



Member Conduct Complaints and Administrative Investigations

Policy Number:

2.02.0302

Effective Date:

10/06/2017

Current Revision Date

4/4/2022

Related Policies:

1.02.0105, 1.02.0205, 2.02.0201, 2.02.0301, 3.01.1503

PURPOSE

This policy provides guidelines for member conduct complaints and administrative investigations.

DEFINITION(S)

Administrative Investigation (AI) means an investigation initiated following any alleged act of member misconduct that meets Level 1 or Level 2 criteria. The Chief, or his designee, may also initiate an AI to investigate other matters of consequence to the agency.

Administrative Review is a documented review of an incident or occurrence prepared for the Chief or Chief's designee. The review should indicate whether policy, training, equipment, or policy-compliance issues should be addressed.

Complaint means an allegation of member or agency misconduct, which can be allegations of less than professional demeanor, improper or excessive use of force, inappropriate language, criminal activity, abuse of authority, or protest regarding the actions of a member in the performance of that member's duties. A disagreement over the validity of a traffic citation or criminal charge is not a complaint. Such disagreements should be directed to the proper court having jurisdiction in the matter.

Completed Internal Investigation Summary for the purposes of meeting the CALEA standard, is equivalent to the required conclusion of fact.

Inquiry means a request for information or an explanation of facts, principles, or practices that may deal with an incident or contact involving an action or non-action, which upon review, does not allege misconduct on the part of the member. Inquiries are often questions concerning State Patrol operations that may not be understood by the general public.

Unduly Influence means the improper use of power or trust in a way that deprives a person of free will and substitutes another's objective by improper, unjust, or excessive means.

POLICY STATEMENT(S)

In order to maintain integrity and public trust, the State Patrol will hold all members to a high standard and expects members to conduct themselves in a professional manner at all times. The provisions of the procedures listed below will apply to any matter concerning a member's actual and/or alleged misconduct, whether brought to the State Patrol's attention from an internal or an external source. Members who witness misconduct of another member have a duty to

report it to a supervisor or through BlueTeam. The State Patrol will investigate all complaints, including anonymous complaints, made against the State Patrol or any member of the State Patrol.

Uniformed members who witness another peace officer use physical force that exceeds the degree of physical force permitted pursuant to C.R.S. § 18-1-707 must report such use of force to their immediate supervisor. Uniformed members who are on-duty shall intervene to prevent or stop another peace officer from using physical force that exceeds the degree of physical force permitted, if any, pursuant to C.R.S. § 18-1-707 without regard for chain of command. Members shall not discipline or retaliate in any way against a uniformed member for reporting or intervening to prevent use of unlawful force pursuant to C.R.S. § 18-8-802.

Uniformed members who witness another peace officer use, direct the use of, or unduly influence the use of ketamine or any chemical restraint or behavioral sedative upon another person shall report such use to the P.O.S.T. Board within ten (10) days of the occurrence of the use of ketamine or any chemical restraint or behavioral sedative pursuant to C.R.S. § 18-8-805. Uniformed members who are on-duty shall intervene to prevent another peace officer from using, directing the use of, or unduly influencing the use of ketamine or any chemical restraint or behavioral sedative upon another person without regard for chain of command. Members shall not discipline or retaliate in any way against a uniformed member for reporting or intervening to prevent the use, the direction to use, or the undue influence to use ketamine or any chemical restraint or behavioral sedative upon another person pursuant to C.R.S. § 18-8-805.

The State Patrol will make available information to the public on procedures to be followed in registering complaints against the State Patrol or its members. The State Patrol will also make available information to the public on procedures to be followed in registering compliments and commendations in support of the State Patrol or its members.

Members are entitled to all the rights and privileges guaranteed by the laws and Constitution of the United States and of the State of Colorado. Appointing authorities, in consultation with the Professional Standards Section, may refer complaints that implicate criminal activity to another criminal justice entity for disposition and/or resolution. Investigation of a member conduct complaint will be specifically directed and narrowly related to the performance of the member's official duties or fitness for office.

