



Florida Highway Patrol

Policy Manual

SUBJECT	POLICY NUMBER	ISSUE DATE
COMPLAINT RESOLUTION PROCESS	08.01	02/01/1996
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8.01.01 PURPOSE

To establish a process for detection and intake of allegations of misconduct, assignment of responsibility for handling complaints, and execution of investigative responsibilities.

8.01.02 AUTHORITY

The Florida Highway Patrol will administer a complaint resolution process in accordance with the provisions of existing laws, rules, and regulations. This chapter codifies that process pursuant to Chapter 60L-36, Florida Administrative Code; FLHSMV Policies 3.06 and 3.08; and Sections 110.201(2), 110.227, 112.532, 112.533, and 120.53(1), Florida Statutes.

8.01.03 POLICY

The Division of the Florida Highway Patrol will maintain and rely upon an effective complaint resolution procedure to actively seek feedback regarding employee adherence to recognized standards of professional and individual conduct. Violations of this policy or other Department directives are grounds for initiating disciplinary procedures.

All complaints involving employees will be thoroughly reviewed and investigated as appropriate. The requirements of Sections 112.532 and 112.533, Florida Statutes, the Law Enforcement Officer's Bill of Rights, and the relevant provisions of applicable collective bargaining agreements and Division procedures for complaint processing will be followed.

8.01.04 DEFINITIONS

- A. **CENTRAL COMPLAINT FILE** – The Office of Professional Compliance (OPC) is the central repository for complaint records or files for cases completed prior to 2010. Internal cases initiated and completed after 01/01/2010 are housed in the FLHSMV Office of the Inspector General (OIG). All files and logs will be secured and properly locked after regular hours or when unattended.
- B. **COMPLAINT** – Any allegation, verbal or written, against a member or employee from a citizen, supervisor, or other employee coming to the Division's attention that if true would constitute a violation of the Standards of Disciplinary Action identified in FLHSMV Policy 3.06, other Division policy, and/or Chapter 60L-36 Florida Administrative Code. A disagreement with a policy or law or the proper application of a policy or law is **not** considered a complaint.
- C. **COMPLAINT CATEGORIES** – Complaints will be categorized as follows:
1. **External Complaints** - Those complaints or allegations of misconduct received from persons outside the Division.
 2. **Internal Complaints** - Those complaints or allegations of misconduct initiated from within the Division.
- D. **COMPLAINT CLASSIFICATIONS** – Each allegation of misconduct alleged in a complaint will be classified subsequent to a conclusion of fact based on a thorough and competent investigation using one or more of the following classifications:
1. **Exonerated** - The allegation is true; however, the action of the agency or the employee was consistent with agency policy.
 2. **Unfounded** - The complaint was clearly false or there is no credible evidence to support the complaint.
 3. **Not Sustained** - There is insufficient proof to confirm or to refute the allegation.
 4. **Sustained** - The allegation is true. The action(s) of the agency or the employee was inconsistent with agency policy.

5. **Policy Failure** - The allegation is true. The action(s) of the agency or employee was consistent with agency policy; however, the policy was deficient.
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- E. **COMPLAINT CONTROL NUMBER** – A sequential number used to identify and track complaint investigations. This number is assigned by the records technician assigned to the OIG. The complaint control number will be assigned as follows:
 1. The year in which the complaint is initiated in standard four-digit format.
 2. A four-digit sequential number.
 - F. **COMPLAINT INVESTIGATION** – An investigation of any complaint not resolved by a desk review in which a member has potentially violated FLHSMV policy, FHP policy, or Florida Statutes.
 - G. **DESK REVIEW** – Supervisor review of available information in minor allegations in order to establish a record, determine validity, jurisdiction, classification, and appropriate routing or resolution of a complaint and/or violations that are documented on the FHP Complaint Intake and Inquiry Form (HSMV 60961).
 - H. **EMPLOYEE** – Sworn members and non-sworn personnel employed by the Division of Florida Highway Patrol.
 - I. **GRIPE** – Expressed dissatisfaction with an employee that, even if true, would not be considered a violation of the Standards of Disciplinary Action. For example, a person states that they are not guilty of a charge for which they received a citation; unless there are indications that the member was rude or did not follow established procedures.
 - J. **PRE-INVESTIGATIVE AGREEMENT** – A written agreement between the employee and the Division prior to the initiation of an investigation. The employee is informed of the charges against them and of the penalty associated with the charges. The employee agrees not to contest the charges and accepts the prescribed disciplinary penalty, which resolves the disciplinary issue and eliminates the need for an investigation.

