PISCATAQUIS COUNTY SHERIFF'S OFFICE

INVESTIGATION of EMPLOYEE MISCONDUCT
CITIZEN COMPLAINTS

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Division: Law Enforcement

I. PURPOSE

This policy establishes uniform procedures for addressing complaints of misconduct by personnel employed by the Piscataquis County Sheriff's Office [PCSO]. These procedures will govern the investigation and resolution of complaints brought to the PCSO's attention. The procedures are designed to maintain the PCSO's integrity by ensuring objectivity, fairness, and justice through impartial investigation and review. An additional purpose of this policy is to ensure that complaint information is compiled, tracked, analyzed, and made available to the Sheriff for use in managing the agency.

II. POLICY

Establishing procedures for investigating complaints and allegations of employee misconduct and criminal conduct is crucial to demonstrating and protecting this PCSO's integrity. PCSO shall accept and fairly and impartially investigate all complaints of employee misconduct or criminal conduct to determine the validity of allegations and to impose any disciplinary actions that may be justified in a timely and consistent manner. The procedures addressed in this policy will be administered in a manner consistent with applicable collective bargaining agreements and/or the jurisdiction's personnel policy and local, state, and federal laws.

III.CONFIDENTIALITY of Investigations

Personnel investigations are conducted for the PCSO's internal use. These investigations are confidential under state law. However, the agency reserves the right to provide information regarding investigations to its legal counsel, the Maine Criminal Justice Academy, or the appropriate prosecutorial authority, as warranted. All other releases of personnel information will be done only as mandated by a court, in keeping with collective bargaining agreements, or with the employee's and PCSO's consent.

IV. DEFINITIONS

Complaint - Means any clear, specific, and articulate allegation of employee misconduct that, if true, would constitute a violation of law or the standard operating procedures of this agency.

Employee - Means any full-time or part-time person, whether paid or volunteer, who represents or works for this agency and is approved by the Sheriff or designee.

Investigator - Means any supervisory officer who is assigned by the SHERIFF or designee to formally investigate or assist in the formal investigation of any complaint of employee misconduct.

V. PROCEDURES

A. Receiving Complaints

1.This agency will accept and document all complaints of employee misconduct. No complainant will be turned away. Anonymous complaints will be accepted; however, due to the difficulties of investigating them, citizens will be encouraged to identify themselves. In any case, the complaint will be accepted.

2.The on-duty supervisor or other designated supervisory officer is responsible for meeting with citizen complainants regarding allegations of employee misconduct. If no supervisor is on duty, the complainant will be provided with instructions on how to contact a supervisor.

3.The supervisor shall:

a. Interview the complainant and complete a Complaint Form. Intoxicated complainants shall be interviewed despite their sobriety. The degree of their sobriety shall be noted, and a subsequent interview shall be arranged at the earliest possible time.

b. Ask the complainant to provide an oral narrative describing the complaint and then briefly summarize the complaint in writing on the Complaint Form.

c. Ask the complainant to sign the affirmation statement on the Complaint Form. If the complainant refuses, make note of the refusal on the form and advise the complainant that the investigator shall consider the refusal to sign in evaluating the scope of the investigation, and that the command staff shall consider it in evaluating the truthfulness of the complaint.

d. Complete a Supplemental Memo report detailing objective observations of the complainant's behavior (e.g., intoxicated, yelling, aggressive). The supervisor shall also note any physical injuries and request photographs of visible injuries.

e. The supervisor shall submit the completed Complaint Form directly to the SHERIFF in person or by sealed envelope. In an incident involving alleged criminal activity, excessive force, improper arrest, entry, or search, or alleged conduct that violates a person's civil rights, the SHERIFF will be notified immediately. The supervisor receiving the complaint will notify the SHERIFF verbally of all other incidents on the next business day.

B. Assignment of Complaint Investigations

1.The SHERIFF shall review the Complaint Form and designate each complaint for investigation by either a line supervisor or an investigator. The SHERIFF shall use the following criteria for determining the investigative authority:

a. Internal Affairs shall investigate the following types of complaints:

1. criminal activity;
2. excessive force;
3. improper arrest;
4. improper entry;
5. improper search;
6. conduct which violates a person's civil rights;

7. any rule infractions that would bring the agency into disrepute or risk the safety of fellow officers or the public;
8. repeated minor violations;
9. notice of claim-related incidents;
10. any other matter as directed by the SHERIFF.

b. The subject officer's line supervisor shall investigate minor rule infractions (e.g. tardiness and demeanor issues).

2. If the SHERIFF is satisfied that a complaint has been satisfactorily resolved at the supervisor's level, he will close the complaint and send a conclusion notification to the complainant.

3. The SHERIFF shall assign the complaint to an Internal Affairs investigator or return the Complaint Form to the appropriate line supervisor for investigation and resolution.