Members will cooperate fully during the course of an administrative investigation and will preserve the integrity of the investigation through maintaining the confidentiality of any information learned or provided to an investigator. Any member could be considered a victim or witness as the investigation unfolds and any member found to have hindered or obstructed an administrative investigation, or to have been misleading or untruthful when required to provide a written or verbal statement as part of an administrative investigation, or to have attempted to unduly influence a complainant, victim, or witness associated with an administrative investigation, may be subject to corrective and/or disciplinary action, up to and including termination.

The Commander of the Professional Standards Section (PSS) will be responsible for the State Patrol's internal affairs function and will have the authority to report directly to the Chief. Members assigned to the Professional Standards Section are charged with conducting investigations at the direction of the Chief or designee.

Members will notify the Chief, through channels, of any complaint against the agency or a member when the complaint involves a question as to the agency's liability or which may result in heightened community interest. See Policy 1.02.0205 (Incident Notification).

When members are notified that they have become the subject of an administrative investigation, the State Patrol will issue the member a CSP 240 (Administrative Notification of Allegations) that includes the allegations and the member's rights and responsibilities relative to the investigation. The CSP 240 shall be issued within ten (10) days prior to, including the day of, the scheduled interview with the member, excluding weekends and holidays.

The PSS Commander will review the information provided in the initial complaint to determine the complaint classification (Level 1 or Level 2). The PSS Commander will assign Level 1 complaints to be investigated. The responsible appointing authority will assign Level 2 complaints to be investigated, including whether or not it falls under the guidelines of a Member Dispute per Policy 2.02.0201 (Member Disputes). Appointing authorities may request the use of Professional Standards Section resources to investigate member disputes.

The State Patrol will maintain a record of all complaints against the State Patrol or its members and will protect the confidentiality of these records by maintaining them in a secure area. Members will not be provided copies of any documentation pertaining to an administrative investigation until the investigation has been completed and/or upon approval of the appointing authority or the Office of the Attorney General.

For each administrative investigation into an allegation of misconduct, appointing authorities will compose a CSP 403 (Completed Internal Investigation Summary) that will document the findings and disposition of the investigation. The CSP 403 will be maintained as part of the record of the complaint and investigation.

Annually, the Chief will receive statistical summaries on records of complaints and administrative investigations within the State Patrol. The statistical summaries will be made available to the public and State Patrol members. For additional annual reporting requirements, see Policy 3.01.1503 (Executive Accreditation Reports).

For additional requirements regarding complaints alleging biased policing, see Policy 1.02.0105 (Biased Policing).

For information regarding the State Patrol's system for maintaining member discipline, including elements of the disciplinary system, focus on training and counseling where appropriate, criteria for consideration, and roles and responsibilities for supervisors, commanders, and appointing authorities within the State Patrol disciplinary system, see Policy 2.02.0301 (Disciplinary System).

OPERATIONAL PROCEDURES

A. Complaint Source

1. Members will accept any complaint that alleges the improper conduct of the State Patrol or a member of the State Patrol.
2. Complaints will be accepted from any internal or external source, including written communication, telephone call, and anonymous tip.
3. If circumstances are unclear whether the source is making an inquiry or complaint, the member receiving the information will treat the situation as a complaint until disposition is obtained from the appointing authority.

B. Confidentiality

1. Any allegation of misconduct filed against a member is merely an accusation. An allegation can be unjustifiably damaging to a member's integrity and credibility if the allegation is not handled appropriately and with confidentiality.
2. All facts surrounding an allegation, special circumstances, and contents of the investigation file will be regarded as confidential and treated accordingly.
3. Information regarding any allegation and subsequent investigation will not be discussed with or disseminated to any member except the appointing authority or the investigator.
4. All investigation files are confidential.

