

	Greenville, SC Police Department <b>GENERAL ORDER</b>		
	<b>Subject</b> Internal Investigation, Adjudication and Employee Rights	<b>Number</b> 167A6	<b>Type</b> Administrative
<b>Effective Date</b> July 1, 2015	<b>Amends/ Rescinds</b> 167A5	<b>Pages</b>	<b>Re-evaluation</b> Annual - July
<b>References</b> CALEA 52.1.1; 52.1.2; 52.1.3; 52.1.4; 52.2.1; 52.2.2; 52.2.3; 52.2.4; 52.2.5; 52.2.6; 52.2.7; 52.2.8			<b>Notes</b> Replaces Internal Affairs

## 1.0 PURPOSE

The purpose of this General Order is to establish a procedure to: address employee misconduct in a uniform manner, to protect the public from abuse of authority by police officers, to provide the public with a fair and effective process for receiving, investigating and adjudicating complaints against police employees, to protect employees from false allegations, and to ensure that employees are consistently treated fairly.

## 2.0 POLICY

- 2.1 The Greenville Police Department (GPD) shall thoroughly investigate all credible allegations of employee misconduct, including anonymous allegations, whether received from a citizen or an employee of the GPD. In addition, the GPD will conduct administrative investigations into certain incidents due to the sensitivity and/or magnitude of the incident, even when a citizen complaint is not received.
- 2.2 All complaint investigations shall be completed, fully documented and adjudicated by the chain of command or the Chief of Police, regardless of whether an employee is separated for any reason from his or her employment with the GPD.
- 2.3 All employees of the GPD are subject to discipline under the provisions of this General Order. Generally, these investigations will be conducted within the GPD, but there may also be incidents that are best investigated by another unit of government, such as the Human Resources Department or the City Attorney's Office.
- 2.4 Any employee who violates the oath of office, the laws of the United States, the State of South Carolina, or the City of Greenville; or, who violates any provisions of City Policy, GPD Rules, General Orders, Special Orders, Standard Operating Procedures; or, who disobeys the lawful order of a supervisor; or, who is incompetent in the performance of duties, is subject to disciplinary action.

### 3.0 PROCEDURE

- 3.1 The Professional Standards Division will maintain all allegations of employee misconduct and completed investigations.
- 3.2 All credible allegations of misconduct and complaints against an employee of the GPD will be thoroughly investigated and documented. All allegations will be deemed credible unless the complainant has demonstrated a history of filing allegations that are malicious or without merit and the allegation being evaluated can be reasonably articulated to be malicious or without merit. In such situations, the Professional Standards Division commander will consult with the Chief of Police for a decision to investigate the allegation. The Professional Standards Division will retain a file for any such allegation and the articulable reasons for deeming the complaint to be malicious or without merit.
- 3.3 All investigations of employee misconduct require review and disposition by the employee's chain of command, and review by the Professional Standards Division for ensuring thoroughness, consistency and fairness.
- 3.4 When an employee's continued presence at work would be a detriment to the efficiency of the GPD or to public safety, the Chief of Police or his designee may place an employee on administrative leave with pay for a period not generally to exceed ten (10) working days. Initial action may be taken prior to the employee being provided with an opportunity to explain or justify his or her behavior. When such initial action is taken, the employee shall be notified in writing of the action and reason(s) supporting such action.

### 4.0 RECEIVING AND PROCESSING ALLEGATIONS OF EMPLOYEE MISCONDUCT

- 4.1 Complaint Reception
  - 4.1.1 Complaints will be accepted from any source including, but not limited to, in-person, mail, email, or telephone. Supervisors must make reasonable and diligent efforts to obtain a statement from any complaining party.
  - 4.1.2 Every complaining party will be immediately connected with a supervisor or to the Professional Standards Division so that the complaint can be received.



4.1.3 Subject to Section 3.2 above, every complaint, which if true would constitute a violation of any rule(s) in General Order 102A, Rules of Conduct, must be thoroughly investigated. Alleged violations will be investigated by the Professional Standards Division, unless otherwise determined to be best investigated by another police division or City department, such as Human Resources or the City Legal Department.

