
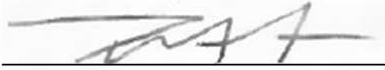


<b>POLICY TITLE: ADMINISTRATIVE AND PERSONNEL COMPLAINT INVESTIGATIONS</b>		<b>PAGE 1 OF 12</b>
<b>POLICY NUMBER: 7.3</b>		
<b>CHAPTER 7: INVESTIGATIONS</b>		
	<b>STATE of MAINE</b> <b>DEPARTMENT of CORRECTIONS</b>  <b>Approved by Commissioner:</b> 	<b>PROFESSIONAL STANDARDS:</b>  <b>See Section VIII</b>
	<b>EFFECTIVE DATE:</b> <b>November 15, 2013</b>	<b>LATEST REVISION:</b> <b>May 14, 2026</b>

**I. AUTHORITY**

The Commissioner of Corrections adopts this policy pursuant to the authority contained in Title 34-A M.R.S.A. Sections [1403](#) and [3011](#).

**II. APPLICABILITY**

Department Wide

**III. POLICY**

It is the policy of the Department of Corrections to conduct administrative and personnel complaint investigations of alleged misconduct of its employees and others who are not facility residents, community corrections clients, visitors, or members of the public in a thorough, fair, and timely manner. The process shall be consistent with collective bargaining agreements, state personnel policy, and state and federal law, as applicable.

**IV. DEFINITIONS**

1. Administrative complaint – an allegation of misconduct against someone who is not a Department employee, which, if true, could result in administrative action, such as being barred from a Department facility or office, and alleges one or more of the following:
  - a. an infraction of Department rules or policies that could impact the safety of individuals in Department workplaces, security of Department facilities, or the orderly operation of the Department;
  - b. an illegal act; or
  - c. other misconduct.
2. Personnel complaint – an allegation of misconduct against an employee of the Department, which, if true, could result in disciplinary action up to and including termination, and alleges one or more of the following:
  - a. an infraction of Department rules or policies that could impact the safety of individuals in Department workplaces, security of Department facilities, or the orderly operation of the Department;

- b. an illegal act; or
  - c. other misconduct.
3. BlueTeam – a software application used by the Department to document and process administrative and personnel complaints. Beyond this policy, BlueTeam is also used to document commendations and use of force reviews.
  4. Complainant – the person who alleges that a policy has been violated, misconduct has occurred, or there is a performance issue that requires investigation. Administrative and personnel complaints are accepted from any source and in any form, including from internal or external sources, and from complainants wishing to be identified or remain anonymous.
  5. IAPro – a software database application used by OPR and authorized employees for managing investigations of complaints.
  6. Intaking supervisor – the supervisor who conducts the preliminary inquiry into the complaint.
  7. Investigation – for purposes of this policy, an Administrative or Personnel Complaint Investigation (APCI), which is a formal process used to investigate allegations of misconduct.
  8. Minor performance issue – behavior of a subordinate Department employee that does not appropriately meet the requirements of their job functions, as determined by a supervisor, but which does not rise to the level of misconduct.
  9. Misconduct – a substantial and/or intentional behavior that disregards state or federal law, rules, Department policies, directives, facility practices, or post orders.
  10. Preliminary inquiry – a process conducted by a supervisor assigned by the Chief Administrative Officer, Regional Correctional Administrator, or the Central Office supervisor, or their designees, as applicable, which serves to determine if a reasonable cause to investigate has been established or if the matter should be closed.
  11. Subject – Department employee who is the focus of a preliminary inquiry or personnel complaint investigation or person who is not a Department employee and who is the focus of a preliminary inquiry or an administrative complaint investigation, including a person providing services by agreement with or under contract with the Department (e.g., facility health care staff), volunteer, student intern, or other person such as a delivery person, construction or repair worker, auditor, inspector, instructor, or employee of another state agency. This does not include a resident, community corrections client, visitor, or member of the public.
  12. Supervising organization – the organization responsible for employing or otherwise supervising a subject who is not a Department employee.
  13. Supervisory file – a file maintained by a supervisor to securely house documentation relative to an employee’s performance and behavior in order to facilitate the performance management process.
  14. Verbal redirection – a non-disciplinary corrective action in which a supervisor provides immediate, in-person verbal guidance to an employee regarding a performance issue, behavior, or policy violation that does not rise to the level of misconduct. The purpose of verbal redirection is to clarify expectations, reinforce appropriate conduct, and provide an opportunity for the employee to correct the behavior without initiating formal

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disciplinary procedures. Verbal redirection is documented in the employee's supervisory file, but does not need to be entered into BlueTeam.

