

	STANDARD OPERATING PROCEDURE <small>State Form 39870(R/S-06)</small>	Reference Number IIS-001
	Subject Internal Investigations	
	Special Instructions Replaces PST-001 dated May 23, 2012	Effective Date January 15, 2015

I. PURPOSE

Establish guidelines for receiving and investigating allegations of employee misconduct received from the public or Department personnel.

II. POLICY

The Department shall investigate all allegations/complaints, as required herein, involving Department employees. Department employees may contact the Superintendent directly for the purpose of reporting alleged misconduct by other personnel.

III. DEFINITIONS

A. ACCUSED EMPLOYEE – A Department employee who is the subject of an allegation of employee misconduct.

B. ALLEGATION – A complaint submitted to the Department that alleges an employee has committed a violation of Department policy or statutory law.

C. ASSIGNED INVESTIGATOR – Police personnel (State Police or Capitol Police Section), having the rank of sergeant or above, assigned to conduct an internal investigation.

D. COMMANDER – An employee designated by the Superintendent to have supervisory control over designated employees.

E. (DISCIPLINARY) HEARING OFFICER (DHO) –The Chief of Staff or a major subordinate commander (North and South zone, Special Operations Command, Special Investigations Command, and Commercial Vehicle Enforcement) who have command authority over personnel assigned under their command and the authority to hold disciplinary hearings and impose discipline under the authority of the Superintendent

F. COMPLAINT – A written or verbal contact with the Department indicating a person is unhappy or dissatisfied with the actions of a Department member.

G. DISTRICT COMMANDER (DC) – A Department lieutenant designated by the Superintendent to exercise command authority over a district of the Department.

H. DISCIPLINARY ACTION – Actions taken as a result of the disciplinary process involving an allegation of employee misconduct that can lead to a suspension without pay, demotion, or termination of employment.

I. INTERNAL INVESTIGATIONS SECTION (IIS) – Shall have oversight on all internal investigations and maintain all records of preliminary inquiries, internal investigations, and disciplinary records. The IIS Commander or a designee has the authority to report internal investigation (I.I.) information directly to the Superintendent.

J. PRELIMINARY INQUIRY - An informal investigation conducted, when appropriate, as a result of an allegation of employee misconduct. A preliminary inquiry shall be documented on the Allegation of Employee Misconduct Form (553-A).

K. CORRECTIVE ACTION:

1. Supervisory/Administrative actions: Taken by a command officer or supervisor during the course of normal supervisory/administrative functions, not the result of the disciplinary process.

- a. Verbal Counseling;
- b. Written Counseling; and
- c. Letter of Reprimand.

2. Disciplinary actions: Taken by a DHO or the Superintendent.

- a. Suspension without pay;
- b. Demotion; or
- c. Dismissal from the Department.

L. RECEIVER – Any employee receiving an allegation of employee misconduct. When possible, civilian employees receiving a complaint or an allegation of employee misconduct about any Department employee should refer the complaint or allegation to an employee’s supervisor or the district duty officer.

M. RECORDINGS (of Interviews) – All interviews with Department employees shall be recorded digitally. All interviews with non-Department employees shall follow the guidelines in section XI-Q.

IV. SUPERINTENDENT’S AUTHORITY

The Superintendent has the authority to:

A. Determine whether or not an investigation should occur in response to allegation or report of alleged employee misconduct and who will conduct the investigation;

B. Relieve an employee from duty pending the disposition of an internal investigation or the outcome of a fitness for duty evaluation;

C. Authorize, under special circumstances, an internal investigation to be conducted without prior notification to the accused employee;

D. Authorize an investigation (prior to its completion) to be closed. In such cases, the applicable commander shall forward all documents, recordings, and evidence pertaining to the investigation directly to the IIS in the prescribed format;

E. Make the determination concerning the method of adjudication in disciplinary matters or authorize a designee to do so; and

F. May direct the applicable DHO to assess disciplinary action against an employee not to exceed ten (10) consecutive work days off, with the exclusion of holidays and weekends, without pay.

