

**NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION
340**

EMPLOYEE COMPLAINT REPORTING AND INVESTIGATION

Supersedes: AR 340 (Temporary, 01/15/10)

Effective date: 08/13/10 (Deactivated on 10/13/14; then Reactivated on 05/19/15)

AUTHORITY: NRS 119.325

RESPONSIBILITY

1. Any employee of the Department who becomes aware of an alleged act of employee misconduct is responsible to immediately report it.
2. Any employee of the Department who becomes aware of a complaint of employee misconduct from another source is responsible to notify a supervisor. If no supervisor is available to accept the information, the employee should use the appropriate reporting medium for subsequent transmittal to a supervisor.
3. All Department employees, regardless of rank or position, who become aware of an alleged act of employee misconduct, are responsible to take immediate and appropriate action to prevent aggravation of the incident and to notify their chain of command regarding the allegation.
4. The primary responsibility for ensuring that complaint allegations are properly investigated rests with each Warden/Division Head who becomes aware of the complaint or allegation of employee misconduct.
5. The Inspector General is responsible to oversee investigative activities within the Nevada Department of Corrections and to publish and maintain investigation guidelines to be used in the implementation of this regulation.
6. Any Department employee assigned to investigate allegations of employee misconduct is responsible to complete the investigation pursuant to established investigative guidelines and procedures, within prescribed time limits.
7. Wardens/Division Heads have the overall responsibility for ensuring compliance with the provisions set forth in this Administrative Regulation and corresponding Office of the Inspector General – Guide for Investigators.
8. The Training Manager is responsible to develop and deliver training on this Administrative Regulation and the related Office of the Inspector General – Guide for Investigators.

340.01 EMPLOYEE MISCONDUCT COMPLAINT REPORTING

1. Complaints of employee misconduct shall be accepted from any source, on any medium, at any Department institution or facility by any employee.

A. It is most desirable that when available a supervisor; should be immediately notified; will accept the complaint on behalf of the Department; will complete appropriate reports (NOTIS entry or Department Standardized Complaint form (DOC-1064); and will conduct a preliminary inquiry.

B. Complaints should be accepted based upon alleged acts of commission and/or omission that constitute misconduct by employees.

C. Complaints should be accepted whenever the alleged act of misconduct, if sustained, could result in corrective/disciplinary action against the involved employee.

D. Generally, issues dealing solely with performance (i.e. skill deficiencies) do not require an investigation to resolve. However, performance issues may be accepted and treated as a complaint for the purpose of investigation when the performance issue is first brought forward as a complaint of employee misconduct (i.e. failure to perform duties).

E. When a complaint is determined to concern Department policy or procedure, no employee misconduct report is required.

(1) If the employee receiving the policy or procedure complaint cannot explain the matter to the reporting person's satisfaction, that person should be referred to the appropriate division having jurisdiction over the subject in dispute.

2. Complaints of employee misconduct, except those initiated by inmates, should be documented using NOTIS or the Department Standardized Complaint Form (DOC-1064).

A. If an employee records or takes a complaint from a source outside the Department, who is not an inmate, the employee should complete a DOC-1064 and if practicable provide the complainant with a copy when a complaint is made in person.

B. If an employee becomes aware of an allegation of employee misconduct during the course of an emergency situation, the receiving employee shall control the emergency situation, notify a supervisor, and ensure appropriate reporting is completed.

C. All required information will be appropriately recorded in NOTIS or on the complaint form.

D. The receiving employee should document all preliminary information and attach any correspondence, documents, related statements, claims for damages, or other relevant material prepared or provided by the complainant.

E. The "Description"/"Report Details" section in NOTIS or the "Details of the Complaint" portion of the DOC 1064 form should be used to document the preliminary inquiry and to record any preliminary observations made by the concerned receiving employee regarding the matter.

F. When a complaint is received from a person who is intoxicated, appropriate reports should be completed. The complainant should be re-interviewed at the earliest opportunity after that person has regained sobriety.

G. When an employee takes, or is about to take, a complaint from a complainant and becomes aware that the allegation, or any part of the involved allegation pertains to them, the employee shall immediately report that to a supervisor.