4.1.4 Any allegation of employee misconduct serious enough to require immediate action, such as administrative suspension from duty, must be referred to the Chief of Police or his designee, with the exception of situations requiring emergency relief from duty. In such circumstances, a first level supervisor or higher may relieve an employee from duty on an emergency basis when in the best interest of the GPD. Following this action, that supervisor will immediately notify his or her Captain, who will be responsible for immediately notifying the Professional Standards and the Chief of Police.

#### 4.2 Complaint Processing

4.2.1 Professional Standards, supervisors and commanders will make every effort to fully investigate and adjudicate a complaint, including employee notification of complaint disposition, within sixty (60) days of its reception.

4.2.2 Complaints will be investigated by the responsible unit as outlined in Appendix A of this General Order, unless otherwise directed by the Chief of Police or the Professional Standards Division commander.

#### 4.3 Notifying Complainants of Case Status and Final Dispositions

4.3.1 The supervisor responsible for investigating a complaint shall notify Professional Standards to send the complainant a letter acknowledging receipt of the complaint and the intention to fully investigate it.

4.3.2 The Professional Standards Division commander will ensure that the complaining party and the accused employee are notified in writing of case investigation status every thirty (30) days.

4.3.3 The Professional Standards Division commander will brief the Chief of Police about any cases in which there is an actual or



anticipated delay in an investigation beyond their control that would extend a case adjudication beyond sixty (60) days.

- 4.3.4 Commanders for the accused employee will ensure the accused employee is notified in writing of complaint disposition and that the signed acknowledgement is attached to the case file.
- 4.3.5 With any sustained allegation, commanders for the accused employee shall ensure that the General Order 103A, Philosophy of Discipline, governs the assessment of appropriate discipline and that all participants adjudicating the sustained allegation vocalize their perspective around each of the five factors of consideration (motivation, degree of harm, intentionality, employee experience, and past record).
- 4.3.6 The adjudicating commander shall be responsible to summarize in writing the findings and rationale for discipline in sustained allegations. This summary shall be provided to the accused employee in memorandum form, with a copy to the Professional Standards Division commander.
- 4.3.7 Professional Standards Division shall notify all complainants in writing of the complaint conclusion, including rights and process of appeal to the Commission on Fire and Police Practices. Professional Standards Division will attach the record to the employee's personnel file.
- 4.3.8 A process flowchart is attached to this General Order as Appendix B.

## 5.0 **EMPLOYEE MISCONDUCT INTERVIEWS AND INVESTIGATIVE PRACTICES**

### 5.1 Investigation Procedure

- 5.1.1 The investigating supervisor shall complete a thorough investigation by conducting or causing to be conducted the following measures:
  - 5.1.1.1 Identifying, interviewing and collecting or accurately summarizing statements from all material witnesses and involved employees;



- 5.1.1.2 Photographing the incident scene and any evidence, if applicable, and preferably prior to movement or removal from the scene;
- 5.1.1.3 Collecting and submitting any evidence necessary for retention and further examination;
- 5.1.1.4 Properly downloading and labeling all video/audio evidence, whether from Mobile Video Recorders, Body Worn Video Cameras, or from stationary/facility, employee or witness personal video/audio recording devices;
- 5.1.1.5 Determining and recording the accurate sequence of events that precipitated the incident and underlying reasons for actions taken by employees of the GPD;
- 5.1.1.6 Identifying points of law and/or policy through which an employee's actions must be evaluated and ensuring that the investigation is sufficiently thorough in evaluating those actions against governing law.
- 5.1.1.7 Completing all necessary Risk Management documents in situations involving injury or damage to equipment;
- 5.1.1.8 Providing an accurate synopsis and investigative report of the event to Professional Standards and to the accused employee's chain of command.

## 5.2 Interviews

- 5.2.1 Interviews will be conducted at a reasonable hour, based upon the urgency of the investigation and the work schedule of the interviewee. Employees subject to an administrative interview outside of scheduled duty hours will be given notice at least three (3) hours prior to the interview, unless unusual circumstances necessitate an immediate interview.
- 5.2.2 The supervisor will inform the person interviewed of the name and rank of all persons present during the interview, whether they join the interview in person or via telephone.
- 5.2.3 The interviewing supervisor will notify the employee's supervisor when requesting an employee to leave assigned duties and/or area of assignment for purposes of the interview.