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## VI. ATTACHMENTS

All forms referenced in this policy are found in the Office of Professional Review (OPR) Manual.

## VII. PROCEDURES

### **Procedure A: Administrative or Personnel Complaint Investigations, General**

1. Supervisors must exercise sound, fair, and consistent judgment when addressing minor performance issues. When uncertain about the appropriate course of action, supervisors are encouraged to seek guidance from their superiors. Poor decision-making in handling these situations may result in missed opportunities for constructive intervention or may be perceived as an inappropriate use of supervisory authority.
2. The Department's Office of Professional Review (OPR), under the oversight of the Department's Director of Operations, or designee, supervises administrative and personnel complaint investigations.
3. The OPR is managed by the Department's OPR Director, who is responsible to:
  - a. respond to each complaint by notifying the complainant in writing that the complaint was received;
  - b. review all preliminary inquiry reports that have been entered into BlueTeam;
  - c. notify the appropriate facility Chief Administrative Officer, Regional Correctional Administrator, or Central Office supervisor, or their designees, after the review of the Preliminary Inquiry report;
  - d. if applicable, assign an OPR investigator, facility correctional investigative officer (detective), and/or Equal Employment Opportunity (EEO) Coordinator;

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- e. coordinate misconduct investigations with, as applicable, the facility Chief Administrative Officer, Regional Correctional Administrator, and the Department's Director of Human Resources, or their designees;
  - f. if applicable, coordinate misconduct investigations with the supervising organization;
  - g. review Office of Professional Review (OPR) investigation reports to ensure that investigations are complete, objective, impartial, and thorough;
  - h. monitor investigative progress and provide supervision to all OPR investigators;
  - i. maintain OPR files in an organized, secure, and confidential manner; and
  - j. maintain a secure computer database of all complaints, preliminary inquiries, and investigations; and
  - k. maintain the OPR Manual and update it as necessary.
4. Investigators assigned to the OPR shall:
- a. conduct investigations into complaints, as assigned;
  - b. prepare comprehensive reports of investigative findings in a timely manner, to include a credibility assessment and a recommended outcome on the allegations; and
  - c. attend administrative case reviews and arbitration proceedings.
5. The OPR Manual is a confidential standard operating procedural manual maintained by the OPR Director which outlines the investigative process for use in administrative and personnel complaint investigations, and which:
- a. shall be available to and followed by the facility Chief Administrative Officers, Regional Correctional Administrators, Central Office supervisors, and the Department's Director of Human Resources, or their designees, and OPR investigators; and
  - b. is maintained in the Department's online document management system and shall be updated to reflect changes in policy, best practices, statutes, case law and/or collective bargaining agreements.
6. All Department employees, persons providing services by agreement with or under contract with the Department, volunteers, and student interns:
- a. shall cooperate with and be truthful and forthcoming with respect to all preliminary inquiries and investigations conducted under this policy; and
  - b. shall not interfere with, obstruct, or hinder, nor advise any other person to interfere with, obstruct, or hinder, in any manner, a preliminary inquiry or investigation.

**Procedure B: Minor Performance Issues**

- 1. A supervisor who identifies a minor performance issue in a subordinate employee is required, at a minimum, to provide corrective guidance through verbal redirection.
- 2. The supervisor shall document the issue in a supervisory file but is not mandated to escalate the issue to a higher-level supervisor or enter it into BlueTeam.

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3. A supervisor maintains the authority to initiate formal corrective action, at their discretion, by documenting the issue in BlueTeam as a Preliminary Inquiry.
4. In instances where a performance issue might rise to the level of misconduct, the supervisor shall document the issue in BlueTeam. In such a case, verbal counseling about the behavior shall not be done, and instead, the supervisor shall implement verbal redirection as to future behavior.