(1) If no supervisor is available to accept the information, the employee shall refer the complainant to an employee who is not part of the complaint or allegation.

(2) If the complaint or any of its allegations involve or pertain to the receiving employee's immediate supervisor, the employee is authorized to report the allegation to any supervisor for processing and transmittal to a Warden/Division Head.

3. Inmates shall initiate complaints using the inmate grievance procedure as outlined in AR 740, except in extraordinary or emergency circumstances.

A. If upon review, the reviewing supervisor determines an inmate grievance involves possible or alleged employee misconduct, the reviewing supervisor should request Inspector General review using the NOTIS "Inmate Issue Tracking" function.

B. If the involved grievance is related to a previously reported NOTIS incident, the reviewing supervisor should so note in the NOTIS IG grievance referral narrative.

C. If there is no related NOTIS preliminary report, the Office of the Inspector General will initiate one in those instances where an investigation is to be initiated.

D. No DOC-1064 will be completed as a result of inmate allegations of employee misconduct.

4. Upon receipt of a DOC 1064 complaint report, the concerned supervisor shall initiate a NOTIS entry.

340.02 EMPLOYEE MISCONDUCT COMPLAINT INVESTIGATIONS

1. The primary responsibility for ensuring that complaint allegations are investigated rest with each Warden/Division Head who becomes aware of the complaint or allegation of employee misconduct.
2. The Warden/Division Head should forward complaint investigation requests using the “Refer to IG” function in the NOTIS Incident Reporting System for review, complaint classification, assignment and case tracking.
3. Following receipt of an investigation request, the Inspector General or designee will review the NOTIS preliminary report/DOC-1064, any attachments, and any other reports related to the allegations of employee misconduct to determine if an investigation is appropriate. If an investigation is initiated, the Inspector General or designee will identify appropriate allegations based upon the Class of Offense Guidelines outlined in AR 339 and assign the appropriate investigative body.
 - A. Generally, those offenses identified as Class 1 and 2 will be assigned to the involved Warden/Division Head for investigation. At the discretion of the Inspector General or designee, Class 3 offenses may be assigned to the involved Warden/Division Head or to an investigator with the Inspector General’s Office. Generally, Class 4 and 5 offenses will be assigned to Office of the Inspector General investigators.
 - B. Incidents of poor or less than standard performance that do not contain an element of misconduct will be assigned to the Warden/Division Head for appropriate action without case assignment.
 - C. When circumstances dictate that the investigation will involve the interview of civilians or investigation outside of the institution, the investigation will be conducted by the Office of the Inspector General.
4. Preliminary Inquiry
 - A. The initial acceptance of a complaint and completion of appropriate reports should be treated as a preliminary inquiry of the incident.
 - B. Individuals conducting that preliminary inquiry should do so pursuant to the procedure outlined in the Office of the Inspector General – Guide for Investigators – Preliminary Investigations Section.
 - C. The Warden/Division Head should ensure that appropriate supervision, staff and resources are assigned to complete the preliminary inquiry and ensure that established procedures and requisite admonishments are being followed and given.

D. The employee/supervisor assigned to complete the preliminary inquiry will function as a preliminary investigator of the incident.

E. A preliminary investigator should conduct a preliminary inquiry of all allegations of Employee Misconduct as they become known.

F. Upon receiving notification of alleged misconduct from an employee or supervisor, the Warden/Division Head is responsible to review all reports for accuracy of content and process, and cause deficiencies to be corrected.

(1) Incomplete or improperly completed NOTIS entries or DOC-1064 will be returned to the Warden/Division Head for additional information and/or corrections.

5. Formal Investigation

A. Formal investigations are those investigations assigned by the Inspector General or designee following review and classification.

(1) Investigations assigned by the Inspector General are formal investigations and will be conducted pursuant to the "Inspector General – Guide for Investigators" manual to ensure consistency.

B. Upon receipt of an investigation request, the Inspector General shall conduct a review to determine if the matter will be assigned for a formal employee misconduct investigation.