- 5.2.4 The investigating supervisor will inform the employee in writing of the nature of the allegations or complaint against him or her. If a complaint/allegation is received, said employee will be notified, in writing of the complaint/allegation within ten (10) calendar days of receipt. This notification may be delayed (postponed) if such notification would jeopardize an investigation into the employee's involvement in misconduct or criminal activity.
  - 5.2.5 The interviewer will permit the person being interviewed to have a reasonable rest period if the interview is unusually lengthy.
  - 5.2.6 The interviewer shall not subject the person being interviewed to any offensive or abusive language, or threaten an employee with dismissal or other disciplinary action.
  - 5.2.7 The interviewer will prepare a signed copy of the employee's acknowledgment of their administrative rights and responsibilities under *Garrity v. New Jersey* (US Supreme Court, 1967), or recorded affirmation of same and maintain it with the complaint investigation file.
  - 5.2.8 All interviews conducted by the Professional Standards Division will be recorded. Upon the conclusion of the investigation, the employee being interviewed may request a copy of his or her statement, if transcribed. Any such request will be accommodated in a reasonable time.
- 5.3 Employee Participation in an Interview
- 5.3.1 The employee must answer all questions, presented by any interviewer throughout the administrative investigation, with the whole truth.
  - 5.3.2 The employee is required to fully participate in the administrative investigation. Any attempt to avoid full participation shall be determined to be insubordination and will result in separate disciplinary action.
  - 5.3.3 During an interview for a complaint investigation, the employee being interviewed will not be permitted to have counsel present or involved. The employee may elect to have a supervisor present, subject to the following conditions:



- 5.3.3.1 The supervisor must not be one who is directly involved in the incident being investigated.
- 5.3.3.2 The supervisor shall not interfere with or complicate the interviewer's efforts to conduct and complete the investigation.
- 5.3.4 The employee shall be informed in writing (or orally, if conducted via telephone and the conversation recorded) that he or she has no Fifth Amendment Constitutional right to refuse to answer questions relating to the noted administrative investigation and that statements made by them or evidence directly derived from self-incriminating statements cannot be used to prosecute the interviewed employee (United States Supreme Court decisions: *Garrity v. New Jersey, 1967; Uniformed Sanitation Men v. Commissioner of Sanitation, 1970; and, Kastigar v. United States, 1972*).
- 5.3.5 The interviewing supervisor shall inform the employee of the opportunity to select whether he or she wants the allegations to be adjudicated with or without a hearing, subject to the provision of Section 6.1.2 of the General Order.
- 5.4 Criminal investigations shall not be conducted by the Professional Standards Division. Any allegation involving violations of criminal law, or an administrative investigation revealing such allegations, shall be referred to the Chief of Police or his designee for subsequent criminal investigation by the Investigations Division, SLED or other outside agency, if necessary.
- 5.5 Polygraph Examinations
- 5.5.1 A polygraph examination administered as a tool to assist in an administrative investigation must be approved by the Chief of Police.
- 5.5.2 An employee subjected to an administrative investigation is required to submit to a polygraph examination if, in the GPD's sole discretion, such investigative tool is deemed necessary for the completion of the administrative investigation. If so required, an employee cannot refuse to submit to the examination.



- 5.5.3 An employee subjected to an administrative investigation may themselves request a polygraph examination. This request must also be approved by the Chief of Police.
- 5.5.4 Employees subjected to a polygraph examination as part of a criminal investigation will have the right to refuse the examination. If the employee waives that right and consents to the examination, he or she will be reminded that any information received as a result of the examination can be used in both criminal and administrative actions.
- 5.5.5 Pre-polygraph interview periods shall be focused and sufficiently brief to accomplish the pre-polygraph interview objectives.

## 5.6 Searches

- 5.6.1 Employees are on notice that all property of the City of Greenville and the GPD is subject to inspection at any time, without inappropriate delay. This property includes, but is not limited to: desks, lockers, storage spaces, work areas, rooms, offices (on or off site), administered equipment, information systems (computers, mobile devices, electronic messages, emails, social media postings and records of various types, etc.), and vehicles. City property may be searched to retrieve any city property, or to determine the existence of any work related misconduct, if there is reason to suspect evidence of such misconduct is present.
- 5.6.2 Private property may be stored in the above-mentioned areas; however, the employee has no expectation of privacy in those areas or while using any information systems or communication facilities of the City.
- 5.6.3 Only employees acting in an official supervisory and/or internal investigative capacity may be authorized to search or inspect these areas.
- 5.6.4 By utilizing City of Greenville telephone lines, voice mail and other telephonic and electronic facilities, an employee consents to conversations through such facilities being recorded and/or monitored.

