

**MEDICAL UNIVERSITY OF SOUTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY**

POLICY AND PROCEDURE # 31	SUBJECT: Internal Affairs
EFFECTIVE DATE: 1 January 1999	PAGE 1 OF 22
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THE POLICIES AND PROCEDURES INCLUDED IN THIS MANUAL ARE NOT A CONTRACT OF EMPLOYMENT AND SHOULD NOT BE RELIED ON AS SUCH. THESE POLICIES AND PROCEDURES ARE SUBJECT TO AND MAY BE CHANGED AT ANY TIME BY THE DEPARTMENT OF PUBLIC SAFETY, MEDICAL UNIVERSITY OF SOUTH CAROLINA.

A. Purpose :

The purpose of this policy is to establish guidelines and procedures for receiving, reporting, investigating and adjudicating allegations of agency member misconduct.

B. Policy :

It is the policy of the Department of Public Safety to accept and investigate all complaints of alleged misconduct against its sworn officers and civilian personnel; and based upon departmental findings, to make fair, prompt, and impartial disposition of all charges.

C. Procedures :

Administration and Operation of the Internal Affairs Function

All complaints against the Department of Public Safety or its employees will be investigated. In minor cases the complaint will be investigated by the appropriate Supervisor or the Operations Support Commander. The Supervisor may forward minor cases to the Patrol Commander for investigation in instances where, in the opinion of the Supervisor:

- The scope of the investigation exceeded the resources of the Supervisor, but does not meet the criteria for, or warrant forwarding to the Internal Affairs function.
- The nature of the incident requires the use of personnel outside the Patrol function.

All Supervisors are required to take and document all complaints of misconduct regarding officers or civilian personnel. All complaints listed in paragraph C.1 and complaints

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received from outside civilian sources shall immediately be brought to the attention of the Chief. Reporting to the Chief of complaints listed in paragraph C.2 can normally wait until the next business day unless there is some compelling reason for an immediate report. The following paragraphs describe the type of complaint and who will conduct an investigation. (CALEA 26.2.1, 26.2.3)

1. Complaints to be handled and investigated by Internal Affairs will include but not be limited to: (CALEA 26.3.1.b)
 - a. Commission of a crime;
 - b. Use of illegal drugs;
 - c. Dishonesty;
 - d. Intoxication;
 - e. Acceptance of a bribe or gratuity;
 - f. Brutality;
 - g. Excessive use of force;
 - h. Immorality;
 - i. Other acts of a serious nature; and
 - j. Cases referred by the Director of Public Safety;
2. Complaints to be handled by the Supervisor will include but not be limited to: (CALEA 26.3.1.a)
 - a. Differences of opinion between citizen and officer relative to enforcement;
 - b. Tardiness;
 - c. Minor omissions in assigned duties;
 - d. Minor infractions of departmental regulations concerned with efficiency or safety;
 - e. Uniform, equipment and personal appearance infractions;
 - f. Complaints of discourteous or minor misconduct;

- g. Unethical behavior;
 - h. Insubordination;
 - I. Cases referred by the Internal Affairs Officer; and
 - j. Cases referred by the Director of Public Safety;
3. The Director may, in his discretion, require an investigation conducted by a Supervisor to be reviewed by the Department's Internal Affairs Officer.
 4. Minor incidents will be reported on the Medical University of South Carolina Disciplinary Report. Statements and other relevant documents will be attached.
 5. Anonymous complaints will be reviewed and will be investigated. The Internal Affairs Officer will maintain a file for anonymous complaints and consult with the Director of Public Safety before the investigation of an anonymous complaint is initiated. The seriousness of the incident will determine who investigates the complaint.
 6. Investigative Findings

At the conclusion of the investigative process, all complaints will be classified in one of the following four categories:

- a. **Unfounded**
The complaint was not based on facts, determined by investigation, or the incident complained of did not occur.
 - b. **Exonerated**
The action reported did occur, but the investigation disclosed that the actions were reasonable, lawful and proper.
 - c. **Not Sustained**
The available evidence fails to clearly prove or disprove the allegations.
 - d. **Sustained**
Investigation disclosed sufficient evidence to support the allegations in the complaint. (CALEA 26.3.8)
7. Upon receipt of a complaint, the Internal Affairs Officer will take the following action:
 - a. Evaluate the complaint, assign a control number and determine the appropriate action to be taken.

