

 <p>The Georgia Peace Officer Standards and Training Council</p> <p>POLICY AND OPERATIONS MANUAL</p>	POLICY / DIRECTIVE NO. 4.0	DATE 12/01/21
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REFERENCE Investigative Reports and Case Files	AMENDS /RESCINDS	AUTHORITY EXECUTIVE DIRECTOR

PURPOSE:

It is the purpose of this directive to establish minimum requirements and guidelines for investigative reports to be submitted to POST Council.

POLICY:

It is the policy of the Peace Officer Standards and Training Council to establish and maintain minimum requirements for members of staff regarding form, content, and context of all investigative reports submitted to POST Council. Employees are required to adhere to the requirements identified in this policy.

DEFINITIONS:

Investigative Report: An investigative report is a written summary of the course of an investigation containing a detailed description of the allegations, witness accounts, evidence, response(s) of the subject, other pertinent information and a conclusion that evaluates all these listed factors in determining whether an allegation is substantiated.

Case File: A case file is an official and permanent government document and is a compilation of all investigative summaries, documents, photographs, other digital data (CDs, thumb drives, etc.) and other material gathered during the course of each investigation. Case files shall be maintained in POST-issued folders when possible, however, larger containers such as file boxes or crates may be used for large case files.

PROCEDURE:

Every case assigned to an investigator shall result in a comprehensive written report at the conclusion of the investigation. The written report shall be in the form designated by the Executive Director and shall address all areas listed in the **Critical Areas of Investigation** listed in the policy.

Critical Areas of Investigation:

Each Investigative Report will consist of the following sections:

1. Case Number and Reporting Investigator
2. Officer Data
3. Investigative Assignment
4. Case Summary
5. Mitigating and Aggravating Factors
6. Disciplinary History
7. Criminal History
8. Conclusion
9. Signature Section

1. Case Number and Reporting Investigator

The Case Number and POST Investigator submitting the report should appear at the top of the report

2. Officer Data

The Officer Data section should be numbered points identifying:

- a. the subject of the report by name and certification/application status(es)
- b. Employment information of the subject
- c. Whether subject is currently employed as a peace officer
- d. Whether the subject responded to the investigation
- e. Description of the allegation prompting the investigation

3. Investigative Assignment

The specific allegations/circumstances that prompted the POST investigation (i.e. Officer Harris terminated for Falsifying Time Sheets)

4. The Case Summary

- This section shall be a comprehensive and comprehensible report of the allegation(s), witness accounts, description of evidence, and responses made by the subject.
- Summaries shall be written so that a reader who is unfamiliar with the investigation can understand events or investigative actions as they occurred. Summaries shall be factually accurate, complete, concise, and objective.
- Summaries shall list the results and details if a polygraph or similar instrument was used in any investigation of the allegation(s).
- Summaries shall lead to a written conclusion that list violations or unsustainability of allegations, within the context of the report.
- Summaries shall indicate whether an officer responded to the investigation, and, if not, what attempts were made to contact the officer.

5. Aggravating and Mitigating Factors

This section may contain any relevant facts that may or not be present in the case summary, but which would be reasonable for POST Council to consider in

adjudicating a case.

Examples of *mitigating factors* might include facts such as: 20-year career without any POST sanctions, self-reported behavior, acting under extreme conditions, etc.

Examples of *aggravating factors* might include: previous POST actions, previous similar violations/actions, evidence of premeditation, collateral impact of officer behavior on others, etc.

There is no expectation that every case will have either or both mitigating and/or aggravating factors, however, if the investigator is aware of the existence of either, those factors should be included in the report. If no mitigating or aggravating factors exist, each section should be noted with "None known."

6. Disciplinary History

This section shall list known disciplinary actions involving the subject of the report

7. Criminal History

This section shall list known criminal history of the subject of the report.

8. Conclusion

This section shall list conclusion(s) of the investigation and shall specify any and all violations substantiated in the course of the investigation (i.e. "Officer X made false and misleading statements in an internal affairs investigation and used excessive force during an arrest." or "Officer Y was determined to intoxicated while on duty.")

9. Signatures for Probable Cause Committee Recommendations

The final part of the investigative report shall contain the established wording and spaces for signatures to allow the Probable Cause Committee to present the findings to the full POST Council.

Official Code of Georgia, Annotated

TITLE 35 - CHAPTER 8 "EMPLOYMENT AND TRAINING OF PEACE OFFICERS "

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35-8-7.1. Authority of council to refuse certificate to applicant or to discipline certified peace officer or exempt peace officer; grounds; restoration of certificate; emergency suspension of certification; notice of investigation.