## 5.7 Other Investigative Methods





In the course of investigating employee misconduct, other investigative methods may be necessary from time to time to help fully investigate and resolve such allegations. These methods may include, but are not limited to:

- 5.7.1 In addition to routine monitoring of the City's information systems and communication facilities, surveillance may be authorized by following an employee, utilizing GPS, computer keystroke tracking and monitoring devices, or other electronic devices on City or GPD equipment, if such surveillance may help reveal information directly related to allegations of misconduct under investigation. Surveillance operations will be managed by the Professional Standards Division and shall only occur under the authorization of the Chief of Police.
- 5.7.2 The use of employee photographs and lineups may be permitted from time to time, but any use of photographs or lineups must follow the same procedures that the GPD requires for criminal investigations, must be conducted solely by the Professional Standards Division, and the process and photographs used must be fully documented in the investigative case file.
- 5.7.3 Any utilization of blood-alcohol drug testing, medical or other laboratory examinations in internal investigations will be in compliance with other GPD and City of Greenville Human Resources policies governing such testing.
- 5.7.4 Employees may be required to submit such personal records as financial documents, telephone service records, handwriting samples or other documentation relative to an administrative investigation.
- 5.7.5 The Chief of Police may request and utilize the assistance of another law enforcement agency in investigating any allegation of employee misconduct.

## 6.0 CHAIN OF COMMAND REVIEW AND ADJUDICATION OF COMPLAINTS

- 6.1 An employee's chain of command shall review and adjudicate all allegations of misconduct.
  - 6.1.1 An employee accused of misconduct shall have the opportunity to elect one of three options for adjudication:



- 6.1.1.1 A hearing by his or her chain of command
- 6.1.1.2 A hearing by his or her chain of command only if, upon initial review, they are inclined to sustain the complaint
- 6.1.1.3 Permit the chain of command to adjudicate the allegation(s) without a hearing
- 6.1.2 A hearing to adjudicate the complaint may be required by the division commander or the Chief of Police, in his or her sole discretion.
- 6.1.3 An allegation of misconduct designated by Appendix A as requiring division-level review, shall be adjudicated by the employee's chain of command up to and including the captain or equivalent non-sworn administrator position.
- 6.1.4 An allegation of misconduct designated by Appendix A as requiring Department-level review shall be adjudicated by the employee's chain of command up to and including the Chief of Police.
- 6.1.5 The Chief of Police may choose to investigate or adjudicate a division-level allegation at the Departmental level.
- 6.1.6 Through the Professional Standards Division, any employee accused of misconduct whose case requires Departmental-level review, may request an independent chain of command review up to, yet not including the Chief of Police.
  - 6.1.6.1 In requesting an independent chain of command review, an employee must describe in writing the reasons that he or she believes that his or her actual chain of command cannot provide a fair hearing. The Chief of Police will assess the reasonableness of the request and in his sole discretion, the Chief's decision shall be final.
  - 6.1.6.2 Because the maintenance of organizational and individual discipline is among the highest priorities of the GPD, an independent chain of command review is a possible option only under certain reasonable and justifiable circumstances –it is not guaranteed upon request.



- 6.2 Peer Member of the Chain of Command Review Board
- 6.2.1 An employee may elect to have a peer participate as a full member of the chain of command review board when a hearing is requested or required for a Departmental-level allegation, as provided by Appendix A.
- 6.2.2 The peer shall not serve as an advocate for the accused employee; rather, the peer shall serve as an objective arbiter of the facts while bringing to the chain of command the perspective of someone who operates in a similar capacity as the accused employee.
- 6.2.3 The peer shall be free to ask questions and make recommendations for disposition and discipline to fulfill his or her responsibilities.
- 6.2.4 Peer Selection Process:
- 6.2.4.1 The peer will be selected from a pool of all eligible employees in the accused employee's job classification. If no pool of employees exists within the accused employee's job classification, a peer will be selected from a similar class of employees.
- 6.2.4.2 The peer may not be a probationary employee, be involved in the case to be heard, have disciplinary action pending, have disciplinary action taken against him or her within the previous twenty-four (24) months, or be on suspension or other leave.
- 6.2.4.3 The Professional Standards Division provides two randomly selected peer employee names to the accused employee, who selects one or rejects both. If the employee rejects both of these peer names, the Professional Standards Division will provide two more names for the employee to select one. The employee must then select one of the two names, defer the choice to the Professional Standards Division commander, or waive his or her right to a peer.
- 6.2.4.4 The Professional Standards Division commander may require the replacement of any peer for just cause.
- 6.3 The presence of or access to an employee's counsel during the hearing is not permitted.



