

# CITY OF ANDERSON POLICE DEPARTMENT

## Anderson, South Carolina

<b>DIRECTIVE TYPE</b> General Order	<b>EFFECTIVE DATE</b> October 30, 2018	<b>NUMBER</b> 1801.2
<b>SUBJECT</b> Investigation of Complaints		<b>REVISED</b> October 30, 2018
<b>REFERENCE</b> SCLEA 18.1.1; CALEA 52.1.1	<b>AMENDS/SUPERSEDES</b> All Others	
<b>DISTRIBUTION</b> All Personnel	<b>RE-EVALUATION DATE</b> Annual	<b>NO. PAGES</b> 7

### A. Purpose

To establish procedures for responding promptly and courteously to allegations of actual or suspected misconduct by members of the City of Anderson Police Department. Complaints may arise from members of the community, by personnel who are employed with the City of Anderson, Inc or members employed within the City of Anderson Police Department, including those in a reserve and/or volunteer status.

To establish supervision and control of investigations of alleged or suspected misconduct within the Department.

### B. Policy

The policy of the City of Anderson Police Department is to ensure that integrity is maintained through an internal system where objectivity, fairness, and justice are assured by intensive and impartial investigation and review to clear the innocent, establish guilt of wrongdoers, and facilitate fair, suitable, and consistent disciplinary action. All Internal Affairs policies and procedures apply to all members of the City of Anderson Police Department - sworn, non-sworn, reserve, volunteer, or interns, etc- who have a professional relationship with the department.

A proper understanding of what constitutes a valid complaint is essential to start the entire complaint and administrative investigation process. The person receiving a complaint must have a full and complete understanding of what is or is not a valid complaint. Without the

essential foundation the entire process is curtailed at the very beginning and the system fails to adequately hold individual employees accountable for not initiating the proper procedures of complaint acceptance.

## C. Definition

1. Complaint - A valid complaint can come from both an external and internal source and must be:
  - a. An allegation from any source of circumstance(s) amounting to a specific act or omission which if proven true would amount to employee misconduct, or
  - b. An expression with dissatisfaction from an external source with a policy, procedure, practice, philosophy, service level or legal standard of the City of Anderson Police Department.
  - c. Note – A disagreement over the validity of a criminal charge, traffic/vehicle code citation or parking violation notice is not grounds for the initiation of a personnel complaint. The person who wishes to levy such a complaint should be advised that this is a matter for adjudication by the proper court system.
2. Misconduct – Misconduct is an act or an omission by a member of the City of Anderson Police Department which if proven true would normally result in some form of discipline, sanction, or remediation. This would include:
  - a. Commission of a criminal act,
  - b. Neglect of duty,
  - c. Violation of an agency policy, procedure, rule or regulation, or
  - d. Conduct which may tend to reflect unfavorable upon the member and/or agency.

## D. Procedures

### 1. Receiving Complaints

- a. Citizen complaints may be taken by any member of the Department who is approached for such assistance. However, in the event a nonsupervisory employee is contacted about a complaint, the employee will notify his/her supervisor as soon as practical. The supervisor may attempt to resolve the complaint by an explanation of departmental policies and procedures, where applicable.

- b. Whenever any private individual wishes to register a complaint against an employee of the Police Department, that individual shall be provided with the opportunity and any assistance needed to record their complaint. The following procedures shall be followed immediately and at the time that an individual informs a member of the department of their desire to have an investigation initiated:
- (1) A "Citizen Complaint Form" (Form IA-1810) will be provided to the individual, with instructions and assistance in filling it out. If the individual cannot write, the accepting officer may write the complaint. The officer may also make an audio and/or video recording of the complaint.
  - (2) The completed "Citizen Complaint Form" shall be placed in a sealed envelope marked for "INTERNAL AFFAIRS" and hand delivered to the Internal Affairs Coordinator, or if his office is closed, it may be placed in the IAC's mailbox. The same information as required by form IA-1810 may be emailed to the Internal Affairs Coordinator.
    - (a) In the event that the IAC is out of the office for more than one business day, the complaint should be forwarded to the Chief of Police or his designee.
- c. If the contents of the complaint are allegations of corruption, breaches of civil rights, unnecessary use of force, or criminal misconduct, the accepting officer shall notify the Internal Affairs Coordinator as soon as practical that a citizen's complaint has been received and forwarded. The IA Coordinator will notify the Chief of Police or his designee as soon as possible of the allegation. No names, identifying information, or details of the allegations shall be disclosed to any other employee except the Chief of Police or his designee.

## **2. Investigation of Complaints:**

- a. The City of Anderson Police Department will document and investigate all complaints, alleged or suspected, either signed or anonymous, that are made against the Department or its sworn, non-sworn, reserve, or volunteer employees.
- b. On occasion, malicious and deliberate false accusations may be made against the department and/or its employees. The accusations will be investigated to protect the integrity of the department and/or its employees, thereby instilling public confidence in the department. In some cases, the extent of the investigation may be limited to substantiating the falsity of the accusation. In the case of false accusations, the Chief of Police will review the case. The

Chief may, in consultation with legal counsel, seek legal recourse against the person(s) who filed a deliberate false report.

- c. The complaints and disciplinary actions, which are to be handled in accordance with the provisions of this procedure, include:
  - (1) Alleged or suspected violations of laws, ordinances, or department rules or orders, by sworn or civilian members, including temporary employees, or volunteers of the City of Anderson Police Department.