**Procedure C: Administrative or Personnel Complaint Intake**

1. Any Department employee who is not a supervisor and who receives a personnel or administrative complaint shall immediately refer the matter to a supervisor. If a supervisor is not immediately available, the employee shall advise the complainant on how to contact a supervisor. The employee shall report the complaint in writing, along with any additional relevant facts, and shall immediately forward the report to their supervisor.
2. Any person providing services by agreement or under contract with the Department, a volunteer, or a student intern who receives an administrative or personnel complaint shall immediately refer the complaint to any available on-duty Department supervisor.
3. Members of the public may submit a complaint on the MDOC website under the link “File a Complaint or Compliment.” The employee receiving the complaint shall forward it to the Department’s Office of Professional Review (OPR) Director, who shall determine who else needs to be notified.
4. Each organization that supervises a person providing services by agreement with or under contract with the Department, a volunteer, or a student intern, or other person who is not a Department employee shall be informed by the OPR Director, or other designated staff, that if the organization receives or initiates a complaint that meets the definition of an administrative complaint, it shall notify the Department. If a complaint does not meet the definition of an administrative complaint, then no notification is necessary. If there is a question as to whether the definition is met, the OPR Director shall consult with the supervising organization for a determination as to how the situation will be handled going forward.

**Procedure D: Preliminary Inquiry**

1. The intaking supervisor conducting the preliminary inquiry shall obtain information needed for the OPR Director to determine whether there is reasonable cause to conduct an Administrative or Personnel Complaint Investigation (APCI) investigation by:
  - a. interviewing the complainant, if possible, to ascertain the essence of the complaint; and
  - b. documenting as set out below the potential misconduct which is the subject of the complaint and any other potential misconduct discovered in the course of the preliminary inquiry.
2. The intaking supervisor shall not interview;
  - a. the subject of the complaint, but in the event that unsolicited statements are made by the subject, the supervisor shall document the statements; or

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- b. witnesses, except for a complainant, but in the event that unsolicited statements are made by a witness, the supervisor shall document the statements.
3. The intaking supervisor shall:
- a. if applicable, take photographs of any physical evidence, and as necessary, of injuries or lack thereof to all parties involved, any damage to property, the scene of the incident, etc.;
  - b. identify, collect, copy, or protect any evidence (either in hard copy or digital form) potentially relevant to the complaint that is immediately available and possibly susceptible to destruction or tampering. This includes logs, forms, reports, photos, audio, video, physical evidence, etc.;
  - c. review all documentation;
  - d. identify witnesses who may have relevant information;
  - e. complete a written Preliminary Inquiry report, to include:
    - 1) a description of the alleged behavior leading to the complaint;
    - 2) identification of relevant state or federal law, rules, Department policies, directives, facility practices, and/or post orders related to the complaint;
    - 3) addressing minor inconsistencies in a complainant's or witness's statements (e.g., date or time differences), but not substantial differences such as whether or not an incident occurred; and
    - 4) listing witnesses and describing or attaching evidence, including documents.
  - f. only include a written report from the subject when it already exists. Note: the intake supervisor shall not require the subject to complete a written report specifically as part of the preliminary inquiry.
4. The intaking supervisor shall enter the complaint and the Preliminary Inquiry report into BlueTeam. When possible, this shall be accomplished before the end of the supervisor's shift.
5. If additional evidence is discovered, the evidence or documentation of the evidence, as applicable, shall be emailed to the Office of Professional Review (OPR) Director immediately.
6. If the supervisor receiving a complaint is off duty, as applicable, the Chief Administrative Officer, Regional Correctional Administrator, or the Central Office supervisor, or their designees, who are responsible for the OPR process shall determine whether a delay in conducting the preliminary inquiry would have an adverse effect.
- a. if the delay would not adversely affect a subsequent investigation or unduly delay the provision of the Notice of Investigation form to a subject, the preliminary inquiry and entry of the Preliminary Inquiry report into BlueTeam can be made upon the supervisor's return to work; or
  - b. If there would be an adverse effect or undue delay, as applicable, the Chief Administrative Officer, Regional Correctional Administrator, or the Central Office supervisor, or their designees, shall turn the matter over to an appropriate on-duty supervisor.