G. Employees in probationary status who are the subject of an allegation of employee misconduct will be subject of an investigation (preliminary or internal) at the direction of the Superintendent, without the right to a hearing. See Civilian Rule 1, CPS Rule 1, or Police Rule 1.

H. Pursuant to IC 10-11-2-15(i), personnel in a probationary status may be discharged, demoted, or temporarily suspended without the right to a hearing before the Board. The Superintendent, or a designee, shall determine the level of investigation necessary to make employment decisions regarding probationary personnel.

V. INTERNAL INVESTIGATIONS SECTION (Initial Duties)

The Internal Investigations Section (IIS) shall:

A. Have oversight on all preliminary inquiries and internal investigations;

B. Seek input from the local commander regarding a reported allegation;

C. Evaluate each substantiated allegation of misconduct, allegations of misconduct which could result in disciplinary action, and completed preliminary inquiries to provide guidance and direction in determining the appropriate course of action; either supervisory or disciplinary;

D. Assign an I.I. control number for any substantiated allegation or any allegation made that would require disciplinary action, if substantiated. The accused employee's commander shall place the I.I. number in Box 5 of the Allegation of Employee Misconduct Form 553-A; and

E. The IIS shall evaluate each new internal to determine if the offense and the accused employee are eligible for the option of Direct Decision (see section XI. G). If it is determined the Direct Decision option is available the IIS Commander shall contact the AE's DHO and discuss this option.

VI. RECEIVING AN ALLEGATION OF EMPLOYEE MISCONDUCT

A. Allegations of employee misconduct requires a confidential "Allegation of Employee Misconduct" form 553-A to be completed by the receiver. The receiver shall not obtain an I.I. number for this part of the process. Box 5 of the 553-A shall be left blank.

B. Upon receipt of an allegation, the receiver shall record all pertinent information from the reporting part on to the 553-A. Allegations maybe received and shall be processed as follows:

1. In-person: Request the person's signature on the 553-A (not required).
2. Telephone: Indicate in the signature block the allegation was received by telephone.
3. Mail, fax, or e-mail: Indicate in the signature block how the allegation was received and then scan a copy of the allegation to be forwarded electronically with the 553-A.

C. After completing the above steps, the receiver shall immediately forward (electronically) the 553-A to their commander.. If the accused is assigned to another command, the receiver's commander shall immediately notify the responsible commander and forward the completed 553-A to that commander for review and disposition. A copy of the 553A shall be forwarded to the IIS Commander for tracking purposes.

VII. ALLEGATION OF EMPLOYEE MISCONDUCT

When a supervisor/commander becomes aware that a violation of law, Department regulation, rule, or SOP has possibly been committed by an employee, that person shall:

A. Determine the validity of the initial allegation of misconduct and the necessary action: either supervisory/administrative (refer to section X), disciplinary, or no action (e.g. unsubstantiated, unfounded, etc.);

B. Forward an electronic copy of the 553-A (and the 553-C, if unfounded or unsubstantiated) to the IIS Commander.

C. Confer with the IIS to determine if the alleged misconduct:

1. If valid, would require disciplinary action (refer to section X); or
2. If the alleged misconduct cannot be immediately classified, then a preliminary inquiry may be conducted to gather additional information. Refer to section VIII; or
3. If it is determined that the alleged misconduct does not warrant disciplinary action then the accused employee's commander shall refer to section X for proper supervisory actions.

D. The DHO or the AE's CO shall ensure the reporting party is:

1. Notified that a preliminary inquiry or internal investigation will be conducted;
2. Provided with the name of a Department contact person;
3. Provided with a "Citizen's Allegation Procedure brochure" either in person or by mail. The brochures shall be available to the public at GHQ, district posts, and scale facilities; and
4. The reporting party shall be informed of the outcome of the inquiry or investigation.

