c. Application: A review of the facts relevant to the alleged issues as they apply to the rules, i.e., the narrative.
 - d. Conclusion:
 - 1) Recommended Finding: Based upon a review of the facts, was there a violation as alleged? OPS will defer to the chain-of-command in this area.

- a) Sustained: The investigation disclosed sufficient evidence to prove the allegation.
 - b) Not Sustained: This includes instances where (1) the alleged act did not occur, i.e., unfounded, (2) the act did occur, but the employee acted legally and properly, and (3) the investigation failed to disclose sufficient evidence to confirm or deny the allegation, i.e., insufficient evidence.
- 2) Corrective Action: If there was a violation, in full or in part, what is the corrective course of action? OPS will also defer to the chain-of-command in this area.

The following is a non-exhaustive list of possible corrective actions that may be recommended:

- a) Informal, remedial training conducted by a supervisor.
- b) Formal, remedial training conducted by the Training Section.
- c) Department-wide procedure or training: The investigation disclosed the need for training, or a policy in a particular area to guide officers in the performance of their duties.
- d) Coaching: While an employee may not have done something wrong, he or she can increase their skill building to boost their performance and set goals with his or her supervisor to show improvement. Advice from a supervisor, an FTO, or even a peer, help employees grow. This is what the Chief often refers to as "a training opportunity."
- e) Employee Assistance Program (EAP): The City EAP can assist employees with problems that can affect their work performance.
- f) Per the City Manual, disciplinary action may include:
 - i. Informal Counseling
 - ii. Oral Reprimand
 - iii. Written Reprimand
 - iv. Suspension
 - v. Salary Reduction
 - vi. Probation
 - vii. Demotion
 - viii. Dismissal

Note: All sworn employee dismissals shall be reported to the South Carolina Criminal Justice Academy as required by the Law Enforcement Training Regulations.

2. Addendums/Attachments: All other evidence to include, but not limited to, witness statements, officer statements, video and audio evidence, will be included with the final report for review by the chain-of-command.
- B. Notification of Employee: Upon approval of the final report, the subject(s) of the complaint will be notified in writing of the results of the investigation.
- C. Notification of Complainants: OPS will notify all complainants in writing of the complaint disposition. OPS and supervisors will ensure that notification complies with all personnel privacy law provisions. All communication and attempts to communicate with a complainant will be documented in the Case Management System.

IX. CHAIN OF COMMAND HEARING

- A. The Chief of Police, the Assistant Chief of Police or the Division Captain of an officer involved in an investigation may request a Chain-of-Command Hearing to examine or gather further evidence.
- B. The Chief of Police, or Assistant Chief of Police, will select the chain-of-command members to preside over the hearing.
- C. The chain-of-command presiding over the hearing may request the presence of any employee to present evidence in furtherance of the investigation.
- D. Representatives: Employees asked to bear witness at a chain-of-command hearing may not request the presence and assistance of a representative, such as an attorney.
- E. The Division Captain, or his or her designee, will make record of the hearing and forward a written recommendation to the Assistant Chief of Police.

X. DISTRIBUTION, RELEASE & RETENTION OF PAPERWORK

- A. Citizen Complaint form: Supervisors will forward the Citizen Complaint Form via email to OPS so OPS may assign it a case number and log it into the OPS Computer System.
- B. Freedom of Information Act (FOIA): All internal investigative files are subject to FOIA requests. When a request is received, it will be forwarded to the Chief of Police, or the Assistant Chief of Police, for review and a recommended course of action.

1. Exempt from Release: Prior to release, all personnel files and disciplinary reports should be reviewed pursuant to Burton with respect to exempt and non-exempt material. Any information secured from a Garrity interview and any subsequent information derived therefrom is exempt from disclosure pursuant to the FOIA. Releasing the facts and the outcome to include corrective action satisfies the FOIA and protects employees' constitutional rights. *Burton v York County Sheriff's Dept.*, 358 S.C., 339, 594 S.E. 2d 888 (Ct App. 2004)

2. Employee Statements: Given investigative files to include any disciplinary action may be requested via FOIA by others, such as members of the media for public dissemination, employees may, but are not required to, include a typed statement about their actions. In other words, this statement gives employees an opportunity to express themselves so they may point out that while they did make a mistake, there were mitigating circumstances, such as I did not do so intentionally, or out of anger, or I misunderstood the law or facts. Statements must be professional and are limited to explaining one's actions in connection with an investigation; they are not a forum to address other issues. The OPS Commander, with the advice and consent of the Chief of Police or Assist Chief of Police as necessary, has the final say as to whether a statement is sufficiently professional and accurate to be included in the file or whether it needs to be revised before inclusion.