C. Investigation of Complaints

1.Internal Affairs investigators shall have the following responsibilities:

a. Conduct a thorough and timely investigation of all complaints assigned by the SHERIFF.

b. Once a complaint has been designated for investigation by Internal Affairs, the IA investigator shall advise the employee, in a confidential written manner, that a complaint has been made and that an investigation will be conducted. The notice will include the complainant's name, the nature of the allegation(s), and copies of the employee's rights and duties. In addition, the employee will normally be allowed to read the initial complaint form. If the investigation may be impeded by disclosing the complaint or the complainant's identity, the SHERIFF shall decide all questions concerning employee notification and employee access to complaint information.

c. Compile all relevant reports, statements, and transcriptions for inclusion in the Internal Affairs case file.

d. Verify receipt of the complaint for processing with the complainant.

e. Periodically notify the complainant of the status of the investigation and any significant developments.

f. At the conclusion of the investigation, submit a completed investigation file for command review.

2. The SHERIFF or designee shall have the following responsibilities:

a. Ensure that all assigned cases are handled in a uniform, timely, thorough, and objective manner.

b. Assign cases to investigators as per the designation of investigative authority.

c. Monitor and review the work of Internal Affairs investigators and track case progress.

d. Review transcripts of interviews and identify issues that need follow-up or clarification.

e. Supervise and coordinate cases involving multiple internal affairs investigators.

f. Review completed investigations and make a finding and recommendation in cases assigned to Internal Affairs investigators.

g. Ensure that all relevant information is entered into appropriate databases.

h. Advise the complainant of the results of the investigation.

3. Line Supervisors shall have the following responsibilities:

a. Investigate rule infractions and other minor complaints as designated by the SHERIFF.

b. Make a finding as a result of the assigned investigation.

D. Criminal Conduct Allegations
1. Any allegation of criminal conduct against an employee of this agency will be forwarded to the SHERIFF as soon as possible.
2. Complaints alleging criminal conduct on the part of any agency employee may be handled as an internal affairs matter only after consulting with the appropriate prosecutorial authority and may be investigated by an outside agency upon request of the SHERIFF.
3. Criminal conduct allegations investigated by the Internal Affairs function of this agency shall be conducted in accordance with this policy.

E. Findings and Discipline
1. The SHERIFF shall review the Internal Affairs Investigation and shall give final approval to the written disposition of the case as follows:

a. Sustained - Sufficient evidence exists to indicate that the employee did, in fact, commit one or more of the alleged acts. The agency shall have the burden of proving that a violation is sustained by a preponderance of the evidence.
b. Exonerated - The incident occurred, but the employee's actions were justified, lawful, and proper. No violation of any agency rule, regulation, procedure, or law has been proven.
c. Unfounded - Reasonably credible evidence exists to indicate the complainant's allegations are false.
d. Not Sustained - Insufficient evidence to prove or disprove the allegation of misconduct.
e. Cleared Exceptionally - The agency is unable to investigate the matter due to:
    1. failure of the complainant to cooperate with the investigation;
    2. The unavailability of the complainant (death, relocation, etc.);
    3. The departure of the subject officer, except that the investigation should be completed to the extent possible;
    4. Other circumstances that prevent the agency from investigating a complaint;
    5. Policy failure – a flaw in policy was responsible for the incident.

2. The SHERIFF must afford the employee an opportunity for an informal hearing with the SHERIFF before the imposition of discipline or corrective action. This due process requirement gives the employee the opportunity to present his or her side of the story and challenge adverse actions based on factual inaccuracies or misunderstandings. The SHERIFF shall make the final decision as to the imposition of disciplinary or corrective action. Discipline shall be administered in accordance with this PCSO's discipline policy.
3. If an officer is convicted of a crime or violation or engages in conduct that could result in suspension or revocation of the law enforcement officer's certificate pursuant to 25 M.R.S.A. 2806-A, and the SHERIFF of this agency has knowledge of the conviction or conduct, then the SHERIFF shall within 30 days notify the Director of the Maine Criminal Justice Academy with the name of the officer and a brief description of the conviction or conduct. 25 M.R.S.§ 2807.

F. Relief from Duty
1. If the complaint against an employee is serious enough to warrant immediate action, the matter shall be referred immediately to the ranking officer on duty. The ranking officer shall determine if the employee involved will be relieved from duty. An order relieving an employee

from duty shall not be construed as disciplinary action. If an employee is relieved of duty in this manner, the employee should be instructed when to return to duty. In the event of any such action, the SHERIFF will be notified as soon as practical. A Complaint Form must be completed for all such incidents.
2. Any supervisor may relieve an employee from duty anytime the supervisor feels that the employee is unable to carry out his or her duties effectively. In the event of any such action, the SHERIFF will be notified as soon as possible.
3. Employees shall receive their normal pay for the period that they are relieved from duty unless said period is later made part of an appropriate suspension without pay or is reviewed by the SHERIFF and acted on pursuant to the SHERIFF's authority under the jurisdiction's personnel policy.