- b. The Internal Affairs Officer may at his discretion assign an Internal Affairs case to an Investigator who has been trained in internal affairs matters. If the allegation is of a minor nature as described in paragraph C.2, the allegation may be assigned to the Patrol Commander for investigation.
 - c. The Internal Affairs Officer will confer with the Director of Public Safety or his designee on the assignment, scope and depth of serious internal investigations. **(CALEA 26.3.2)**
8. Reporting Relationships
- a. The Internal Affairs Officer shall report directly to the Director of Public Safety on internal affairs matters. In the absence of the Director of Public Safety the Internal Affairs Officer will report to the Patrol Commander of Public Safety. **(CALEA 26.2.3)**
9. Records Storage and Disposition
- a. The Internal Affairs Officer will maintain all records related to internal affairs matters. These records will be kept in a secured file separate from other records to guarantee their safety and confidentiality. In addition, the Internal Affairs Officer will maintain a suspense file of investigations assigned to an Investigator or Patrol Commander. A Report of Alleged Police Misconduct form will be used on a department wide basis to initiate any complaint. **(CALEA 26.2.2)**
10. Notification to Complainant
- a. The Director of Public Safety or his designee will respond to those contacting the Department of Public Safety with a formal complaint to acknowledge the receipt of the complaint of alleged abuse of police authority or misconduct. The complainant will also be provided with periodic status reports. **(CALEA 26.3.4.a. & b.)**
 - 1) In addition, the Director of Public Safety or his designee will notify the complainant at the conclusion of the investigation. The final disposition of the case will be provided to the complainant in person. Exceptions to this in person disclosure will be made for individuals with handicaps and those that live outside the service area. When an exception is made an investigator will be sent to the individual or written notification will be accomplished. **(CALEA 26.3.4.c)**
11. Employee Notification

- a. Whenever it becomes appropriate to notify an employee that he / she is the subject of an internal investigation, the Internal Affairs Officer will ensure that the employee is issued a written statement of the allegations and the employees' rights and responsibilities relative to the investigation. However, notification of complaints may be postponed, with concurrence of the Director of Public Safety, if notification would jeopardize an investigation into either criminal or ongoing misconduct. **(CALEA 26.3.5)**

12. Responsibilities of Employee

- a. Being a public servant, an employee must cooperate fully in an Administrative Investigation. The employee must tell the complete and total truth. Any attempt(s) to resort to half-truths or evasion of an issue (s) will result in discipline up to and including termination.
- b. An employee is required to give a written statement specifically, directly and narrowly related to the incident or complaint in question.
- c. An employee shall not discuss an internal affairs case with anyone other than the investigator (this does not preclude the right of an employee to consult with an attorney or representative of his choice).
- d. An employee is required to submit to an interview or interrogation.
- e. An employee is required to submit to one or more of the following procedures listed in subsection C.15 of this policy.

13. Rights of the Employee

- a. The employee will receive written notification of the complaint made, specifics of the allegations, and employee's rights and responsibilities before an interrogation is conducted. **(CALEA 26.3.5)**
- b. Information or evidence gained during an Internal Affairs Investigation for administrative Investigation cannot be used against an employee in criminal proceedings. The only exception is if the employee knowingly and willfully provides false statements during the Administrative Investigation.

Garrity vs. New Jersey, 385 U.S. 493 (1967)

- c. Any employee under departmental investigation has the right to request the presence of counsel or any other representative of his choice during an interrogation. This applies whenever the interrogation relates to the employees continued fitness for law enforcement service.

It is clear that an employee is not entitled to counsel or representation at every interrogation, but only those which relate to his continued fitness for law enforcement service. Accordingly, a request for counsel or representation made by an employee in connection with routine investigations of minor disciplinary matters need not be complied with.

Attorneys or representatives should not interfere with the interrogation. Their presence is to assure that the interrogation is conducted in a fair and objective manner. The employee has the right during the interrogation to briefly confer with his/her attorney or representative regarding questions presented to him/her as long as it does not unnecessarily impede the interrogation. Any representative who interferes or impedes the progress of the interrogation or investigation will be asked to leave. If at the termination of the interrogation the representative wishes to make a brief statement on the record regarding any complaint he/she had in connection with the manner in which the interrogation was conducted, he should be permitted to do so.