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**Procedure E: Review of Preliminary Inquiry**

1. The Office of Professional Review (OPR) Director shall:
  - a. review every administrative or personnel complaint and Preliminary Inquiry report entered into BlueTeam;
  - b. collaborate with, as applicable, the Chief Administrative Officer, Regional Correctional Administrator, or the Central Office supervisor, or their designees, and/or the Human Resources Director, or designee; and
  - c. determine if there is reasonable cause to investigate.
2. If, after the collaborative meeting between the OPR Director and, as applicable, the facility Chief Administrative Officer, Regional Correctional Administrator, or the Central Office supervisor, or their designees, and/or the Human Resources Director, or designee, a determination of reasonable cause to investigate cannot be made, they may require a Supplemental Preliminary Inquiry report to be completed by the intaking supervisor or another supervisor.
3. Once it has been determined that an adequate preliminary inquiry has been conducted, the OPR Director shall decide whether the issue will be:
  - a. closed because no reasonable cause to investigate is found;
  - b. assigned for an Administrative or Personnel Complaint Investigation (APCI) investigation investigation;
  - c. returned to the Chief Administrative Officer, Regional Correctional Administrator, or the Central Office supervisor, or their designees, as a performance issue to be dealt with on a more informal basis, if the subject is a Department employee; or
  - d. referred to the subject’s supervising organization, if the subject is not a Department employee.
4. If additional information is received that would establish reasonable cause to investigate an issue that has been closed, the matter may be reopened.
5. An issue returned to be addressed as a performance issue shall be handled in the manner outlined in the OPR Manual and in compliance with any applicable collective bargaining agreement.
6. If the issue is assigned for an investigation, the OPR Director, or designee, shall assign a case number and an OPR investigator and notify, as applicable, the facility Chief Administrative Officer, Regional Correctional Administrator, or the Central Office supervisor, or their designees, and the Human Resources Director, or designee. If applicable, the supervising organization shall also be notified. Notice to the subject shall be made as appropriate and in conformance with any applicable collective bargaining agreement.

**Procedure F: Authorized Investigators**

1. Upon the OPR Director’s decision to commence an APCI investigation, the OPR Director, or designee, shall initiate the investigation or assign it to an investigator as soon as practicable and according to the following:

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- a. No one shall be assigned to conduct an investigation in any situation in which there is a real or perceived conflict of interest.
- b. If the incident involved the use of deadly force, an investigator shall be assigned to conduct the investigation, in consultation with the Office of the Attorney General or the Maine State Police, as applicable.
- c. Department correctional investigative officers (detectives) are never permitted to conduct administrative or personnel complaint investigations.
- d. Administrative or personnel complaint investigations shall only be investigated by Department employees who have received APCI training.

**Procedure G: APCI Investigations**

1. The Chief Administrative Officer, Regional Correctional Administrator, or the Central Office supervisor, or their designees, as applicable, shall collaborate with the Human Resources Director, or designee, to provide a Notice of Investigation into allegations of misconduct to be issued to:
  - a. a Department employee who is the subject of a complaint; or
  - b. if the subject of the complaint is not a Department employee, to that person and that person’s supervising organization, if any.
2. The investigator shall conduct a thorough and impartial investigation that includes:
  - a. reviewing and analyzing Preliminary Inquiry materials;
  - b. collecting and securing additional evidence (documents, audio, video, and physical items, if any);
  - c. conducting structured interviews with the complainant, the subject, and potential witnesses, documenting all interviews thoroughly;
  - d. evaluating evidence and interviews objectively and ensuring procedural fairness throughout the investigation process; and
  - e. preparing a detailed, evidence-based investigative report outlining facts, analyses, and conclusions.
3. An investigation duration typically should not exceed ninety (90) days from the assignment date. If the investigation requires additional time due to complexity, unavailability of witnesses, or other valid reasons, the investigator shall request a time extension in writing to the Office of Professional Review (OPR) Director, clearly stating the cause of any delay and the estimated completion timeline.