G. Member's Duties and Rights During an Internal Affairs Investigation
1. The member's duties and rights contained in this section shall apply to any investigation by Internal Affairs. The supervisor's failure to afford an employee these rights does not entitle the employee to disobey the supervisor's orders. The SHERIFF will consider the supervisor's failure to allow the employee to exercise these rights before imposing any discipline.
2. Any provisions in a collective bargaining agreement regarding employee rights shall be followed during an internal affairs investigation.

H. Employee statements to Internal Affairs
1. The employee will be instructed to provide information to Internal Affairs that is specifically, directly, and narrowly related to the employee's duties or fitness for duty. An employee may be instructed to provide information about off-duty conduct if there is a sufficient relationship between the employee's off-duty conduct and the employee's official duties. Statements made by an employee during an internal affairs investigation, and subject to Fifth Amendment protection, will not be used against an employee in a criminal proceeding. However, if the SHERIFF deems it appropriate, a matter may be referred for further investigation by a criminal investigator or the Maine Criminal Justice Academy Complaint Review Committee.
2. Employees may request to have an attorney or union representative present and available for consultation during any Internal Affairs interview. That attorney or union representative is not entitled to interfere with the interview.
3. An employee's statement to Internal Affairs may be provided in any one of the following forms at the discretion of the Internal Affairs Investigator:

a. a written statement completed and signed by the employee;
b. a transcription of a taped interview with the Internal Affairs investigator to which the employee has attested the truthfulness.
c. an investigator's summary of a taped interview with the employee to which the employee has attested truthfulness.

4. The same methods as in #3 above may be used by the Internal Affairs investigator, at his or her discretion, to obtain statements from civilian witnesses.

I. Rights and Duties During an Internal Affairs Investigation
1. All interviews will be conducted at a time determined by the interviewer unless the seriousness of the investigation requires an immediate interview. Every attempt will be made to conduct the interview within 30 days of the filing of the Complaint Form.
2. The interview will be held at the agency or at a location determined by the interviewer.

3. Written statements shall be submitted to the Internal Affairs investigator immediately upon request. Failure to submit a statement upon request, without good cause, will result in disciplinary action.
4. There will be one designated interviewer when more than one investigator attends interviews.
5. Employees under investigation shall not use or be subjected to offensive language during an interview, nor shall they be threatened with transfer, dismissal, or disciplinary action. The Internal Affairs investigator shall make no promise or reward as an inducement to answer questions.
6. All Internal Affairs interviews with employees will be recorded. All other interviews will also be recorded, if practical. The Internal Affairs investigator will have discretion in determining if a transcript of the interview or a summary should be prepared. If the recordings are not transcribed, they will be retained in the investigation file until the investigation is resolved. A copy of the recording shall be provided to the employee upon his written request after the investigation
7. All investigations shall be conducted without unreasonable delay. An employee who is the subject of a complaint will be advised in writing of the investigation outcome within 30days of the employee's interview with the Internal Affairs investigator. If the investigation cannot be completed within 30 days of the employee's interview, the SHERIFF may, inwriting, grant an extension of the 30-day period. The employee named in the complaint will receive an explanation of the delay and will be notified within 10 days of the completion and submission of the investigation to the SHERIFF for review. An employee or the employee's representative may contact the SHERIFF at any time to inquire about the status of an investigation into a complaint filed against the employee.
8. Before any hearing with the SHERIFF concerning possible disciplinary action, an employee will be allowed access to all information and/or documents upon which the contemplated discipline is based, unless, in the judgment of the SHERIFF, circumstances warrant anonymity.
9. The Administration maintains photographs of all current employees. The agency reserves the right to allow complainants or witnesses to view those photographs to identify officers whose identity is material to a formal internal affairs investigation. Officers may be required to have a new photograph taken to update the file periodically.
10. Employees will only be asked to submit to a polygraph examination if the examination is material to a current formal Internal Affairs investigation and only upon individual written authorization from the SHERIFF.

J. Notice of Claim
Whenever the department receives a Notice of Claim or is the subject of a civil lawsuit alleging an incident that would constitute a complaint, the SHERIFF shall initiate an Internal Affairs investigation. The investigation will be conducted in accordance with the procedures outlined in this policy.

K. IA File Security
The SHERIFF shall maintain a secure, locked cabinet containing a record of all complaints against this agency and its employees. Confidentiality of these files shall be maintained in accordance with collective bargaining agreements and applicable laws.

L. Sexual Harassment Complaints

Investigations of allegations of sexual harassment by one agency employee against another shall be handled in accordance with this policy. If, in the judgment of the SHERIFF, a fair and impartial investigation is impossible within the agency, or at the complainant's request, the SHERIFF may request the jurisdiction’s top administrator to assign an investigator from outside the agency. That investigator shall follow the procedures established in this policy.

M. Public Comment on Administrative or Personnel Investigations
For legal, contractual, and policy reasons, public comment on administrative or personnel investigations should be limited to the SHERIFF or the SHERIFF's designee. Inquiries from the news media or the public shall be referred to the SHERIFF. Any information released by the SHERIFF or the SHERIFF's designee upon request will be provided in accordance with applicable law.

Sheriff Robert Young