VIII. PRELIMINARY INQUIRY

A. Preliminary inquiries may consist of, but are not limited to:

1. Informal, non-recorded interviews of a person(s) making an allegation, witness(es), or Department personnel;
2. A review of Department regulations, rules, and standard operating procedures to verify that the stated allegation constitutes a violation of the same; and
3. A review of the records of the Department or outside agencies that tend to support or contradict the stated allegation.

B. Commanders shall electronically forward all completed preliminary inquiries regardless of the outcome (if the allegation is substantiated or the employee is exonerated), through channels, to the IIS within five (5) days of completion. All supporting documents shall be included in the following order:

1. 553-A - Allegation of Employee Misconduct;
2. 553-B - Investigation Interview forms;
3. 553-C - Recommended Disposition; and
4. Any attachments - Documented supervisory/administrative action and notice to the complainant shall be scanned and attached as a PDF file.

C. The IIS shall retain all allegations and supporting documentation concerning preliminary inquiries for two (2) years plus the current year from the date the allegation was received. After which all information shall be destroyed unless the inquiry resulted in an I.I.

IX. INQUIRY/INVESTIGATORY GUIDELINES

A. The Superintendent and the Legal Office shall be notified immediately, through the proper chain-of-command, of any criminal arrest or other serious breach of conduct by Department personnel.

B. Allegations that allege violations of criminal law shall be investigated in compliance with procedures required by the Department's rules and regulations, standard operating procedures, and State and Federal laws. The completed criminal investigation shall be presented to the appropriate prosecutor having jurisdiction as to whether or not criminal charges will be filed.

C. A separate I.I. shall be conducted in compliance with the applicable Department regulations, rules, and SOPs. Internal and criminal investigations may occur simultaneously; however, each investigation shall be under the control of separate lead investigators.

D. An I.I. shall be conducted on any allegation of misconduct involving permanent employees and those probationary employees as directed by the Superintendent or proper designee that could result in suspension, demotion, or dismissal from the Department.

E. Supervisors/commanders may take supervisory/administrative action for a violation of Department policy that was not the result of a preliminary inquiry or internal investigation Refer to section X.

F. All internal investigations are intra-Departmental matters and are to be considered confidential. Department personnel shall not divulge, to any source, the nature of an investigation other than necessary to implement Department policies.

X. SUPERVISORY/ADMINISTRATIVE ACTION (If not applicable proceed to section XI)

A. Supervisory action may be taken by personnel authorized to do so (commanders and supervisors,) during the course of normal supervisory functions and, not as the result of the disciplinary process. These actions may include:

1. Verbal counseling (Documented on the appropriate Supervisory Contact Report)
2. Written counseling – (State Form #45032); and/or
3. Letter of reprimand.

B. Whenever a transgression is minor in nature and involves matters where counseling and/or training will better serve the interest of the Department, as well as the individual, those options should be given priority. The commander/supervisor shall consider the following criteria in determining whether counseling and/or training is a viable option:

1. Type of allegation; e.g., rudeness, tardiness, delinquent reports, etc. which would normally result in supervisory action unless there are aggravating circumstances;
2. Severity of the allegation;
3. The employee's Department record;
4. Aggravating or mitigating factors; and
5. The willingness of the employee to accept constructive approaches to rectify the specific problem being addressed.

C. When written supervisory/administrative counseling is utilized, it shall be documented on an Employee Counseling Form and noted in the individual's Performance Appraisal Report.

D. Letters of reprimand shall be delivered to the employee personally by the immediate supervisor. A copy shall be given to the employee and placed in the employee's general information file.

E. Copies of Counseling Forms and letters of reprimand issued as a part of supervisory/administrative action, in either a response to an allegation or routine supervisory duties, shall be forwarded electronically to the IIS as outlined in HMR-032.

XI. CONDUCTING AN INTERNAL INVESTIGATION (I.I.) general information.

A. A commanding officer (CO) may discuss the disciplinary process or the status of an investigation but shall refer all requests for specific details concerning the investigation to the IIS.