C. Final Case File: Upon completion of an investigation, all documentation and evidence, not already placed in the Property & Evidence Unit, will be forwarded to the OPS Unit for filing and storage. After approval and after review with an employee, all, final corrective actions will be filed as follows:

1. Employee's personnel file;
2. OPS; and
3. Employee.

D. Retention: A record of all complaints made against the Department, or its employees will be maintained and kept confidential. After the Chief of Police, or the Assistant Chief of Police, makes a final determination about the disposition of a complaint, the investigation and findings will be stored in a secure area in accordance with State Archives, which recommends a retention period of 5 years after termination of employment.

XI. PERSONNEL SUBJECT TO THIS POLICY

A. This policy applies to all members of the Myrtle Beach Police Department, both sworn and civilian.

XII. APPEALS

- A. All appeals of corrective action to include disciplinary action shall be in accordance with City Policy.

XIII. EMPLOYEE MONITORING

- A. The Myrtle Beach Police Department has a responsibility to its employees and the community to identify and assist employees who show symptoms of job stress or personal problems. Such symptoms may be exhibited in on-the-job performance behavior. Although no specific and universal criteria can determine job stress and/or job performance problems, it is important that certain types of criteria be reviewed. An individual incident may appear acceptable by itself, but a pattern may be revealed when compared to other behaviors. Several indicators detailed in this program will allow supervisors to examine the totality of each employee's actions and make a more accurate assessment of the need for intervention.
- B. The Myrtle Beach Police Department has established and maintains a system for tracking and reviewing employee behavior for the purpose of identifying potential risks that may require intervention. This system, known as the Early Intervention System (EIS), will be used as a means for supervisors to monitor behaviors and take steps to intervene before a potential risk becomes a reality.
- C. The OPS Lieutenant or designee will maintain a database which generates an EIS warning. The OPS Lieutenant or designee is responsible for ensuring that all meetings and reports are completed within the timeframes described below. All missed deadlines will be reported to the Assistant Chief for follow-up.
 - 1. The EIS will generate an alert if a particular employee is involved in multiple internal investigations, citizen complaints, disciplinary actions (oral reprimand or above), and/or uses of force within a specified timeframe. When the cumulative number of separate incidents listed above exceeds the following thresholds, the Early Intervention System is triggered and an alert associated with the employee is activated.
 - a. More than two in any six-month period, or
 - b. More than five in any twelve-month period.
 - c. A new alert will be triggered if an employee is involved in any incident within six months of a previous alert.
 - 2. The alert may not be indicative of misconduct. The threshold alert is merely a mechanism designed to allow the chain of command to conduct a closer

inspection of potentially problematic behavior on the part of the employee and attempt to develop strategies for intervention to address the existing issues.

3. Within 30 days of receiving an alert, the OPS Lieutenant or designee will review each incident to determine the validity and need for intervention. A written summary of the findings will be submitted to the OPS File.
4. If the OPS Lieutenant or designee determines that intervention is needed, a copy of the summary will be forwarded to the employee's Division Captain for follow up. Within seven days of receiving the summary, a member of the employee's chain of command will conduct and document a face-to-face meeting with the employee to discuss the incidents that triggered the alert and create a written plan of action that includes recommendations for intervention strategies. These recommendations are made to help prevent the employee from triggering future alerts. The interventions available to the employee include but are not limited to, the following:
 - a. Supervisor counseling;
 - b. Corrective action;
 - c. Probation;
 - d. Re-assignment;
 - e. Remedial training;
 - f. Peer support;
 - g. Mental health evaluation & counseling; and
 - h. EAP assistance.

The Division Captain may approve or modify the recommended intervention strategies. Documentation of the face-to-face meeting as well as a copy of the approved written plan of action will be distributed to the employee, the immediate supervisor, the OPS File, and the employee's personnel file.

5. The immediate supervisor will monitor the involved employee's work performance as well as their participation in the intervention strategies. The supervisor will meet with the employee and submit a written Status Report to the Division Captain every 60 days until the matter is closed. The report will

document the employee's level of participation in the intervention strategies, overall work performance, and a recommendation for next steps.

6. Within seven days of receiving the Status Report, the Division Captain will determine if the plan of action should be continued, modified, or closed. The Division Captain will add their determination to the Status Report and forward a copy to the employee, the supervisor, the OPS File, and the employee's personnel file.
 7. If the employee has exhibited a history of documented behavioral issues that have not been corrected through intervention strategies, then the Division Captain may recommend disciplinary action up to and including termination of employment to the Chief of Police.
- D. The OPS Lieutenant or designee will conduct an annual evaluation of the cumulative threshold levels for the combined incidents and of the overall effectiveness of the program. The written assessment will include recommendations for adjustments and will be submitted to the Chief of Police for approval.