**3. Complaints can be made by:**

- a. Members of the department may report complaints to supervisory or commanding officers, either orally in writing, by telephone or any other type of correspondence (including email), either signed or anonymous;
- b. Citizens may report complaints to any member of the department, either orally, in writing, by telephone or any other type of correspondence (including email), either signed or anonymous;
- c. City officials;
- d. Supervisory or commanding officers.

**4. The following types of investigations will be conducted by the specified person(s): (SCLEA 18.1.1; CALEA 52.1.1)**

- a. Allegations of violations of department rules of conduct will generally be investigated by the immediate supervisor of the involved officer (i.e., complaints about an officer or other member's attitude, rudeness, tardiness, insubordination, inefficiency, sleeping on duty, traffic violations, etc.). (Standard b-1.)
- b. Allegations of violations of criminal law, reports of corruption, breach of civil rights, major policy violations, allegations of unnecessary force, and other allegations of a sensitive nature will be investigated by the IAC unless otherwise assigned by the Chief of Police. (Standard b-2.)
- c. The IAC shall review any allegations from a source outside the department which may have criminal sanctions. The IAC will have responsibility for the internal affairs function, reporting directly to the Chief of Police. (Standard b-3.)

- d. The Chief of Police may assign the IAC to review any investigation conducted by a line supervisor.  
(Standard b-3.)
- e. Allegations which do not clearly fit into any of the above listed categories, or for any other reason require investigation and/or follow up, may be assigned by the Chief of Police to the employee's immediate supervisor, the IAC, the Chief himself or any other person or agency designated by the Chief of Police, whichever the Chief deems appropriate.
- f. Complaints against supervisors (shift leaders) will be investigated by the IAC.  
(Standard b-2.)
- g. Complaints against the IAC will be investigated by the Chief of Police.
- h. Allegations against the Chief of Police will be directed to the Assistant City Manager.
- i. With the exception of matters involving Internal Affairs, no employee has the authority to follow co-workers or otherwise conduct Internal Affairs duties without the express permission of the Chief of Police.

## **5. Length of Time to Investigate Complaints**

- a. Internal affairs investigations shall be completed within thirty days from the time of their receipt, with verbal status reports to the Chief at least once every five days.
  - (1) An extension may be granted by the Chief of Police if there is an exceptional circumstance (i.e., pending court case, witness not available, etc.) that requires a longer investigative time period than fifteen days.
- b. The investigating supervisor/investigator will periodically provide status reports to the complainant. The Chief of Police or the IAC shall notify the complainant concerning the status of their complaint against the department or any of its employees upon conclusion of the investigation.
- c. Complainant will also be kept informed throughout the process to include: receipt of complaint, updates and results of investigation. (SCLEA 18.7)

## **6. Notifications**

- a. All written directives that relate to the internal affairs function will be disseminated to all department personnel.

- b. Whenever a department employee is notified they have become the subject of an internal affairs investigation, that employee shall be furnished with a written statement of the allegation.
  - (1) The Chief of Police can elect not to notify the employee of an internal affairs investigation, when to do so could jeopardize the investigation.
    - (a) A written statement as specified in E-2 above must be furnished to the employee if and when the employee is asked to respond to a complaint or allegation.

**7. Disposition of Complaints - Conclusion of Fact**

- a. A finding or conclusion of fact shall be made on all investigations, whether completed by the immediate supervisor of the employee or the IAC. The finding or conclusion shall be one of the indicators listed below:
  - (1) "Unfounded" if the allegation is false;
  - (2) "Exonerated" if the allegation is true but the action was lawful and proper;
  - (3) "Not-Sustained" if there is insufficient evidence to either prove or disprove the allegation;
  - (4) "Sustained" if the allegation is supported by a preponderance of evidence to justify a reasonable conclusion that the incident occurred as alleged in violation of an appropriate policy, directive, or law;

**8. Responsibilities**

- a. Upon completion of the investigation, investigating supervisors shall forward their investigative file for review to the IAC. The IA Coordinator shall review the file for completeness, compose the citizen complaint disposition letter, and then forward the file to the Chief of Police for final approval and disposition.
- b. If a disposition of "Sustained" is determined in the complaint, the investigating supervisor or the IAC shall make a recommendation to the Chief as to the disciplinary action to be taken, on their final outline of the investigation.
- c. The IAC shall maintain a liaison with the Anderson County Solicitor's Office and may consult with a representative from their office in any investigations involving alleged criminal conduct on the part of an employee.

- d. If criminal activity becomes apparent or suspected during the Internal Affairs investigation, the IA investigation will be stopped and the criminal investigation will be referred to the South Carolina Law Enforcement Division (SLED)

**9. Rights during an Internal Investigation**

- a. The officer under investigation will receive confidential written notification of the complaint, unless to do so would jeopardize the investigation. This notification may be a copy of the original complaint or a summary adequately listing the relevant facts, and the officer's rights and responsibilities during the investigation.
- b. All interviews should be conducted while the employee is on duty, unless the seriousness of the investigation is such that an immediate interview is required. The interview(s) will be held at the City of Anderson Police Department, or at another location if necessary.
- c. Officers under investigation shall not be subjected to offensive language, threatened with transfer, dismissal, or disciplinary action during an interview. No promise or reward shall be made by the internal affairs investigator as an inducement to answer any questions.
- d. Accused employees or their supervisor may contact the IAC to ascertain the status of the investigation of a complaint filed against them.
- e. The accused employees will be given an opportunity to explain their actions to the Chief of Police prior to the imposition of any disciplinary action.

By order of:

  
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Jim Stewart, Chief of Police

10-30-18  
Date