B. All Department personnel who view the I.I. report shall enter their name and date electronically to the Confidential Sheet.

C. The IIS Commander shall designate or assign an officer to conduct an I.I. regarding the allegation(s) specified in Regulation 7, Discipline.

D. When an internal investigation is being conducted by an investigator outside the IIS, an internal investigator from the IIS shall be assigned as a liaison to assist the CO and the investigator during the course of the investigation.

E. If an I.I. is initiated due to the AE being the subject of or involved in a criminal investigation, the commander of the investigator assigned to conduct the criminal investigation shall ensure that a copy of the Initial Criminal Incident report, supplemental Criminal Incident report(s), and attachments are forwarded directly to the IIS Commander, as soon as those reports are generated.

It shall be necessary to include, as part of the internal investigative report, a copy of the completed criminal investigation.

F. Unless circumstances deem otherwise (refer to section IV. C), the AE's DHO shall provide the accused, in writing:

1. Notification that an investigation of alleged misconduct by the accused has been initiated and the basis for the investigation;
2. A statement directing the attention of the accused to the regulation, rule, or standard operating procedure that governs an I.I. or subsequent disciplinary action; and
3. The employee should be given a minimum of 24 hours notification prior to an interview.

G. Direct Decision (if authorized)

1. When authorized, by the IIS Commander or designee, the AE's DHO shall direct the AE's commander to meet with the AE and offer the option of Direct Decision.

a. The commander shall offer the AE the chance to review and sign the I.I. Waiver, which shall waive the right to a full I.I. related to this allegation.

(1) If the AE declines Direct Decision, the commander shall proceed to section "XI. A" (above).

(2) If the AE accepts Direct Decision, the AE must sign the I.I. Waiver.

(a) The AE's DHO shall schedule an interview with the AE within five (5) days;

(b) The AE shall review and sign the Advice of Administrative Rights form;

(c) An interview will be conducted by AE's DHO or a designee. The applicable internal investigator may be asked to set in on the interview or conduct the interview for the DHO. Note: Even when not conducting the interview, the DHO or a designee shall be present.

(d) The interview shall address the specific allegations of the 553-A; and

(e) The interviewer shall ensure a detailed 553-B (regarding the statements of the AE) and a digital recording of the interview are completed and forwarded by email to the IIS Commander who shall forward it to the appropriate Department legal counsel.

b. The legal counsel shall then complete the Written Charges on the employee and forward them to the AE's DHO.

c. The AE and the AE's DHO shall meet again, at which time the AE shall be presented with:

(1) A Notice of the Disciplinary Hearing/Waiver; and

(2). A copy of the Written Charges.

d. If the AE declines to sign the hearing waiver the DHO shall proceed to section " XI" above and see that an I.I. is conducted as outlined in the remainder of this procedure.

e. If the AE signs the hearing waiver, the DHO shall present the AE with the Disposition of the Written Charges and the penalty for the offense. The DHO shall then proceed to section XII.

2. At anytime during the Direct Decision process the Department retains the right to conduct an I.I.; regardless, if the employee has waived the investigation.

H. Interviewing Department Employees:

1. During an I.I. interview the accused employee shall be unarmed and in plain-clothes as outlined in ENF-025 (attire for official meetings).

2. Department personnel who are being interviewed in relation to an I.I. shall be informed of the nature of the investigation before any interview commences;

3. Department employees shall not be interviewed by more than two (2) investigators at one time and upon written request shall be provided with a digital/audio copy of their statement.