C. Once a determination is made that a formal investigation will be initiated; a case number will be assigned.

D. In instances where the complainant is a private citizen (not inmate or Department employee) the Inspector General should, whenever practicable and without undue delay send to the complainant by mail, an acknowledgement letter containing the case number and details as to how and where the complainant may make subsequent inquiries regarding the matter.

E. All formal investigations should be initiated without delay and completed within the due date assigned by the Office of the Inspector General.

(1) Requests for due date extensions should be submitted to the Office of the Inspector General and can be granted for reasonable cause.

F. For investigations assigned to the Institution, the Warden/Division Head is responsible to appoint as an investigator an individual of the rank of Sergeant/Non-sworn supervisor or higher only.

(1) Before conducting any investigation or assigning it to a subordinate, each Warden/Division Head shall become familiar with the complaint and allegations, and assess the severity and level of complexity and act accordingly to conduct or manage the investigation.

(2) The Warden/Division Head shall ensure that appropriate supervision, investigative staff, and resources are assigned to the matter and that established procedures and requisite due dates are followed and monitored.

G. Individuals assigned to conduct the formal investigation of employee misconduct should review and become familiar with the complaint, the allegations, any related materials, the status and due dates.

(1) The investigation shall be conducted in accordance with established procedure outlined in the "Office of the Inspector General – Guide for Investigators" and any other relevant policy or procedure.

(2) The investigator assigned to the matter under investigation has the responsibility to determine if use of a Polygraph Examination, to supplement the investigation is appropriate and applicable. This should be used only as an investigative tool to assist in corroboration or refuting of fact or information.

(3) Polygraph examinations of Departmental staff who are not POST certified should conform to Chapters 613 and 648 of Nevada Revised Statutes, (NRS).

(4) Polygraph examinations of Department staff who are POST certified should conform to Chapters 289, 613 and 648 of NRS.

(5) The use of Polygraph examinations will be accompanied with procedural safeguards, outlined in the "Office of the Inspector General – Guide for Investigators".

H. Any employee who is the focus or subject of a formal investigation shall be afforded all rights and protections provided by law, and by Department regulation and directive.

(1) See the "Office of the Inspector General – Guide for Investigators" for current notification and interview requirements.

I. Should an investigation assigned to an institution subsequently yield evidence of potential criminal misconduct by an employee or others, the Warden/Division Head shall immediately notify the Inspector General.

(1) The Inspector General or designee shall review the matter and if necessary, assume investigative responsibility.

(2) If the Inspector General or designee does not agree with an assessment of a criminal violation, he/she may direct the Warden/Division Head to complete the formal investigation if appropriate.

J. When it becomes necessary to conduct parallel Administrative and Criminal investigations regarding a complaint of employee misconduct, the Inspector General shall ensure that the investigations are bifurcated. Information developed during the Administrative investigation shall not be shared in the Criminal investigation.

K. If during the course of a misconduct investigation, the investigator discovers additional allegations of misconduct the investigator shall:

(1) If the additional misconduct is related to the matter already under investigation add the appropriate allegations pursuant to “Prohibitions and Penalties” in AR 339 and investigate those as part of the ongoing investigation.

(2) If the alleged misconduct concerns issues unrelated to the matter under investigation, generate a new NOTIS entry and submit for Inspector General review and assignment.

L. Upon completion of an employee misconduct investigation, the assigned investigator shall document investigative findings in a final case report according to the guidelines in the “Inspector General – Guide for Investigators.”

(1) When the investigator is assigned to the Office of the Inspector General, reports should be forwarded to the Inspector general or designee for review.

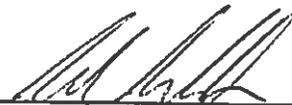
(2) When the investigator is assigned to an entity other than the Office of the Inspector General, reports should be forwarded to the concerned Warden/Division Head for review.

M. The Inspector General will maintain copies of related attachments associated with the complaint in the investigative case file.

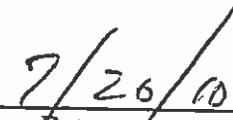
APPLICABILITY

1. This regulation applies to all Department employees.
2. This regulation requires an Operational Procedure for the Office of the Inspector General.

3. This regulation does not require an audit.



Howard Skolnik, Director



Date