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THE DEPUTY NATIONAL COMMISSIONER
CORPORATE SERVICES
PRETORIA
0001

- A. The National Head
DIRECTORATE FOR PRIORITY CRIME INVESTIGATION
- B. ALL DIVISIONAL COMMISSIONERS
- C. ALL PROVINCIAL COMMISSIONERS
- D. All Heads
HEAD OFFICE
- E. All Section Heads
HEAD OFFICE
- F. ALL DEPUTY NATIONAL COMMISSIONERS

NON COMPLIANCE WITH THE PROVISIONS OF SOUTH AFRICAN POLICE SERVICE DISCIPLINE REGULATIONS, 2016

- A-E1. This office has detected through analysis of cases that there is a worrying trend that provisions of the South African Police Service Discipline Regulations, 2016 ("the Regulations") are not complied with.
2. Regulation 4(b) provides that discipline must be applied in a prompt, fair, consistent and progressive manner. The requirement of promptness not only extends to the institution of disciplinary proceedings, but also to the speedily and thorough completion thereof.
 3. Furthermore, regulation 8(1) requires that a supervisor must ensure that an investigation is completed within thirty (30) calendar days or as soon as practically possible thereafter. If the supervisor is satisfied that the alleged misconduct is serious and justifies the holding of a disciplinary hearing, he or she must refer the outcome of the investigation to the employer representative within seven (7) working days to initiate a disciplinary enquiry.
 4. The investigation into allegations of misconduct must be finalized within the prescribed timeframes irrespective of whether there is another related investigation or not. In an event where there is also a related investigation of a criminal conduct, the cooperation between

the two investigators is of utmost importance when there is a need to share the information that is urgently needed to finalize the departmental investigation. The departmental investigation should not be delayed because a related criminal investigation is not yet finalized.

5. The principle that **“the investigation into an alleged misconduct must be done independently and separate from any other investigation”** (Regulation 4(m) of the Regulations) should be construed to mean that the disciplinary investigation or institution of disciplinary processes is an independent process and do not have to be delayed as result of being linked to a criminal investigation or any other related investigation. This must be read with the principle that discipline must be applied in a **prompt manner** as set out in Regulation 4(b) of the Regulations.
6. It is further important to note that evidence may still be obtained from the case docket if it is readily available and may be used without compromising the criminal investigation. This must be done in liaison with the relevant investigating officer who is responsible for the investigation of the criminal case (if applicable).
7. There is a misperception that evidence obtained from the case docket cannot be used in a disciplinary hearing. The evidence may be utilised for disciplinary proceedings if it is admissible and relevant.
8. After an investigation has been completed and handed over to the supervisor, the supervisor must consider the report. If the commander is satisfied that the alleged misconduct is of a serious nature and justifies the holding of a disciplinary hearing, he or she must refer the outcome of the investigation to the employer representative within seven (7) working days to initiate a disciplinary enquiry. Further analysis indicates that there are a few finalised investigations that are referred to the employer representatives to initiate disciplinary enquiries. This is concerning.
9. Disciplinary officers of individual business units, supervisors and HRM practitioners are responsible to ensure —
 - 9.1 the timeous appointment of functionaries;
 - 9.2 that appropriate arrangements are made in accordance with the timeframes as set out in the Regulations; and
 - 9.3 that the employer representative charges the employee with misconduct within fifteen (15) working days after having being appointed and serve the employee with the notice to appear at the disciplinary hearing.

A trend has been identified that serious cases are not placed on the discipline roll. This results in a decrease in the finalisation rate of cases within the SAPS and constitutes a blatant disregard of the Regulations.

10. Regulation 6(3) of the Regulations further empowers the **National Disciplinary Officer** to develop uniform standards to ensure that discipline is managed diligently observing

- principles of fairness, equity and consistency.
11. The South African Police Service is under continuous criticism for the inconsistent application of discipline where investigations involve serious allegations or where the investigations conducted by the Independent Police Investigative Directorate (IPID) indicates that there is *prima facie* evidence of misconduct and makes recommendations of the matter, but the supervisor decides not to proceed with disciplinary steps.
 12. If a supervisor resorting under the command of a Provincial Commissioner decides not to proceed with disciplinary steps despite the recommendation of IPID to do so, the supervisor must submit written reasons for his or her decision to the **Provincial Disciplinary Officer** concerned, for ratification prior to communicating the outcome of the investigation to the employee. A copy of the written reasons must also be forwarded to IPID once the reasons have been ratified by the relevant Disciplinary Officer. In the case where the supervisor does not resort under the command of a Provincial Commissioner, the written reasons must be submitted to the relevant Divisional Commissioner, Head of a National Component or the National Head of the Directorate for Priority Crime Investigation, as the appropriate line manager of the supervisor, for ratification and further processing as set out above. **This standard is implemented to strengthen command and control, to enhance accountability and transparency and to professionalise the SAPS.**
 13. According to the analysis of the overall discipline management, there are serious concerns about the lack of responsibility and lack of due diligence by supervisors. This raises serious questions about the ability of the employer to properly manage discipline in the SAPS. In addition, it is alarming that there appears to be a reluctance or inaction by supervisors to institute disciplinary steps despite allegations of misconduct committed by employees under their command or to finalise such disciplinary proceedings timeously.
 14. It is imperative that supervisors are constantly sensitised about the importance of acting promptly as soon as they become aware of allegations of misconduct. The failure to comply with these requirements constitutes misconduct by the supervisor himself or herself. Disciplinary officers must ensure that this tendency stops immediately and that disciplinary steps be instituted where this tendency has been identified.
 15. **Furthermore, it appears that inappropriate and excessively lenient disciplinary sanctions are imposed for guilty findings despite the seriousness of the misconduct.** The inconsistencies of sanctions negates the integrity of the SAPS to manage discipline and undermines any effort to enhance the professionalisation of the SAPS.
 16. Challenges relating to discipline management should be dealt with by **Conduct Committees**. These Committees consist of representatives from *inter alia* Discipline Management and Legal and Policy Services. It appears that the role of these Committees are not viewed as important. This has resulted in certain Committees being relegated to lower levels which creates an impression that senior managers do not provide any support to the system of managing conduct. This must be stopped with immediate effect. Senior

managers are expected to deal with issues of conduct at high strategic level and develop concrete solutions to address instances of unacceptable conduct in support to the professionalisation of the SAPS at all levels.

17. All Provincial and Divisional Disciplinary Officers should ensure that Conduct Committees are properly constituted to assist the relevant Provincial or Divisional Commissioner to manage his or her area of responsibility effectively.
 18. The importance of the Conduct Committee is underscored by the fact that the Committee is, at national level, chaired by the Deputy National Commissioner: Support Services and is attended by functionaries at the level of Divisional Commissioner. The Committee performs at a strategic level to support the National Commissioner to professionalise the SAPS.
 19. In order to ensure that the SAPS complies with the strategic objective to manage discipline, performance targets have been introduced in accordance with the Regulations. These performance targets are used to assess the performance of environments on a quarterly basis. Some environments have failed to comply with the performance targets as per the attached performance result of end of August and steps will be taken to address this failure.
 20. Due to the challenges in discipline management as explained above, Provincial Commissioners, Divisional Commissioners and Heads of National Components must ensure that measures are in place and enforced to ensure that discipline within their respective environments are managed accordingly and with strict regard to the time frames as set out in the Regulations.
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**LIEUTENANT GENERAL
ACTING DEPUTY NATIONAL COMMISSIONER: SUPPORT SERVICES
PP DIMPANE**

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