4. Department personnel who may have information relevant to an investigation shall be interviewed;

5. Interviews shall be conducted at a location designated by the investigating officer;

a. If Department employees are directed to leave their area of assignment to report for an interview, the individual's commander shall be promptly notified;

b. Interviews shall be conducted at a reasonable hour, preferably when Department employees are on duty, unless the circumstances of the investigation dictate an alternate procedure; and

c. All interviews with Department employees shall be recorded;

I. Accused Employees (AE):

1. Prior to an interview, the AE shall read and sign the Advice of Administrative Disciplinary Procedural Rights form. Note the reading and signing of the form on the record, but do not read the entire form;

2. When Department personnel are interviewed concerning an alleged violation of Departmental regulations, rules, and SOPs, which, if proven, could result in disciplinary action, the individual shall be afforded an opportunity to consult with an attorney;

a. Expenses incurred by Department personnel who chooses to be represented by counsel shall be the responsibility of the individual,

b. An interview may not be postponed more than 24 hours, and

c. Legal counsel retained by Department personnel may be present during the interview, but shall not participate except to counsel the individual.

3. If during any interview, an employee makes an incriminating statement (relating to a violation of Department policy or law), **outside the scope of the original allegation**, the interview shall be immediately stopped, and the employee's commander and the IIS Commander shall be contacted.

a. The AE's commander and IIS Commander shall determine if a new 553-A or charges/additional charges (criminal or Departmental) are warranted based on the new information.

b. The initial interview should only resume if it is determined that no further action is required on the new information or at the direction of the IIS Commander.

J. Witness Employees:

1. Shall be informed of their status as a witness prior to the interview beginning;

2. Are required to answer all questions specifically related to the allegations being investigated;

3. Are required to answer all questions truthfully;

4. Shall not be subject to or advised of the Department's Administrative Rights Warning; and

5. If during an interview, a witness employee makes an incriminating statement (relating to a violation of Department policy or law), the interview should be immediately stopped, and the commander and the IIS Commander shall be contacted

K. Examination of Records or Documents

1. Department records/documents that may pertain to or have evidentiary value to the investigation may be examined; and
2. Non-Department documents and records shall be examined in compliance with existing civil and criminal law or court imposed regulations.

L. Forensic Examinations

1. The assigned investigator may request that Department personnel voluntarily submit to examinations of a forensic nature. Any Department personnel refusing a request may be ordered to comply only by the Superintendent. Requests for such an order shall be forwarded to the Superintendent, through channels. Forensic examinations may be, but are not limited to;

- a. Polygraph examination,
- b. Handwriting exemplars,
- c. Blood, breath, or urine samples,
- d. Participation in a line-up, and
- e. Request for an employee to pose for photograph.

2. Polygraph Examinations:

- a. Department personnel shall not be ordered or asked to submit to any test, examination, or procedure that would violate their constitutional rights.
- b. With the approval of the Superintendent a polygraph examination may be administered, if requested by the accused; however, the results may be used in subsequent administrative actions.
- c. The accused shall not be compelled to submit to a polygraph examination concerning an allegation without corroborating evidence; unless, the complaining party submits to and passes a polygraph examination beforehand.
- d. If the complaining party passes the examination or if there is sufficient corroborating evidence, the Superintendent may order the accused to submit to a polygraph examination. Failure of the accused to comply can become the basis for dismissal from the Department.
- e. Should the accused be ordered to submit to a polygraph examination, the accused shall be informed that the results of or any information derived from the examination may be used by the Department in administrative actions.

M. Interviewing Non-Department Employees

Interviews with non-Department employees/members of the public shall:

1. Be done in accordance with the same etiquette required as during other investigations;
2. Be recorded, if agreed to, and in compliance with applicable laws; and
3. Not involve more than two (2) investigators at one time. Upon request, the person shall be provided with a copy of their audio recorded interview.

N. Internal Investigator (Responsibilities)

1. An I.I. shall be given priority over the assigned investigator's normal duties.
2. The investigator assigned to complete an I.I. shall:
 - a. Complete the Employee Misconduct - Investigation Interview Form (Stock 553-B) for each individual interviewed;
 - b. Utilize the body of Form 553-B to summarize the interview;
 - c. Complete the body of Form 553-B with precise restatements of the individual being interviewed when a recording is not made;
 - d. Prepare a concise, written summary of the investigation to reflect only the facts determined during the investigation and not the conclusions or opinions of the investigating officer;
 - e. Submit the completed investigation electronically to the IIS Commander or designee; and
 - f. At the close of the investigation, ensure all original investigative materials, recordings, and reports are forwarded and received by the IIS. The investigator shall then purge any copies of their investigative report, associated documents, and recordings from their files.