(a) The council shall have authority to refuse to grant a certificate to an applicant or to discipline a council certified officer or exempt officer under this chapter or any antecedent law upon a determination by the council that the applicant, council certified officer, or exempt officer has:

(1) Failed to demonstrate the qualifications or standards for a certificate provided in this chapter or in the rules and regulations of the council. It shall be incumbent upon the applicant to demonstrate to the satisfaction of the council that he or she meets all requirements for the issuance of a certificate;

(2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of being an officer or in any document connected therewith or practiced fraud or deceit or intentionally made any false statement in obtaining a certificate to practice as an officer;

(3) Been convicted of a felony in the courts of this state or any other state, territory, country, or of the United States. As used in this paragraph, the term "conviction of a felony" shall include a conviction of an offense which if committed in this state would be deemed a felony under either state or federal law without regard to its designation elsewhere. As used in this paragraph, the term "conviction" shall include a finding or a verdict of guilt, a plea of guilty, or a plea of nolo contendere in a criminal proceeding, regardless of whether the adjudication of guilt or sentence is withheld or not entered thereon. However, the council may not deny a certificate to an applicant with a conviction if the adjudication of guilt or sentence is withheld or not entered thereon;

(4) Committed a crime involving moral turpitude, without regard to conviction. The conviction of a crime involving moral turpitude shall be conclusive of the commission of such crime. As used in this paragraph, the term "conviction" shall have the meaning prescribed in paragraph (3) of this subsection;

(5) Had his or her certificate or license to practice as an officer revoked, suspended, or annulled by any lawful certifying or licensing authority; had other disciplinary action taken against him or her by any lawful certifying or licensing authority; or was denied a certificate or license by any lawful certifying or licensing authority;

(6) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or practice harmful to the public; such conduct or practice need not have resulted in actual injury to any person. As used in this paragraph, the term "unprofessional conduct" shall include any departure from, or failure to conform to, the minimal standards of acceptable and prevailing practice of an officer;

(7) Violated or attempted to violate a law, rule, or regulation of this state, any other state, the council, the United States, or any other lawful authority without regard to whether the violation is criminally punishable, so long as such law, rule, or regulation relates to or in part regulates the practice of an officer;

(8) Committed any act or omission which is indicative of bad moral character or untrustworthiness;

(9) Been adjudged mentally incompetent by a court of competent jurisdiction, within or outside this state;

(10) Become unable to perform as an officer with reasonable skill and safety to citizens by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition; or

(11) Been suspended or discharged by the officer's employing law enforcement unit for disciplinary reasons.

(b) (1) When the council finds that any person is unqualified to be granted a certificate or finds that any person should be disciplined pursuant to subsection (a) of this Code section, the council may take any one or more of the following actions:

(A) Refuse to grant a certificate to an applicant;

(B) Administer a public or private reprimand, provided that a private reprimand shall not be disclosed to any person except the officer;

(C) Suspend any certificate for a definite period;

(D) Limit or restrict any certificate;

(E) Revoke any certificate; or

(F) Condition the penalty, or withhold formal disposition, upon the officer's completing such care, counseling, or treatment, as directed by the council.

(2) In addition to and in conjunction with the foregoing actions, the council may make a finding adverse to the applicant or officer but withhold imposition of judgment and penalty or it may impose the judgment and penalty but suspend enforcement thereof and place the officer on probation, which may be vacated upon noncompliance with such reasonable terms as the council may impose.

(c) In its discretion, the council may restore and reissue a certificate issued under this chapter or any antecedent law to an officer and, as a condition thereof, may impose any disciplinary or corrective measure provided in this chapter.

(d) Upon arrest or indictment of an officer for any crime which is punishable as a felony, the executive director of the council shall order the emergency suspension of such officer's certification upon the executive director's determination that the suspension is in the best interest of the health, safety, or welfare of the public. The order of emergency suspension shall be made in writing and shall specify the basis for the executive director's determination. Following the issuance of an emergency suspension order, proceedings of the council in the exercise of its authority to discipline any officer shall be promptly scheduled as provided for in Code Section 35-8-7.2. The emergency suspension order of the executive director shall continue in effect until issuance of the final decision of the council or such order is withdrawn by the executive director.

(e) Upon initiating an investigation of an officer for possible disciplinary action or upon disciplining an officer pursuant to this Code section, the council shall notify the head of the law enforcement agency that employs such officer of the investigation or disciplinary action. In the case of an investigation, it shall be sufficient to identify the officer and state that a disciplinary investigation has been opened. Notice of the initiation of an investigation shall be sent by priority mail. If the investigation is completed without any further action, notice of the termination of such investigation shall also be provided to the head of the employing agency. In the case of disciplinary action, the notice shall identify the officer and state the nature of the disciplinary action taken. The notice of disposition shall be sent only after the action of the council is deemed final. Such notice shall be sent by priority mail.

(f) If the certification of an officer is suspended or revoked by either the executive director or council, then the council shall notify the head of the law enforcement agency that employs the officer; the district attorney of the judicial circuit in which such law enforcement agency is located; and the solicitor of the state court, if any, of the county in which such law enforcement agency is located. It shall be sufficient for this notice to identify the officer and state the length of time, if known, that the officer will not have powers of arrest. Such notice shall be sent by priority mail.

(g) Notwithstanding Article 5 of Chapter 18 of Title 50, records of an investigation of an officer by the council, including, but not limited to, records used to investigate complaints against an officer and polygraph case files containing official polygraph reports, shall be retained for 30 years following the date that such investigation is deemed concluded by the council and then such records may be destroyed; provided, however, that the council shall have the authority to destroy such records prior to such 30 years where such officer is deceased and no action upon the complaint was taken by the council beyond the council's initial intake of such complaint.

HISTORY: Code 1981, § 35-8-7.1, enacted by Ga. L. 1985, p. 539, § 2; Ga. L. 1987, p. 3, § 35; Ga. L. 1993, p. 91, § 35; Ga. L. 2008, p. 237, § 1/SB 373; Ga. L. 2011, p. 506, § 1/HB 203; Ga. L. 2013, p. 864, § 1/HB 366.