C. Complaint Procedure

1. Receiving a complaint of agency or member misconduct should be delegated to a supervisory level.
 - a. Supervisors will add a new incident via a BlueTeam within forty-eight (48) hours of receipt of the complaint, excluding weekends and holidays.
 - b. Every effort should be made to refer a complaint against a member to the member's supervisor; however, should the member's supervisor not be available, the receiving member will record the complaint within BlueTeam.
 - c. A complaint against a supervisor will be referred to a higher-ranking supervisor, or in cases where exigent circumstances exist, a member may make the report directly to the Professional Standards Section.
 - I. When a report is made directly to the Professional Standards Section, the Chief will determine who will conduct the investigation.
 - d. If a supervisor is not available to record a complaint, the member receiving the complaint will obtain the complainant's name, address, and telephone number. The complainant will be informed that a supervisor will contact them as soon as one is available.
 - e. If a complaint is received directly by the Professional Standards Section, the Professional Standards Section investigator will be responsible for completing the BlueTeam entry as needed.
2. Based upon the nature of the complaint, and at the discretion of the immediate commander, a CSP 159 (Complaint Form) may be provided to the complainant.
 - a. The Chief has statutory authority to require the complainant to provide a written and signed complaint.
 - b. The CSP 159 should only be used when the commander determines that the complainant is comfortable and willing to complete the form.
 - c. The CSP 159 may be mailed or hand delivered to the complainant within 48 hours of receipt of the complaint.
 - I. When mailing the CSP 159 to the complainant, the troop/section commander will include a self-addressed, stamped envelope for the complainant.
 - II. The front of the envelope will contain the following:

- i. "Attention: (name of immediate commander of the affected member)" as the first line of the recipient field; and
- ii. "Confidential" stamped or written in capital letters on the top left of the envelope.

III. Note: The above procedure will not apply in those instances where the original complaint was received in the form of a letter, unless the complainant is a third party.

3. The immediate commander may proceed immediately with an investigation without a CSP 159.
4. A complaint in which the complainant requests no investigation or further action will be noted as such in the BlueTeam Incident Report.
5. The PSS Commander, or in their absence a designee, will review the complaint information to determine whether it is a Level 1 or 2 complaint.
 - a. Level 1 Complaint: The PSS Commander will consult with the appointing authority and assign the complaint to an investigator.
 - b. Level 2 Complaint: The PSS Commander will consult with the appointing authority who will assign the complaint to an investigator.
 - c. The decision regarding whether a case is an inquiry or a complaint is at the discretion of the appointing authority.

D. Designation and Assignment

1. Level 1 Complaint

a. A Level 1 complaint is serious in nature and includes, but is not limited to:

- I. All criminal violations;
- II. Civil rights violation allegations, such as false arrest and/or illegal search and seizure;
- III. Allegations of biased policing;
- IV. Excessive force;
- V. A uniformed member's failure to report or to intervene in the use of excessive force;
- VI. A uniformed member's intentional failure to activate or tampering with a body-worn or dash camera;
- VII. A uniformed member's failure to report or to intervene in the intentional failure to activate or tampering with a body-worn or dash camera;
- VIII. Use of or direction to use ketamine or any chemical restraint or behavioral sedative on a person;
- IX. A uniformed member's failure to report or to intervene in the use of or direction to use ketamine or any chemical restraint or behavioral sedative on a person;
- X. Retaliation against uniformed members who report information that shows a danger to public health or safety or a violation of law or policy committed by another peace officer;
- XI. Workplace violence and threats of violence;
- XII. Harassment or sexual harassment;

XIII. Dishonesty or integrity matters (allegations of untruthfulness, false reporting, false statements including court testimony); and

XIV. Misappropriation/misuse of state government resources or monies.

b. The Professional Standards Section will keep the Chief, region commander, and appointing authority informed of the progress and status of the investigation.