O. Review and Disposition

1. The AE's commander shall review the completed investigative report electronically and based on the conclusions of fact recommend:
 - a. That the facts do not support the allegation and the case should be concluded as:
 - (1) **UNSUBSTANTIATED** – The facts available are insufficient to prove guilt
 - (2) **UNFOUNDED** – The facts prove the misconduct in the allegation did not occur or the accused was not involved; or
 - (3) **EXONERATED** – The conduct complained of did occur, but under the circumstances was not in violation of Departmental regulations, rules, or standard operating procedures.

b. That the facts **SUBSTANTIATE** the allegation and the case should be concluded as:

(1) The allegation does not allege a violation of criminal law or rise to the level of a disciplinary issue and can be effectively concluded by referral to supervisory/administrative action; or

(2) Disciplinary action is recommended (with a recommendation whether or not a hearing should be conducted by the AE's major subordinate commander or by the Assistant Superintendent.)

2. Submit the completed investigation, digital recordings, and all related evidence to the IIS, through channels.

P. The **Commander of the Internal Investigations Section** shall:

1. Review the investigation for completeness and conclusions of fact;

2. Cause a review of the investigation with the Assistant Chief of Staff Investigations and Intelligence;

3. Upon final review notify the AE, in writing, when the investigation has been completed;

4. Forward the completed investigation to the Superintendent or designee for disposition; and

5. Return to the AE's commander any investigation that the Superintendent determines should be disposed of at the local level.

XII. WRITTEN CHARGES

A. A copy of the Written Charges and the Investigative Summary shall be personally delivered to the AE by the AE's DHO or designee.

1. Written charges shall be based on an act committed or omitted by the accused within one (1) year prior to the filing of an Allegation of Employee Misconduct form, except when authorized by the Superintendent and the accused has concealed evidence of the offense or evidence sufficient to charge the accused with the offense was unknown and could not have been discovered by exercise of due diligence;

2. Written charges alleging an act which constitutes a law violation shall be filed within a time limit equal to the statutory limitation for filing criminal charges, except when authorized by the Superintendent; and

3. A not guilty finding or prosecutor's refusal to file criminal charges does not affect the time limit for filing written charges involving a violation of law by the accused.

B. If a suspension is imposed, the suspension date(s) shall occur Monday through Friday.

C. Refer to SOP IIS-002 for information about Disciplinary Hearings and Appeals.

XIII. FINDING AND ORDER

Upon issuance of a Finding and Order, the IIS Commander shall ensure the AE's HO is notified to send a final disposition to the original complainant.

XIV. INTERNAL INVESTIGATION-RECORDS KEEPING

A. The Written Charges, Notice of Hearing, and the Finding and Order shall be forwarded electronically to the IIS.

1. When necessary, the IIS shall prepare the necessary documents for the Superintendent's signature to remove the accused employee from the payroll. This information shall be forwarded in a memo to Human Resources and copied to the Fiscal Section.

2. The original internal investigation, associated documents, and digital/audio recordings shall be electronically stored at the IIS pursuant to the Records Retention Schedule approved by the Indiana Commission on Public Records. No copies of the I.I., excluding the written charges and the finding and order shall be printed, copied, or retained without authorization from the Superintendent.

B. All inquiries relating to an I.I. shall be referred to the IIS.

C. Upon receipt of a valid legal process, an I.I. report may be viewed and/or copied.

D. The IIS shall compile annual statistical summaries based upon records of internal investigations and preliminary inquiries for the Department's Annual Report.

E. This procedure is to be used in conjunction with all relevant Department regulations, rules, policies, and procedures.