8.01.05 OBJECTIVES

- A. To establish procedures for the receipt and handling of complaints against division employees.
- B. To ensure that complaints are handled in a manner that is fair to employees and the complainant.

8.01.06 RESPONSIBILITIES

The commander of the Office of Professional Compliance (OPC) shall report directly to the director on all complaint related matters and is responsible for:

- A. Tracking the status of all complaint investigations.
- B. Liaison to the Division, the Office of the Inspector General (OIG), the Office of General Counsel, troop commanders, and the Office of Employee Relations for all disciplinary matters.
- C. Maintaining an organized archive of all complaint files prior to 2010. Additionally in conjunction with the Office of Analytical Support (OAS), responsible for maintaining, via Mobile Forms, all Law Enforcement Officer Killed or Assaulted reports.
- D. On a monthly basis, the OPC commander will provide a complaint tracking report to the deputy director pertaining to complaint investigations outstanding for longer than 30 days.
- E. Statistical summaries based on complaint investigations shall be prepared annually by the OIG.
- F. Providing weekly complaint tracking reports to all troop commanders.

8.01.07 PROCEDURES

A. RECEIPT OF COMPLAINTS

- 1. Citizens who wish to file complaints will be informed of the manner in which this may be done. Employees are to accept a complaint courteously and promptly and then inform their supervisor.
- 2. Supervisors in receipt of the complaint shall make every reasonable effort to obtain a signed written statement from the complainant; however, the complainant cannot be compelled to do so.

3. The Office of Employee Relations Standard of Conduct Guidelines, on the FLHSMV Share Point site, should be consulted for guidance in complaints involving sexual harassment. Complaints alleging unlawful discrimination, including sexual harassment, of any employee of the Division will be referred to the intake officer in the Office of Employee Relations for processing and investigation in accordance with Chapter 60L-36, Florida Administrative Code, and FLHSMV Policy 3.05.
4. Anyone receiving a complaint in GHQ will date stamp and immediately forward for desk review/investigation to the OPC. The OPC will notify the complainant of the receipt of the complaint and how the complaint will be processed.
5. Complaints received in the field will be immediately forwarded to the supervisor in charge of the Florida Highway Patrol facility where the incident occurred, except for those cases which are referred to the OPC or which are minor in nature and can be immediately resolved by the supervisor who initially receives the complaint.
 - a. For complaints alleging criminal misconduct, the troop commander and the OPC will be notified as soon as possible to ensure proper investigatory assignment.
 - b. Complaints of a serious nature, where if the allegation is sustained, the discipline would be a suspension or greater, are referred to the OPC for an assignment meeting. During the assignment meeting, the OPC and OIG will review the complaint and determine the appropriate entity to investigate the complaint.
 - c. When a complaint is not resolved by desk review, the troop commander will ensure that the intake form is marked as "Not Resolved" and forward the complaint to the OPC along with a request for an investigation.
 - d. Complaints which involve policy violations that would normally be handled with documented discussion/counseling may be resolved by a desk review with the approval of the troop commander. Resolved intake forms shall be forwarded to the OPC for tracking purposes.

- e. Any supervisor receiving a complaint for investigatory assignment shall contact the complainant and inform them that they have received the complaint. The member shall provide the complainant with their contact information.
- 6. Supervisors should be sensitive to anonymous complaints and should review the allegations to determine if any basis exists for the complaint. Generally, no action will be taken on anonymous complaints unless:
 - a. The allegation would constitute criminal misconduct or a serious policy violation, or
 - b. There is independent evidence available, such as Division records, which may corroborate the allegation.

The complaint will be considered a resolved desk review if not covered under "a" or "b" above. All anonymous complaints will be documented on the Complaint Intake and Inquiry Form (HSMV 60961).