2. Level 2 Complaint

a. A Level 2 complaint is less serious in nature and may concern a member's attitude, language, neglect of duty, discourtesy, minor policy/procedure violation, or manner in which a particular situation was handled.

b. The appointing authority may designate a line supervisor or troop/section commander to investigate a Level 2 complaint.

c. If during the course of an investigation the complaint is discovered to be a Level 1 complaint, the investigator will notify the appointing authority.

E. Notification

1. The appointing authority or designee will provide the member with a CSP 240 (Administrative Notification of Allegations).

a. Prior to questioning the member, the CSP 240 will be signed by the appointing authority or designee, the member, and the investigator.

I. The appointing authority or designee and the member shall sign upon serving of the CSP 240.

II. Investigators will sign the CSP 240 in front of the member prior to any interviews.

2. If the complainant is identified, the appointing authority or designee will provide the complainant with notification and information as follows:

a. Verification of receipt and processing of the complaint shall be acknowledged by the appointing authority within five (5) business days;

b. If the complaint investigation is not concluded within sixty (60) days, then status reports every thirty (30) days; and

c. Notification of the results of the investigation upon conclusion.

3. Initial notification and information may be accomplished by providing the complainant with a CSP 159 or formal letter. The complainant will be provided a point-of-contact should they have any questions or require additional information.

a. Subsequent updates, short of final disposition, may occur via letter, telephone, or electronic message.

b. Notification method(s), dates, and times will be documented within IAPro or the notes section of BlueTeam.

4. The appointing authority or designee will notify the involved member and complainant of the results of the investigation as soon as practical.

a. Complainants and members will be notified via a CSP 403.

5. If corrective and/or disciplinary action is contemplated, disposition will be communicated in accordance with State Personnel Rules and may serve as appropriate member notification.
6. See Policy 2.02.0301 (Disciplinary System) for information regarding the State Patrol's system for notifications and procedures within the disciplinary system.

F. Administrative Investigations (AI)

1. Allegations of misconduct must be investigated to the fullest extent possible to determine the validity of the complaint and gather information that may be needed in the event of litigation against the State Patrol or any of its members.
2. The investigation should be completed within sixty (60) calendar days from the date the investigation was assigned. When extraordinary circumstances exist that will cause the investigation to exceed sixty (60) calendar days, the Chief, regional commander, or appointing authority may grant an extension.
 - a. If an extension is granted, the complainant should be notified of the extension.
3. Appointing authorities will have forty-five (45) days after the investigation is complete to provide a CSP 403 (Completed Internal Investigation Summary).
4. Appointing authorities may, if vital and specifically related to the administrative investigation, require members to file statements, testify at administrative hearings, and submit to tests or examinations, including, but not limited to:
 - a. Medical or laboratory examinations;
 - b. Blood, breath, or urine tests to determine alcohol and/or drug influence;
 - c. Psychological/fitness for duty examinations;
 - d. Substance abuse evaluations;
 - e. Polygraph examinations or other evaluations with instruments for the detection of deception;
 - f. Submitting financial disclosure statements and/or telephone records;
 - g. Participating in a lineup; and
 - h. Being photographed/fingerprinted.
5. Member Interviews
 - a. Any member interview should be conducted during the member's normal working hours.
 - b. The interview will be in private and whenever possible, conducted at a State Patrol office.
 - c. No more than two investigators will be permitted to interview the member at any one time.
 - d. The member should be afforded periodic break time during the interview.
 - e. The content of the questions being posed in the interview will be specifically directed and related to the allegations set forth in the CSP 240 of the member's performance of official duties or their fitness for office.