## 7.0 ADJUDICATION OF ALLEGATIONS OF EMPLOYEE MISCONDUCT

7.1 Chain of command review processes shall be conducted in a manner that renders sufficient information about the events and an employee's actions to fully adjudicate the case, and to effectively apply the GPD's Disciplinary Philosophy where any result is a sustained violation. There are two means of chain of command review: In situations where an employee waives his or her right to a hearing, a review of the investigation is conducted by the employee's supervisor and commanders. In situations where the employee requests a hearing, the review will include a hearing before a Chain of Command Review Board (CCRB). To provide this fairness and prevent undue influence upon lower ranking members of any CCRB by higher ranking members, the following procedures shall be followed:

7.1.1 All employees will have an opportunity to review the completed investigation and allegations against them in advance of any hearing date.

7.1.2 All questioning of witnesses and an accused employee shall begin with the lowest ranking member of the CCRB and end with the Chairperson of the CCRB.

7.1.3 The CCRB shall interview witnesses and then accused employees. Accused employees are not permitted to cross-examine other witnesses.

7.1.4 Adjudication recommendations shall begin with the lowest ranking member of the board and end with the Chairperson of the CCRB. The Chairperson will always make the final decision of adjudication.

7.1.5 In cases of sustained misconduct, a review of each and all elements of the GPD Disciplinary Philosophy will occur with each member of the CCRB. This process shall begin with the lowest ranking member and end with the Chairperson. The Chairperson will communicate the final conclusions of the CCRB to the accused employee, including the rationale supporting such conclusions.

7.1.6 The Professional Standards Division shall be represented in all hearings, but will serve only as a resource to the review board and overall process manager. Such representatives may question witnesses, question the accused employee, and answer or point out information related to the investigation, policy or training. They



are prohibited from directly recommending dispositions or discipline, but may request a review with the Chief of Police, should they feel that the CCRB failed in meeting its obligations of consistency and fairness.

- 7.2 Each allegation of employee misconduct must be adjudicated in one of the following ways:
- 7.2.1 **Sustained:** The allegation is supported by sufficient evidence to prove that the allegation is true. The weight of proof is the legal standard of *preponderance of the evidence*.
  - 7.2.2 **Not Sustained:** There is insufficient evidence to either prove or disprove the allegation to the legal standard of *preponderance of the evidence*.
  - 7.2.3 **Exonerated:** The incident giving rise to the complaint or allegation occurred, but the investigation revealed that the employee's actions were justified, lawful and proper.
  - 7.2.4 **Unfounded:** The allegation is clearly false or the facts show that the accused employee could not have committed the violation.
- 7.3 The accused employee will be notified in writing of the final disposition and any corrective action or discipline, and shall also include the supporting rationale for the discipline. This written notification will be presented within five (5) consecutive calendar days of the hearing or disposition. The employee shall sign and date receipt of the document, which does not suggest agreement with its contents.
- 7.4 The employee may attach a written statement to any disposition. The reply will be included in the investigative case file.
- 7.5 Supervisors are responsible to ensure that any sustained complaint and related discipline be documented in their employees' current annual performance appraisals.
- 8.0 **CORRECTIVE ACTION GUIDELINES FOR SUSTAINED ALLEGATIONS OF MISCONDUCT**
- 8.1 Any internal investigation that results in a *Sustained* disposition requires appropriate disciplinary action by the Chief of Police or authorized designee.