- 7. Complaint Resolution Process Brochure (HSMV 60015)
 - a. The brochure will be placed in the lobby of each district headquarters and satellite office in a location readily available to the public.
 - b. Members shall be knowledgeable of the location of the forms on SharePoint and will print and distribute them to anyone inquiring into complaint procedures.
 - c. The OPC is responsible for updating this brochure and all public affairs officers will make the brochure readily available during safety education programs.

B. GRIPES

- 1. Supervisors are to attempt to resolve gripes by clearing up any misunderstandings.
- 2. Gripes are not required to be documented. The Complaint Intake and Inquiry Form (HSMV 60961) may be used when documentation is

desired. If the form is used, it is to have "GRIPE" clearly indicated on it.

3. Any gripe documentation is solely for inclusion in the employee's work file.
4. While gripes are not grounds for disciplinary action, repeated gripes of a similar nature may indicate a need for documented discussions or training.
5. When communicating with the complainant, use care and do not simply describe their complaint as a "Gripe."

C. DESK REVIEW

1. Supervisors should conduct a desk review into the allegations of a minor nature for the purpose of:
 - a. Establishing a record.
 - b. Determining the validity of a complaint.
 - c. Determining jurisdiction.
 - d. Determining classification and appropriate routing.
 - e. Determining whether to continue the investigation.
 - f. Identifying all available information (e.g., crash reports, incident reports, mobile video recordings).
2. Supervisors are encouraged to conduct a thorough desk review involving minor external complaints in an attempt to resolve minor disagreements or misunderstandings prior to obtaining a complaint control number.
3. Desk reviews are to be documented on the Complaint Intake and Inquiry Form.
4. Desk reviews are classified as follows:
 - a. Resolved and contain the following standard conditions:

- 1) No disciplinary action is to be taken against the employee, and
 - 2) The complainant and affected employee have been contacted and notified of the outcome of the desk review.
 - 3) Nothing in this policy shall prevent a supervisor from conducting documented discussions, counseling, or training with an employee, if warranted, when the desk review is considered resolved. Resolved supervisory inquiries will be filed in the district office and the OPC and may be used in the performance planning and evaluation process, provided the desk review involves a performance standard.
- b. Not resolved because:
 - 1) The allegation(s) are serious or criminal in nature, or
 - 2) Disciplinary action against the employee is anticipated if the allegation(s) are proved true.
5. A desk review should be halted and considered not resolved at any time information is received which indicates a complaint investigation is warranted. Complaints not resolved by a desk review will be referred to the OPC for investigative assignment.

D. INVESTIGATIVE ASSIGNMENT

1. Troop commanders in receipt of allegations or complaints of misconduct included in the list below shall notify their chain of command and the OPC before an investigation is initiated. The OPC, in consultation with the deputy director or designee and the OIG, shall decide in each case whether the case will be assigned to the OPC, OIG, the Bureau of Criminal Investigations and Intelligence (BCII), or the troop during the assignment meeting. The following types of cases will be evaluated for processing by the OPC, OIG, or BCII:
 - a. Use of Control:

- 1) Any incident covered by the FHP/FDLE memorandum of understanding as outlined in FHP Policy 10.01.
 - 2) Any intentional discharge of a firearm except:
 - a) To give alarm or summon assistance in an emergency when no other means can be used;
 - b) During participation in firearms training, practice, or competition; or
 - c) To kill an animal in accordance with FHP Policy 10.01.07(A)(9)(d) or (e).
 - 3) Incidents which appear to exceed the reasonable use of control or when there are allegations of excessive use of force.
- b. Unintentional discharge of firearms.
 - c. When an employee is alleged to have willfully, maliciously, or through negligence, injured or damaged any real or personal property belonging to another.
 - d. Criminal conduct, which includes any matter identified as grounds for decertification.
 - e. Breaches of civil rights.
 - f. Corruption, including but not limited to:
 - 1) Accepting bribes.
 - 2) Bribery or misuse of public office.
 - g. Allegations or complaints of serious misconduct by a Division employee will be referred to OIG.
 - h. Department property with serial numbers lost or stolen in unusual circumstances (e.g., finding of possible employee theft, breaking, and entering of Department vehicles involving theft).