- d. A Pre-Determination Hearing shall be held and conducted by the Director of Public Safety. The employee will be given the opportunity to present any information, documentation or other evidence that may be helpful in resolving the matter. The employee may be accompanied by legal counsel if desired. The hearing will be tape recorded. Disciplinary action will not be taken until the employee has the opportunity to attend the Pre-Determination Hearing.
- e. Upon completion of the investigation the accused employee has the right to obtain a copy of the investigation in its entirety.
- f. An employee has the right to bring suit against any person, group of persons, organization or corporation, for making a false statement under oath against such officer or employee.

14. Relief of Employee from Duty

- a. An officer or employee may be relieved of duty pending the outcome of an investigation involving allegations of serious misconduct or criminal conduct, if such an action is in the best interest of the Department of Public Safety and the public. Relief from duty may involve transfer from field duties to administrative duties, placement on leave or suspension without pay. **(CALEA 26.3.7)**

15. Authorized Internal Affairs Investigative Activities

As part of a specific internal investigation an employee may be requested to
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participate in any one or more of the following if and when such procedures are material to the particular internal affairs investigation. The results of such tests cannot be used in a criminal investigation against the officer.

- a. Medical or laboratory examinations narrowly related to the investigation. **(CALEA 26.3.6.a)**
- b. Photographs of officers / employees on file may be used or a current photograph may be required. **(CALEA 26.3.6.b)**
- c. The submission of a financial disclosure statement. **(CALEA 26.3.6.e)**
- d. A line up. **(CALEA 26.3.6.d)**
- e. A polygraph examination. **(CALEA 26.3.6.f)**
- f. Audio or video recordings. **(CALEA 26.3.6.c)**

16. Interviews and Interrogations

- a. All interviews conducted with the complainant and witnesses will be recorded in full. A complete record, either written, taped or transcribed will be kept.
- b. All interrogations of a Public Safety employee connected with the investigation will be reported in full. A complete record, either written, taped or transcribed will be kept of the complete interrogation.
- c. Requests by a complainant, witness or employee to speak off the record will be denied.

17. Time Limitations for Internal Investigations: **(CALEA 26.3.3)**

- a. Complaints investigated by the Internal Affairs Officer or his designee will be completed in 30 days. This period may be extended by the Director of Public Safety.
- b. Investigations of **minor** incidents conducted by the Patrol Commander will be completed in 15 days. This period may be extended by the Director of Public Safety.

18. Findings and Recommendations

- a. The Internal Affairs Officer will submit the findings of all internal investigations to the Patrol Commander. The Patrol Commander will make

recommendations for disciplinary action to the Director of Public Safety.

19. Pre-Determination Hearing
 - a. The Director of Public Safety or his designee will conduct a Pre-Determination Hearing with the accused before disciplinary action is taken. The employee will have the right to present any information, documentation, or other evidence which the employee feels would be helpful in resolving the matter.
 - b. The entire Pre-Determination Hearing must be tape recorded or transcribed. Requests to speak off the record will be denied.
20. All Department personnel will be trained in this policy's procedures so they may effectively assist the public with registering complaints. Procedure for registering complaints against or commend the agency or its employees will be provided on the Public Safety Internet site (<http://muscd.edu/publicsafety>). **(CALEA 26.2.4)**

D. Reports:

1. Annually the Internal Affairs officer will compile statistical summaries of internal affairs investigations completed during the last calendar year. This report will be provided to the Chief not later than January 31 of each year.
2. Copies of this annual report will be made available to the public and agency employees upon request. **(CALEA 26.2.5)**

Attachments

1. PSD 109 IAD Statement Civilian Witness Complainant
2. PSD 110 IAD Witness Subject Employee Statements
3. PSD 111 Internal Affairs Complainant Affidavit
4. PSD 112 IAD Letter of Final Disposition to Complainant
5. PSD 113 IAD Pre-Determination Hearing
6. PSD 114 IAD Notification of Complaint
7. PSD 115 Internal Affairs Case Number Letter
8. PSD 37 Report of Alleged Police Misconduct

**IAD STATEMENT
(CIVILIAN WITNESS/COMPLAINANT)**

Atch. 1

TODAY'S DATE IS _____. THE TIME NOW IS _____. THIS INTERVIEW IS BEING CONDUCTED AT _____ MY NAME IS _____ OF THE MUSC
(Location)
DEPARTMENT OF PUBLIC SAFETY . ALSO PRESENT IS
. THIS STATEMENT IS IN REFERENCE TO INTERNAL AFFAIRS CASE # _____.