- 8.2 All disciplinary decisions will be guided by an active discussion of the GPD's Philosophy of Discipline (G.O. 103A) and must be defensible within its context.
- 8.3 All records of training, counseling and/or reprimand, which are a result of a complaint investigation, shall be incorporated as an attachment within the respective incident case file. Commanders are responsible to ensure these documents are provided to the Professional Standards Division.

## 9.0 POSSIBLE PENALTIES

- 9.1 Employees holding the rank of Chief of Police, Captain, or Administrator may impose the following disciplinary penalties against an employee of the GPD:

Discipline	Chief	Captain/ Administrator
Counseling	X	X
Written Reprimand	X	X
Suspension from Duty	X	
Demotion in Rank	X	
Employment Termination	X	

- 9.2 Captains or Administrators may administer reprimands to employees. For recommended actions greater than a reprimand, they must prepare a recommendation to the Chief of Police, who will make the final determination of discipline.
- 9.3 Employees are prohibited from engaging in law-enforcement related secondary employment while on suspension from the GPD.

## 10.0 APPEALS OF DISCIPLINARY ACTION

- 10.1 Employees who have completed their probationary period have the right to appeal any suspension, demotion or employment termination in accordance with the following procedures:

10.1.1 The employee will be allowed ten (10) calendar days to prepare and submit a formal written appeal in memorandum form, stating the specific grounds or reasons for the appeal. Appeals will be delivered to the proper authority as set forth in Section 10.1.2 and 10.1.3 below, and a copy must be provided to the Professional Standards Division.



10.1.2 Appeals of written reprimands imposed by a Captain or Administrator shall be made to the Chief of Police within ten (10) calendar days.

10.1.3 Appeals by an employee of suspensions, demotions in rank or employment termination by the Chief of Police shall be made to the City's Human Resources Director within thirty (30) calendar days of imposition, who will prepare the appeal for the Commission on Fire and Police Practices (Sworn personnel only) or the Peer Review Panel (Non-sworn personnel only).

**11.0 RELEASE OF EMPLOYEE INFORMATION IN ADMINISTRATIVE DISCIPLINARY ACTION**

Under the South Carolina Freedom of Information Act (SCFOIA), employee disciplinary investigation and discipline records can be considered public information. While the GPD is neither required nor inclined to produce any such records without a SCFOIA request, the Chief of Police may elect to release such information, in whole or in part, to assist in the maintenance of order within the GPD, the City of Greenville, and the maintenance of the public trust.

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Kenneth C. Miller  
Chief of Police

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Date



**Appendix A: Conduct Rules and Adjudication Authority**

<b>Conduct Rule</b>	<b>Title</b>	<b>Adjudication Level</b>
1	General Conduct	Chief of Police
2	Competency	Chief of Police
3	Duty Responsibilities	Division Commander
4	Reporting for Duty	Division Commander
5	Absence from Duty	Chief of Police
6	Courtesy	Division Commander
7	Truthfulness	Chief of Police
8	Compliance with Laws and Regulations	Chief of Police
9	Discretion	Division Commander
10	Duty to Report Violations of Laws, Ordinances, Rules and Directives	Chief of Police
11	Taking Official Action While Off Duty	Chief of Police
12	Biased-Based Policing	Chief of Police
13	Arrest, Search and Seizure	Chief of Police
14	Use of Force	Chief of Police
15	Driving	Division Commander
16	Transporting Members of Public in City Vehicles	Division Commander
17	Use of GPD Equipment	Division Commander
18	Interference with Due Process	Chief of Police
19	Court Appearances	Division Commander
20	Responsibility for Safety and Security of Persons and Property	Division Commander
21	Improper Use or Disposal of Property and Evidence	Chief of Police
22	Gratuities and Solicitations	Chief of Police
23	Abuse of Position	Chief of Police
24	Association with Criminals	Chief of Police
25	Posting of Bail Bond	Chief of Police
26	Impairing Substances	Chief of Police
27	Submission of Reports	Division Commander
28	Release of Information	Division Commander
29	Political Activity	Chief of Police
30	Use of Tobacco Products	Division Commander
31	Unions and Organizations	Chief of Police
32	Personal Information Requirements	Division Commander
33	Proper Identification	Division Commander
34	Supervision	Chief of Police
35	Chain of Command	Division Commander
36	Insubordination	Chief of Police
37	Harassment	Chief of Police





Appendix B: Greenville Police Department Complaint Investigation Process