- i. Any investigation where a local supervisor may be biased or appear to be biased.
 - j. Other cases may be investigated by the OPC upon assignment by the executive director or their designee.
 - k. All investigations conducted by the BCII shall be reviewed by the chief investigator.
- 2. Troop/bureau commanders will assign a troop supervisor of an appropriate rank to conduct complaint investigations not assigned to the OPC, OIG, or the BCII. If the desk review indicates that a full investigative report format is required, the investigation will be assigned to a supervisor with the rank of lieutenant or above.
 - 3. In all cases of an in-custody death or a discharge of a firearm that result in death or injury, the troop commander or designee will notify the bureau commander of the BCII; the local state attorney; the sheriff; the chief of police if the event occurred in a municipality; and FDLE as soon as possible. If a death has occurred, the local medical examiner's office will also be notified.

E. PRE-INVESTIGATIVE AGREEMENT PROCEDURES

- 1. The pre-investigative agreement is designed for situations where there is an alleged violation of policy that is not criminal and if investigated would likely result in a sustained finding.
- 2. After consultation with the deputy director, chief, troop/bureau commander, and the OPC, and prior to initiating a formal investigation into the matter, the Division may offer the employee the opportunity to accept the proposed disciplinary action without contesting the violation.
- 3. The pre-investigative agreement will be in writing and occur through consultation with the employee and their representative, if requested.
- 4. Within 48 hours of receipt of the pre-investigative agreement, the employee must review, sign, and return the agreement to indicate in writing whether they elect or decline the disciplinary action.

5. If an agreement is reached, a separate disciplinary letter is not required, as the facts of the disciplinary action are fully explained in the agreement.
6. The agreement will be final and cannot be appealed or grieved but will be used for progressive discipline.
7. If the pre-investigative agreement is declined for anything that results in disciplinary action greater than a written reprimand, a formal investigation shall begin. If a pre-investigative agreement for a written reprimand is offered and declined, the department reserves the right to move forward with the proposed discipline.
8. The pre-investigative agreement shall not be used as written notification to the employee that they are the subject of a complaint investigation.

F. INVESTIGATIVE PROCEDURES

1. When Division employees are notified that they have become the subject of a complaint investigation, the notification shall be in writing and contain a statement of the allegations. The Employee's Rights and Requirements (HSMV 61148) shall be presented to the employee. The employee will be requested to sign and date the form. If the employee refuses to sign the form, the investigator serving the notice shall place "refused to sign" on the signature line. The original form shall be placed in the case file and a copy will be provided to the employee. The timing of the notification should be as early as possible without compromising the investigation. The nature of the complaint and possible investigative techniques should be considered in determining the timing of the notification. The OPC shall determine the appropriate time to notify the employee for all OPC investigations. For troop level investigations, the investigator, troop commander, and OPC should confer to determine the appropriate time to notify the employee.
2. Complaints Alleging Criminal Activities
 - a. Any time an allegation of criminal activity is made against Department personnel, the receiving supervisor will make command notifications as outlined in FHP Policy 4.02 as soon as possible.

Notification should be made through the chain-of-command. Notification to the Office of the Executive Director, directors or deputy directors of Division of Motorist Services Vehicles and Division of Administrative Services will be made by the director of the Florida Highway Patrol or designee.

- b. If a criminal investigation has already been initiated, the OPC will determine the appropriate time to initiate the administrative investigation.
- c. Any time an administrative investigation uncovers possible criminal activity on the part of a Department employee, the administrative investigation will be suspended until the investigator has consulted with the state attorney. The OPC will determine when it is appropriate to continue with the administrative investigation.
- d. During any criminal investigation, the investigator will maintain contact with and provide periodic updates to the state attorney. In the event the state attorney declines prosecution, the criminal investigation will be closed.
- e. Upon completion of a criminal investigation of any Department employee, the case will be presented to the appropriate state attorney.
- f. When there is a settlement agreement initiated and approved by the state attorney, the investigation will be completed, and appropriate administrative action will be taken. If there is an offer of a settlement agreement by the state attorney, the Department will offer advice to the state attorney based on a decision made by general counsel, the appropriate division director, and the executive director. In cases involving criminal allegations, the final approval rests with the state attorney.
- g. If after completion of the criminal investigation there is sufficient evidence that the complainant or witness provided a sworn statement and perjured themselves, the investigator will forward the information regarding the perjury to the state attorney's office.