YOUR STATEMENT IS BEING RECORDED. WOULD YOU STATE YOUR NAME FOR THE RECORD,

AGE, DATE OF BIRTH, ADDRESS, TELEPHONE, BUSINESS ADDRESS, BUSINESS TELEPHONE?

_____, ARE YOU MAKING THIS STATEMENT FREELY AND VOLUNTARILY
(Witness's Name)

WITHOUT ANY PROMISES, WITHOUT ANY THREATS OR DURESS TO PROVIDE INFORMATION IN AN INVESTIGATION BEING CONDUCTED BY THE DEPARTMENT OF PUBLIC SAFETY?

_____, ARE YOU APPEARING HERE TODAY FREELY AND
(Complainant's Name)
VOLUNTARILY WITHOUT ANY PROMISES, WITHOUT ANY THREATS OR DURESS TO MAKE A COMPLAINT AGAINST CERTAIN EMPLOYEE(S) OF THE MUSC DEPARTMENT OF PUBLIC SAFETY.

_____, ARE YOU AWARE THAT YOUR CONVERSATION WITH THIS INVESTIGATOR IS BEING RECORDED?

_____, ARE YOU AWARE THAT ANYTHING YOU SAY MAY BE USED IN AN ADMINISTRATIVE HEARING OR IN A COURT OF LAW?

PSD109

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Atch 1 cont.

**BODY OF STATEMENT AS TO THE FACTS AND CIRCUMSTANCES SURROUNDING THE
ALLEGED COMPLAINT:**

WHO / WHAT / WHEN / WHERE / WHY / HOW

1. _____, IS THERE ANYTHING THAT I HAVE FAILED TO ASK YOU
THAT YOU WOULD LIKE TO ADD TO THIS STATEMENT?

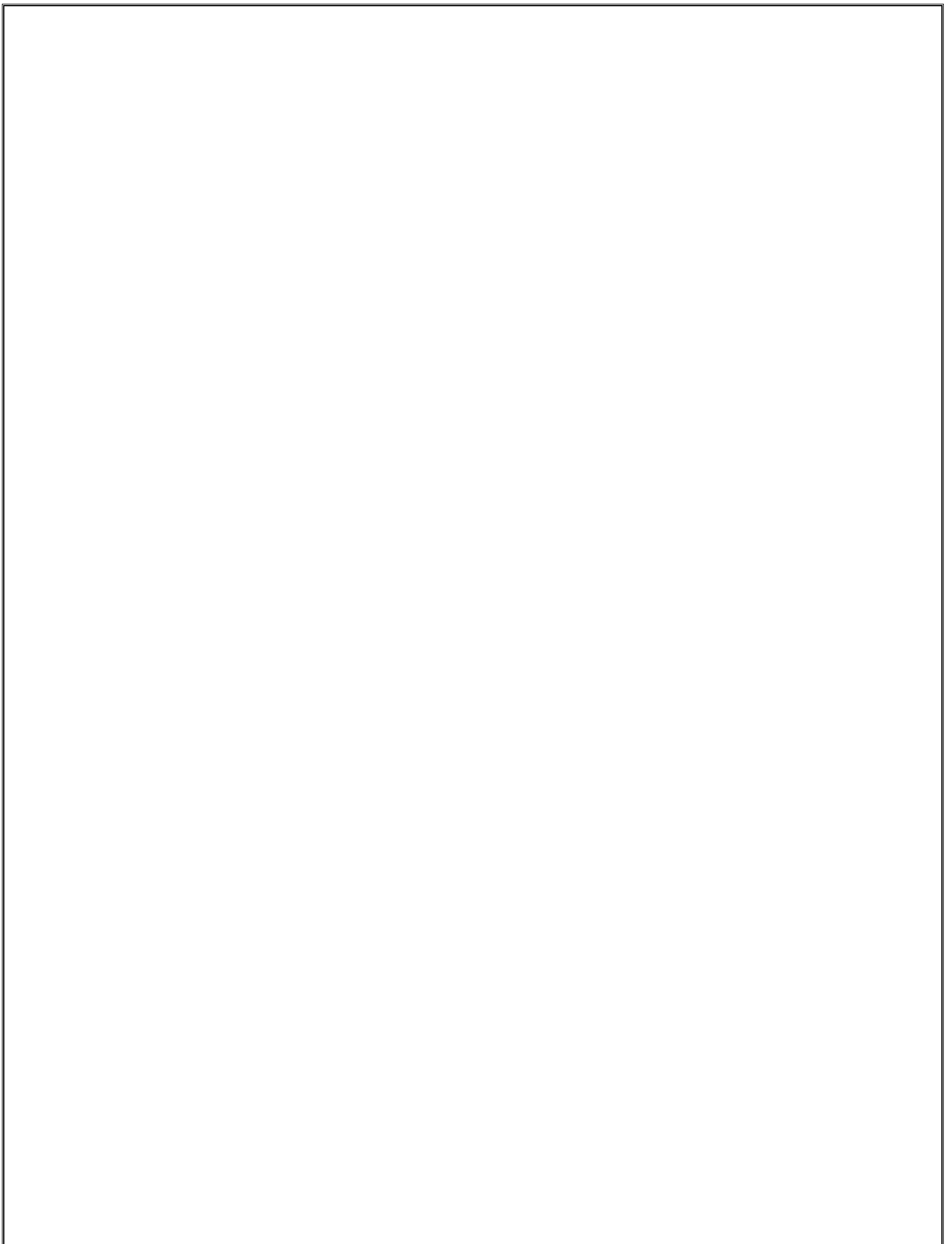
2. _____, HAS EVERYTHING YOU SAID BEEN THE TRUTH TO THE
BEST OF YOUR KNOWLEDGE?