**Procedure H: Interviews**

1. The Notice of Investigation form shall be provided to the subject of the complaint prior to the interview, allowing sufficient notice, which shall be at least 48 hours unless otherwise specified by a collective bargaining agreement (CBA) or waived by the subject, for the subject to have an opportunity to prepare for the interview and/or arrange representation.

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2. The Notice shall contain at least the following:
  - a. general allegations under investigation;
  - b. date and time of the interview, which shall be reasonable in light of the subject's work schedule;
  - c. if applicable, subject employee collective bargaining agreement (CBA) representation rights; and
  - d. if applicable, the Living Resources Program contact information.
  
3. If representation is allowed or required by a CBA and is requested, the investigator shall:
  - a. allow a union representative to be present;
  - b. clarify that the representative's role is to advise and support, but not to respond on behalf of the subject; and
  - c. allow the representative to ask the subject questions designed to clarify previous answers or elicit further relevant information.
  
4. The investigator shall:
  - a. conduct every interview, whether of a subject, complainant, or potential witness, in a private, quiet, professional setting, free from interruptions and distractions;
  - b. ensure confidentiality and privacy throughout the interview;
  - c. conduct the interview remotely, if agreed upon by the investigator and the person to be interviewed and, if applicable, the union representative; and
  - d. document the interview, including the interviewee's statements, accurately, ensuring clarity and comprehensiveness.
  
5. Except as set out below, the investigator's interview of a subject, complainant, or potential witness is required to be audio-recorded.
  
6. An interview of a resident, community corrections client, visitor, or member of the public should also be audio-recorded, provided they do not object. If such a person declines to be recorded, their objection shall be verbally noted on the recording before the audio device is turned off. This refusal must also be documented in the Summary of Investigation Report form.
  
7. If an admission is made by a subject at any time, the investigator shall still interview the subject and thoroughly explore all allegations and other issues to ensure completeness of the investigation. The investigator shall:
  - a. thoroughly document the admission, specifying exactly what is being admitted;
  - b. clarify details and scope of admitted behaviors; and
  - c. confirm that the subject fully understands the admission and its potential implications.
  
8. If the subject makes an admission, the investigator may still interview the complainant and potential witnesses in order to ensure the full scope of the incident and of any additional issues is captured in the admission.

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9. At the conclusion of each interview, the investigator shall:
  - a. summarize key points and statements provided by the interviewee, allowing for corrections or clarifications;
  - b. provide the interviewee an opportunity to add additional relevant information;
  - c. explain the next steps clearly (e.g., additional interviews, review processes); and
  - d. remind the interviewee of expectations regarding confidentiality, non-retaliation, and cooperation.
  
10. Following an interview, the investigator shall document the interview, to include:
  - a. describing the date, time, location, attendees, questions asked, and responses provided; and
  - b. uploading to the electronic case file all audio recordings, including those in which a resident, community corrections client, visitor, or member of the public states a refusal to be recorded.
  
11. The Chief Administrative Officer, Regional Correctional Administrator, or the Central Office supervisor, or their designees, as applicable, and/or the Commissioner, or designee, in consultation with the investigator, may decline to accept the admission of the subject if they believe there may be the potential for an additional issue not yet discovered, there are one or more allegations already made that the subject is not admitting to, or for any other reason.
  
12. If the subject is not a Department employee, and an admission is accepted, the subject's supervising organization, if any, shall be notified of the admission, and the Chief Administrative Officer, Regional Correctional Administrator, or the Central Office supervisor, or their designees, as applicable, shall collaborate with the organization to determine next steps.

**Procedure I: Non-Precedent Setting Agreements**

1. If the subject is a Department employee, a non-precedent setting agreement may be reached as to the anticipated disciplinary action to be taken. The development of this agreement shall involve the Commissioner, the facility Chief Administrative Officer, Regional Correctional Administrator, or the Central Office supervisor, or their designees, as applicable, with the advice of the Department's Director of Human Resources, or designee. If the employee is represented by a union, the union representative's agreement is also required for the agreement to be binding.