3. Assignment of an employee to administrative or alternate duty will be done in accordance with FLHSMV Policy 3.03.
4. The complainant and witnesses will be interviewed.
 - a. In all cases involving criminal allegations, sworn statements are required from all witnesses and complainants.
 - b. In all cases involving serious allegations of misconduct against a member, every effort will be made to obtain sworn statements from all witnesses and complainants.
 - c. If the complaint originates from a person outside of Florida, a telephone interview will generally suffice. However, when allegations of a criminal nature or serious misconduct are made, assistance from a police agency in the area in which the complainant or witness resides will be requested to obtain a sworn statement.
 - d. Anytime an investigator is unable to interview or obtain a statement from a witness, the reason(s) shall be included in the investigative report.
5. All investigations are to be completed in a timely manner. In most cases, an investigation should be resolved within 30 days. For cases involving extensive investigations, the troop/bureau commander or appropriate chief may request a 30-day extension. The extension must be approved by the director or the appropriate deputy director.
6. During a complaint investigation, the investigator will provide the complainant with an updated status report as the complaint investigation progresses. For investigations handled by the OPC, investigators will provide timely status updates to the complainant until the case is closed.
7. At the conclusion of the complaint investigation, the OPC will notify all affected parties in writing of the conclusion of fact and the disposition concerning the allegation of misconduct.
8. When a complaint investigation is completed and/or resolved by any classification, the original complaint investigation file will be documented in the administrative investigations management

system. The administrative investigations management system shall be the sole repository for all records relating to complaint investigation files. This includes statements, documents, video, and photographs as well.

9. Full Investigative Report

The full investigative report should be used to document the investigation when the abbreviated investigation report process is inadequate due to the seriousness of the allegation.

- a. The Complaint Investigation Transmittal and Closing Form (HSMV 60217) or the Patrol Car Crash Transmittal and Closing Form (HSMV 60094), if a potential violation is determined, will be included at the beginning of the case file.
- b. A completed CJSTC 78 Form will be included in any sustained complaint investigation (not including patrol car crashes).
- c. The investigation report form will contain the following sections:
 - 1) Predication: A brief explanation of how the investigator received the complaint and the nature of the complaint.
 - 2) Investigation: A logical sequence of steps taken to bring the investigation to a conclusion.
 - 3) Summary: A brief narrative statement of what can or cannot be proven by the investigation.
 - 4) Classification: The overall classification of the complaint.
 - 5) Exhibits: A witness list specifying what each witness will testify to, copies of documentary evidence, diagrams, and any other related evidence.
 - 6) Status: Case status classification.

G. AGENCY VEHICLE CRASHES / INCIDENTS

1. All agency vehicle crashes and incidents involving vehicle damage shall be investigated and documented in accordance with FHP Policy 17.04 by an FHP supervisor.
 - a. The 24-Hour DHSMV Vehicle Crash Report (61168) will be completed by a supervisor for all agency vehicle crashes or incidents involving agency vehicle damage. The 24-Hour DHSMV Vehicle Crash Report will be attached as an exhibit in the administrative investigations management system under the respective case number. In incidents requiring a Florida Traffic Crash Report, the crash report will also be attached as an exhibit in the administrative investigations management system. The chain of command will review the 24-Hour DHSMV Vehicle Crash Report and the Florida Traffic Crash Report.
 - 1) The 24-Hour DHSMV Vehicle Crash Report will reflect violations of policy or Florida Statutes to determine whether a complaint investigation should be initiated.
 - 2) Crashes involving only government property with no injuries identified will be documented on a Short Form Crash Report (HSMV 90010S) and the 24-Hour DHSMV Vehicle Crash Report.
 - 3) All other crashes will be documented on a Florida Traffic Crash Report Long Form and the 24-Hour DHSMV Vehicle Crash Report.
 - 4) The crash report will only reflect violation(s) of Florida statutes, not policy violations.
 - b. The chain of command will review the 24-Hour DHSMV Vehicle Crash Report and the Florida Traffic Crash Report.
 - 1) If no violations are noted, the case number in the administrative investigations management system will be closed.
 - 2) If minor violations are noted which would result in the member receiving corrective action, the corrective action will be documented.

