



West Virginia State Police
725 Jefferson Road
South Charleston, WV 25309-1698

Colonel Jan Cahill
Superintendent

2018 WEST VIRGINIA STATE POLICE REGULATORY RULE REVIEW REPORT

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81 CSR 1 – SUPPLEMENTAL PAY

- 1) A description of each rule, including the date of first promulgation and any subsequent modifications;

This rule establishes the number of hours per month which constitutes the standard work month for members of the West Virginia State Police who are exempt from Federal Labor Standards Act guidelines and designates the criteria for receipt of a portion or all of the supplemental payment when hours are worked in excess of the standard work month.

Last Passage Date: March 10, 1999

Last Effective Date: March 29, 1999

First Promulgated: August 3, 1998

- 2) A recommendation of whether the rule should be unchanged, modified or repealed

This rule should remain unchanged.

- 3) The reason for the recommendation.

This rule is in compliance with the Federal Fair Labor Standards Act guidelines

- 4) Stakeholders that may be impacted.

None.

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81 CSR 2 – CADET SELECTION

- 1) A description of each rule, including the date of first promulgation and any subsequent modifications;

This rule establishes and explains the process and qualification involved in Cadet selection for the State Police, including but not limited to, physical standards, medical standards, testing procedures, background investigations and oral interviews.

Current Effective Date: 4/01/2008

Previous Effective Dates: 6/15/1998, 4/01/1996

First Promulgation Date: 6/08/1984

- 2) A recommendation of whether the rule should be unchanged, modified or repealed

This rule should remain unchanged.

- 3) The reason for the recommendation.

This rule is in compliance with the hiring process of the West Virginia State Police as governed by West Virginia State Code 15-2-7 (b) and 15-2-7 (c).

- 4) Stakeholders that may be impacted.

None.

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81 CSR 3 – CAREER PROGRESSION SYSTEM

- 1) A description of each rule, including the date of first promulgation and any subsequent modifications;

This rule governs the process for all permanent promotions, all non-supervisory reclassification, all criminalist reclassifications and all administrative support specialist reclassifications.

Current Effective Date: 4/4/2012

Previous Effective Dates: 3/31/2010, 4/01/2008, 5/16/2005, 7/01/2004, 6/01/2003, 4/03/2000

First Promulgation: 4/08/1991

- 2) A recommendation of whether the rule should be unchanged, modified or repealed

The rule itself should remain unchanged, however the code granting authority should be removed. The document states that authority is given under WV code 15-2-25, but that particular code pertains to **Rules generally; carrying of weapons upon retirement or medical discharge.**

- 3) The reason for the recommendation.

This rule is in compliance with the promotional testing and reclassification processes of the West Virginia State Police as governed by West Virginia State Code 15-2-5 and the West Virginia State Police Career Progression Manual.

- 4) Stakeholders that may be impacted.

None.

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81 CSR 4 – MODIFIED VEHICLE INSPECTIONS

- 1) A description of each rule, including the date of first promulgation and any subsequent modifications;

This rule governs and specifies the inspection procedure for vehicles with modified suspension systems.

Current Effective Date: 4/04/2012

First Promulgation Date: 6/15/1998

- 2) A recommendation of whether the rule should be unchanged, modified or repealed

This rule should remain unchanged.

- 3) The reason for the recommendation.

This rule is in compliance with the hiring process of the West Virginia State Police as governed by West Virginia State Code 17C-15-48 (i).

- 4) Stakeholders that may be impacted.

None.

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81 CSR 5 – CONTRACTED SECURITY SERVICES

- 1) A description of each rule, including the date of first promulgation and any subsequent modifications;

This rule specifies the conditions under which members of the department may perform extraordinary police or security services and governs the procedure to be followed in the employment of department members.

Current Effective Date: 6/15/1998

First Promulgation Date: 6/15/1998

- 2) A recommendation of whether the rule should be unchanged, modified or repealed

The rule itself should remain unchanged, but section 2.2 refers to the term "Company Commander" a position the WVSP no longer has. The position is now "Troop Commander" and the document should reflect the change.

- 3) The reason for the recommendation.

This rule is in compliance with the hiring process of the West Virginia State Police as governed by West Virginia State Code 15-2-7 (b) and 15-2-7 (c).

- 4) Stakeholders that may be impacted.

None.

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81 CSR 6 – CARRYING OF HANDGUNS BY RETIRED OR MEDICALLY DISCHARGED MEMEBERS

- 1) A description of each rule, including the date of first promulgation and any subsequent modifications;

This rule prescribes the requirements for the issuance and termination of authorization for retired and medically discharged members of the West Virginia State Police to carry handguns and sets specific requirements for the type and condition of any handgun carried under the provisions of this rule.