**Procedure J: Investigation Findings**

1. The investigator shall upload all case materials to the electronic case file.
2. The investigator shall make a finding for each allegation brought (or other issue discovered) during the investigation and refer to the evidence considered in making the finding.

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3. The investigator shall use the following options:
  - a. Sustained: a preponderance of evidence was found during the investigation to support the allegation;
  - b. Not Sustained: insufficient evidence to either prove or disprove the allegation;
  - c. Unfounded: the allegation has no factual basis; or
  - d. Exonerated: the allegation has a factual basis, but the conduct of the subject did not constitute a violation of any state or federal law, rules, Department policies, directives, facility practices, or post orders.
4. Upon completion of the investigation and the making of the findings, the investigator shall submit the Summary of Investigation report as outlined in the Office of Professional Review (OPR) Manual.

**Procedure K: Special Investigations**

1. In the case of an allegation made against a Department employee of discrimination, harassment, stalking, or sexual assault (other than a PREA complaint), including, but not limited to, allegations relating to employees in the workplace, OPR Director, or designee, shall contact the Department’s Director of Human Resources, or designee, who shall then contact the State’s Equal Employment Opportunity (EEO) Coordinator, or designee, to determine who will be conducting the investigation.
2. If the State’s EEO Coordinator, or designee, will not be assigning an investigator, the OPR Director shall assign an investigator to conduct the investigation.

**Procedure L: Concurrent Investigations**

1. When there is a criminal investigation, as well as an administrative or personnel complaint investigation, being conducted, separate investigators shall be assigned.
2. The Garrity interview of an employee under investigation, and any information obtained as a result of that interview, shall never be shared with the criminal investigator, but the APCI investigator may share information with the criminal investigator.

**Procedure M: Conclusion of Administrative or Personnel Complaint Investigation**

1. Once the Summary of Investigation report is submitted by the investigator, the Office of Professional Review (OPR) Director shall review the report and associated documentation in the case file. If additional investigative steps are required or changes need to be made, the report shall be returned to the APCI investigator, so that the appropriate action(s) may be taken.
2. Once the Summary of Investigation report and case file have been approved by the OPR Director, notifications shall be made by the OPR Director, or designee, to the appropriate persons.
3. Neither the OPR Director, or designee, nor the investigator shall have any role in the discipline of a Department employee.

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**Procedure N: Record Management and Expungement**

1. The APCI investigation documentation process begins with the intake of a complaint via BlueTeam, continues with uploading relevant materials into the IAPro case management system, and concludes with a finding being made as to each allegation brought.
2. As a result of collective bargaining agreements, the Department shall expunge from the IAPro database the name of a Department employee who is the subject of a personnel complaint, as set out below. When a "Subject Employee" is expunged from a case file, that incident will no longer appear in the employee's Employee History within IAPro.
3. Regardless of expungement of a subject's name, all material, evidence, reports, and other information within a case file shall be securely locked when appropriate but remain available for statistical data or access by the Office of Professional Review, Human Resources, and anyone else authorized by the Commissioner, or designee.
4. The expungement schedule is as follows:
  - a. Immediately: Allegations not supported (dismissed, exonerated, closed for no reasonable cause, not sustained, unfounded) or successfully closed with a Performance Improvement Plan (PIP) without further counseling or discipline;
  - b. One (1) year: Performance Counseling or Verbal Direction;
  - c. Three (3) years: Written Warning or Written Reprimand;
  - d. Five (5) years: Suspension or Demotion;
  - e. Any additional discipline received by a Subject Employee before the scheduled expungement date, except for Performance Counseling or Verbal Direction, extends the expungement period until the latest discipline expires;
  - f. No expungement for:
    - 1) terminations or resignations; or
    - 2) allegations sustained for sexual misconduct or sexual harassment directed toward any person, including a PREA violation (sexual misconduct or sexual harassment directed toward a resident), conduct that constitutes an assault directed toward any person, or excessive force.
5. There is no expungement for subjects who are not Department employees.

**VIII. PROFESSIONAL STANDARDS**

None

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