- 3) A Complaint Intake Inquiry (HSMV 60961) form shall be utilized in any crash in which the discipline may be written reprimand or higher.
 - 4) In cases involving serious bodily injury or death, where a THI/Crash investigation shows contributing factors by the member, a full complaint investigation shall be conducted and documented as required in this policy.
 - 5) When the agency vehicle crash has resulted in a fatality and a potential policy or Florida Statute(s) violation has been determined, the complaint investigation will be conducted by a supervisor of the rank of lieutenant or above who will also oversee the traffic homicide investigation.
 - 6) When there are violations of Florida Statute(s) by the member who was involved in a crash, the contributory violations will be documented on the Patrol Car Crash Transmittal and Closing Form (HSMV 60094). Other violations of law, rule, or agency regulation that will result in a written reprimand or higher will be separately documented on the Complaint Investigation and Transmittal Closing Form (HSMV 60217).
 - 7) If the crash occurred while the member was participating in a pursuit, the "pursuit" classification will be checked on the Patrol Car Crash Transmittal and Closing Form (HSMV 60094).
- c. A traffic homicide investigator will be assigned to conduct an investigation of agency vehicle crashes as outlined in the traffic homicide investigations manual.
2. All agency crashes will be classified using one of the following classifications:
 - a. **Sustained** - Sufficient evidence has been documented to clearly support a policy violation by the employee involved in a crash not classified as non-chargeable.

- b. **Not-Sustained** - There is insufficient proof to confirm or to refute the allegation.
 - c. **Exonerated** - No evidence exists to support a policy violation.
 - d. **Non-Chargeable** – A minor crash which did not result in injury or significant property damage.
3. All sustained traffic crashes shall be classified as follows:
- a. **A minor traffic crash:** A sustained crash caused by slight negligence or carelessness, which does not result in serious bodily injury or significant property damage.
 - b. **A more serious clear-cut violation:** A sustained crash which has an obvious potential for or results in serious bodily injury or significant property damage.
 - c. **An extreme violation:** A sustained crash which is caused by driving a vehicle in a reckless or irresponsible manner or with gross disregard for the safety of persons or property which has an obvious potential for or results in serious bodily injury or significant property damage.
4. The OPC shall track incidents involving agency vehicle damage and submit a report to the deputy director annually.

H. CLASSIFICATION REVIEW PROCEDURE

1. Each allegation of misconduct alleged in a complaint will be classified subsequent to a conclusion of fact based on a thorough and competent investigation using one or more of the following classifications: exonerated, unfounded, not sustained, sustained or policy failure. The Complaint Intake and Inquiry Form will be completed on all complaints according to the appropriate classification.
 - a. When a complaint investigation results in a finding which could result in disciplinary action, the factual allegation(s) will be narrowly and specifically outlined in the notice of disciplinary action. In most cases, the single most serious offense will be used as the basis for disciplinary action.

- b. If no disciplinary action is recommended because the complaint is classified as exonerated, unfounded not sustained, or policy failure, the complaint summary should clearly specify the reason(s) for the classification.
 - c. When the complaint is classified as a policy failure, the district commander shall forward a summary of the findings and conclusions, along with a recommendation for an appropriate policy revision, to the OPC.
- 2. After a complaint investigation is completed at the first level of supervision, the troop chain of command will review and make appropriate recommendations to the troop commander. Any supervisor in the chain of command who disagrees with the classification or recommended action shall include a written statement as to their reason(s) and include a recommendation for consideration. All agency vehicle crash complaints will go through the chain of command to the troop commander for final resolution consistent with the FHP Patrol Car Crash Disciplinary Action Scale (located in FHP Policy 8.02).
- 3. The troop commander shall review the complaint investigation and recommendations from the chain of command and take appropriate action as follows:
 - a. Consult with the appropriate chief and OPC on disciplinary action.
 - b. When disciplinary action exceeds a written reprimand, make appropriate recommendations and forward recommendations within the DARB process.
 - c. All proposed letters of discipline will be drafted by the OPC.
 - d. Promptly notify the employee of the disposition of any complaint after final staff review has been conducted by the OPC, Office of Employee Relations and the appropriate deputy director.
- 4. If deficiencies are noted or disagreements arise during the administrative review, the troop commander and the OPC will facilitate a resolution to the deficiency or disagreement.