- I. If other misconduct is discovered that is not alleged in the original complaint, the investigating member will communicate with the appointing authority. The additional information will not be disclosed to the complainant.
 - f. Investigators and members will conduct themselves in a professional manner at all times when conducting interviews and investigations.
 - g. All interviews conducted in conjunction with a Level 1 AI will be audio recorded and whenever possible, video recorded.
 - I. All interviews in conjunction with a Level 2 AI, whether performed by PSS or by field supervision will be audio recorded. If recording is not possible, it will be documented as to why.
 - h. Recordings and transcripts made by the State Patrol are part of the investigation file and will be retained with the file.
 - i. To ensure confidentiality, a member will not introduce a portable electronic device into an AI interview in order to produce a recording of the proceeding.
 - j. Any electronic recording produced by a supervisor, investigator, immediate commander, or appointing authority as part of the investigation will be made part of the official record.
6. When circumstances warrant, the appointing authority has the authority to close a Level 2 complaint investigation.
 7. In the case of a Level 1 complaint investigation, only the region commander or the Chief may render an investigation closed.
 8. A closed investigation may be reopened and/or reassigned at the discretion of the Chief, region commander, or the appointing authority as necessary.
- G. AI Case Files and Reports
1. The assigned investigator will be responsible for administering the process of assembling the case file:
 - a. An investigation report, which will contain a brief synopsis of the initial allegation, followed by a summary of investigative findings with appropriate justification, and a case log documenting significant dates and events.
 - I. The Investigator will not provide input regarding the decision of whether or not they believe policy was violated by the member.
 - II. A copy of the report will be forwarded to the appointing authority through BlueTeam.
 - b. When applicable, the investigation file in BlueTeam will also consist of the following:
 - I. Citizen Report, CSP 159, or complainant's letter of complaint;
 - II. Signed CSP 240;
 - III. Audio and video recordings;
 - IV. Witness statements;
 - V. Photographs;
 - VI. Test and examination results; and

- VII. Any other related materials or evidence.
2. Following an AI, the appointing authority will review and approve all investigative forms, reports, and recordings and will compile documentation into the investigative file.
 - a. If applicable, the appointing authority will utilize the investigative file for meetings or other activity described in Policy 2.02.0301 (Disciplinary System).
- H. Complaint Disposition, Categorization, and Completed Internal Investigation Summary (CSP 403)
1. Upon completion of an investigation, the appointing authority will:
 - a. Assign one of the following dispositions to the case (via CSPN):
 - I. SUSTAINED: The allegation is found to be factual and substantiated by competent evidence;
 - II. NOT SUSTAINED: Insufficient evidence exists to prove or disprove the allegation. This disposition shall also be assigned to any anonymous complaint that after investigation, lacks corroborative information or evidence;
 - III. UNFOUNDED: The allegation is not supported by the facts or is determined to be a false allegation;
 - IV. EXONERATED: The allegation is factual and did occur; however, the member acted lawfully and properly within State Patrol policy and the scope of acceptable conduct; or
 - V. CLOSED: Investigation of the allegation was terminated. The reason for closing the case file will be stated.
 - b. Categorize the complaint using one or more of the following category classifications:
 - I. (Discourteous/Rude/Unprofessional/Inappropriate) Behavior or Comments;
 - II. (Failure / Neglected / Incompetent) to Perform Duties;
 - III. Abuse of Authority;
 - IV. Biased Policing;
 - V. Civil Rights Violation (Arrest);
 - VI. Civil Rights Violation (Search);
 - VII. Civil Rights Violation (Other);
 - VIII. Discrimination;
 - IX. Excessive Use of Force;
 - X. Harassment;
 - XI. Improper Use of Weapon;
 - XII. Lying/Dishonesty;
 - XIII. Member Arrested / Charged;
 - XIV. Off Duty Misconduct;
 - XV. Sexual Harassment;
 - XVI. Sexual Misconduct;
 - XVII. Theft; or

XVIII. Workplace Violence.

- c. Complete the Completed Internal Investigation Summary (CSP 403) and ensure it is maintained as part of the record.
2. Following final review, disposition, categorization, and completion of the CSP 403, the appointing authority will compile all documentation into the investigative file.
 - a. The appointing authority will provide the investigative file through BlueTeam to the Professional Standards Section.
 - b. The original investigation file will be retained in the Professional Standards Section for an amount of time as established in accordance with agency guidelines concerning minimum records retention and Professional Standards Section local directives, if any.
 - c. The investigation file and its contents, including electronic and hard-copy elements, are considered confidential, and no portion of the file will be separated from the file, copied, reproduced, or disseminated for any reason without the written consent of the Chief or his designee.