3. _____, IF IT BECOMES NECESSARY, WOULD YOU VOLUNTARILY
SUBMIT TO THE TAKING OF A POLYGRAPH TEST (*LIE DETECTOR TEST*)?

THANK YOU.

PSD-109

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IAD (WITNESS) (SUBJECT) EMPLOYEE STATEMENTS

I am _____ of the MUSC Department of Public Safety. I am the investigator in charge of this case. You are being questioned as a (witness) (subject employee) in an official investigation by the MUSC Department of Public Safety. A complaint has been made against :

(and) _____ by _____ that

_____.

This interview is being conducted at

(Location)

_____ at _____ on _____.

(Time) (Date)

Also present at this time

is _____.

Your statement is being recorded.

The Department Manual states: Employees will obey the lawful order of a superior. Employees will not make false statements in any communication, verbal or written, concerning official matters. An officer (or employee) will not interfere with the investigation of a case assigned to another officer. Employees are prohibited from discussing the case with anyone other than the investigator (this does not preclude the right of an employee to consult with an attorney or representative of his choice.)

You are required to give a statement for Administrative purposes. You will be asked questions specifically, directly, and narrowly related to the performance of your official duties or continued fitness for office. I further advise you that if you refuse to answer questions relating to the performance of your official duties or fitness for duty, you may be subject to departmental charges.

You are entitled to the right to have an attorney or other representative present during questioning.

Do you understand this?

State your name, classification, and current assignment.

Body of Statement

PSD-110

1. _____, is there anything that I have failed to ask you that you would like to add to this statement?

2. _____, has everything you said been the truth to the best of your knowledge?

INTERNAL AFFAIRS COMPLAINANT AFFIDAVIT

BEFORE ME, the undersigned authority and an investigating officer of the MUSC Department of Public Safety came:

NAME

who, after being duly sworn, deposes and says:

1. That _____

2. That I have read or have had read to me my statement and now state that the facts are true and correct to the best of my knowledge, information and belief.

3. That I have read or have had read to me that making a false statement under oath is a crime. False swearing before persons authorized to administer an oath is a Class F Felony. Sec. 16-9-30.

4. That I have read or have had read to me that a law enforcement officer or employer has the right to bring suit against any person, group of persons, organization or corporation, for making a false statement under oath against such officer or employee.