ADMINISTRATIVE PROCEDURES

A. Member

1. Accept any complaint that alleges the improper conduct of the State Patrol or a member of the State Patrol.
2. Refer complainant to the appropriate supervisor.
3. Refer any complaint against a supervisor to a higher-ranking supervisor.
4. If a supervisor is not available to record a complaint, obtain the complainant's name, address, and telephone number and inform the complainant that a supervisor will contact them as soon as one is available.
5. In cases where exigent circumstances exist, report directly to the Professional Standards Section.

B. Supervisor

1. Complete a BlueTeam Incident Report within forty-eight (48) hours of receipt of the complaint, excluding weekends and holidays.
2. As directed by commanders, investigate complaints to the fullest extent possible to determine the validity of the complaint and gather information that may be needed in the event of litigation against the State Patrol or any of its members.

C. Immediate Commander

1. Ensure that all information has been entered into the BlueTeam Incident Report.
 - a. Provide a CSP 159 to the complainant, if appropriate.

D. PSS Commander

1. Determine whether the complaint is a Level 1 or a Level 2 complaint. If a Level 1 complaint, draft Level 1 allegations, and assign the BlueTeam incident report to the appointing authority for review.

2. On Level 1 complaints, assign the BlueTeam Incident Report for investigation.

E. Appointing Authority

1. On all complaints, review the BlueTeam Incident Report.
2. On Level 2 complaints, assign the BlueTeam Incident Report for investigation.
3. Prior to questioning the member, ensure that the member was provided with a completed CSP 240 (Administrative Notification of Allegations); if not, provide the member with a CSP 240.
4. Confirm whether or not the written notification and updates to complainant, including verification of receipt and processing of the complaint, periodic status reports, and notification of the results of the investigation upon conclusion have been completed and if not, provide the documents, as appropriate.
5. Close the investigation, if appropriate.
6. Review and approve the investigation.
7. If applicable, utilize the investigative file for meetings or other activity described in Policy 2.02.0301 (Disciplinary System).
8. Complete complaint disposition, categorization, and internal investigation summary documentation.
9. Notify the involved member and complainant of the results of the investigation as soon as practical.
 - a. Notify, or confirm notification of, complainant(s) via a formal letter;
 - b. Notify, or confirm notification of, member via a formal letter or memorandum.
10. Forward the approved, completed investigation, disposition, and internal investigation summary documentation to the Professional Standards Section and to the region commander.

F. Region Commander

1. Review completed investigations, dispositions, and internal investigation summary documentation.

G. Investigator

1. As directed by an appointing authority, investigate complaints to the fullest extent possible to determine the validity of the complaint and gather information that may be needed in the event of litigation against the State Patrol or any of its members.
2. Maintain a record of all complaints against the State Patrol or its members and protect the confidentiality of these records by maintaining them in a secure area.
 - a. Coordinate internal distribution of records as needed for official State Patrol business, redacting information as appropriate.
 - b. Retain records for an amount of time as established in accordance with agency guidelines concerning minimum records retention and Professional Standards Section local directives, if any.

H. Professional Standards Section

1. Annually (FY), provide the Chief with an administrative review and statistical summaries based upon records of administrative investigations of conduct complaints within the State Patrol.

2. Make the statistical summaries available to the public and to State Patrol members. See Policy 3.01.1503 (Executive Accreditation Reports).

I. Administrative Review

1. Policy 3.01.1503 (Executive Accreditation Reports) provides information regarding the annual administrative review of policy and training needs.

RELATED RESOURCES AND FORMS

Resource or Form Number	Title	Office of Professional Responsibility
CSP 159	Complaint Form	PAR
CSP 240	Administrative Notification of Allegations	PAR
CSP 403	Completed Internal Investigation Summary	PAR