5. That I have read or have had read to me this ____ day of _____ 19____, my Affidavit and swear that it is true and correct to the best of my knowledge, information, and belief and therefore affix my signature on the space provided below.

AFFIANT

INVESTIGATING OFFICER

SWORN TO and subscribed before me this ____ day of _____ 19____.

NOTARY PUBLIC
STATE OF SOUTH CAROLINA

Commission expiration
Date

Date:

Dear _____ :

Please be advised the investigation into your complaint against an employee of the MUSC Department of Public Safety and is completed and a final disposition has been made.

If you wish to discuss the disposition of the complaint, please contact
at _____ ext. _____ .

Thank you again for bringing this matter to our attention.

Sincerely,

Director, Public Safety

PSD 112

Date:

To:

From:

Director of Public Safety

Subject: PRE-DETERMINATION HEARING

You have been alleged to have engage in the following conduct:

The pertinent facts surrounding the incident (dates, times, locations) are:

If this information is correct, your actions constitute a violation of:

(Policies and procedures, rules and / or regulations):

and warrants disciplinary action, including the possibility of your termination.

PSD113

I am conducting a hearing regarding the above charges. I am advising you of your right to respond in writing to this memorandum with respect to the charges enumerated herein, as well as your right to respond verbally to me, as the official charged with the responsibility of making final determination regarding this investigation.

Accordingly, you are invited to appear at my office at 101 Doughty Street, Charleston, S.C. 29425 on _____ at _____ to discuss this matter. Should you chose to attend, you will be given the opportunity to present any information, documentation, or other evidence which you feel may be helpful to you in resolving this matter. At this meeting, you may be accompanied by legal counsel if you so desire.

I want to make it clear that the above meeting is part of a fact-finding process and if the information brought to my attention proves correct, it is possible that disciplinary action will be taken against you at that time.

If you fail to appear at the meeting or to respond to this memorandum by _____, and if the information presented leads me to believe that you have engaged in the conduct specified, my decision as to what disciplinary action to take, if any, will be based upon the information that is presented at that meeting.

I am reserving the right to consider additional charges, if any, that are brought to my attention as my investigation proceeds.

If you have any questions or require additional information, contact me immediately.

Sincerely,
Director, Public Safety

To:

From:

Subject: Notification of a complaint(s) against a Department of Public Safety employee.

Date:

1. You are hereby notified that a complaint is being investigated regarding your actions and/or conduct. This investigation was initiated based on

2. To avoid any misunderstandings, you will be contacted for an interview for **ADMINISTRATIVE PURPOSES ONLY** and you are therefore advised of your obligations as a public servant to answer questions relative to your employment.
(Garity vs. New Jersey, U.S.C.)

3. Being a public servant, you must cooperate fully in the Administrative Investigation. You must tell the complete and total truth in regards to this matter. Any attempt(s) to resort to half truths or evasion of an issue(s) will result in discipline up to and including discharge .

4. Specific allegation(s) or complaint(s):

Sincerely,

Director, Public Safety

PSD 114

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Date:

Dear _____:

Your complaint has been received by the Internal Affairs Officer and is classified under Internal Affairs Case Number _____.

We anticipate that the Internal Affairs portion of the investigation will be completed within 30 days from the date of receipt. However, the entire administrative process, from initial receipt of a complaint to final disposition, takes approximately 60 days.

Thank you for bringing this matter to our attention. You will be notified when the investigation is complete.

Sincerely,

Director, Public Safety

PSD 115

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**MEDICAL UNIVERSITY OF SOUTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY
REPORT OF ALLEGED POLICE MISCONDUCT**

Complaint #

Name of Complainant (Last, First, Initial)

Sex Race DOB

Home Address

Telephone

Business Address

Telephone

Name of the Officer Complained Against

Rank

Badge #

Description (If name is not known)

Date & Time of Incident

Location of Incident

Description of Incident: (Use Additional Sheets if Necessary)

Name of Witness

Address

Telephone

I have read this complaint report and I truly declare and affirm that the statements contained herein are accurate, true, and complete to the best of my knowledge and belief. I am/am not willing to testify at any hearing in connection with this complaint.

Signature of Complainant's Parent or
Guardian if he/she is a minor

Signature of Complainant

Name and Rank of Receiving Officer

Date and Time of Receipt

PSD 37

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