Current Effective Date: 3/31/2010

Previous Effective Dates; 5/16/2005

First Promulgation Date: 6/15/1998

- 2) A recommendation of whether the rule should be unchanged, modified or repealed

This rule should remain unchanged.

- 3) The reason for the recommendation.

This rule is in compliance with the authorization process of the West Virginia State Police as governed by West Virginia State Code 15-2-25.

- 4) Stakeholders that may be impacted.

None.

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81 CSR 7 – REQUESTS FOR INFORMATION (FOIA)

- 1) A description of each rule, including the date of first promulgation and any subsequent modifications;

This rule established procedures whereby any person may inspect and copy any public record prepared, owned and retained by the West Virginia State Police.

Current Effective Date: 12/13/2003

First Promulgation Date: 8/18/1997

- 2) A recommendation of whether the rule should be unchanged, modified or repealed

This rule should be modified.

- 3) The reason for the recommendation.

This rule should reflect changes to include: 3.1 change wording to 29B-1-2esq.

3.3 “Public Record” includes any writing containing information prepared or received by a public body, the content or context of which, judge either by content or context, relates to the conduct of the public’s business which are proposed, owned and retained by the West Virginia State Police, and which are not held in confidence pursuant to federal or state laws.

3.4 New Definition “Writing” includes any books, papers, maps photographs, cards, tapes, recordings or other documentary materials regardless of physical form or characteristics which are proposed, owned and retained by the West Virginia State Police, and which are not held in confidence pursuant to federal or state laws.

6.1 (add this wording to the end) The department may not charge a search or retrieval fee or otherwise seek reimbursement based on a man-hour basis as part of costs associated with making reproduction of records.

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81-7-7 (New) Report to Secretary of State

7.1(New) The department shall provide information to the Secretary of State database on their relating to, at a minimum, the nature of the request, the nature of the department's response, the time-frame that was necessary to comply in full with the request; and the amount of reimbursement charged to the requester for the request: Provided, that the department shall not provide to the Secretary of State the public records that were the subject of the request in accordance with WV Code 29B-1-3a.

4) Stakeholders that may be impacted.

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81 CSR 8 – WVSP GRIEVANCE PRODCEDURE

- 1) A description of each rule, including the date of first promulgation and any subsequent modifications;

This rule governs and specifies a grievance procedure for sworn members of the State Police.

Current Effective Date: 4/15/2006

Previous Effective Dates; 6/15/1998

First Promulgation Date: 4/01/1996

- 2) A recommendation of whether the rule should be unchanged, modified or repealed

This rule should remain unchanged.

- 3) The reason for the recommendation.

This rule is in compliance with the Grievance Procedure process of the West Virginia State Police as governed by West Virginia State Code 15-2-6(a).

- 4) Stakeholders that may be impacted.

None.

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81 CSR 9 – WV DNA DATABANK

- 1) A description of each rule, including the date of first promulgation and any subsequent modifications;

This rule establishes the methods and standards necessary to establish and administer a DNA database/databank as they relate to the collection of DNA samples, the submission of samples, the analysis of samples, the storage of samples and results, and the exchange and expungement of information concerning DNA specimens collected for DNA analysis

Current Effective Date: 7/01/2015

Previous Effective Dates; 4/01/2007

First Promulgation Date: 4/01/1996

- 2) A recommendation of whether the rule should be unchanged, modified or repealed

This rule should be modified.

- 3) The reason for the recommendation.

There are several items that need changed to include:

MUFSC-should be changed to Vendor throughout the document

Vendor should be defined as- The DNA testing facility. Should not specify Marshall University because others can be utilized.

A new Section 4.13 needs created to say: When a database sample is obtained in accordance with the requirements of Chapter 15 Section 2B it shall be considered to have been collected in good faith. When, during an offender match confirmation, it is determined that the matching offender sample does not meet the requirement of the Chapter 15-2B the offender information will be released as part of the match confirmation process. Upon completion of the match confirmation process, if the individual has no other qualifying offense, the offender sample will be administratively removed from CODIS and the DNA Database.

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Section 89-9-7 replace American Society of Crime Laboratory Directions
Laboratory Accreditation Board to ANSI-ASQ.

- 4) Stakeholders that may be impacted.
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**81 CSR 10 – WVSP PROFESSIONAL STANDARDS, INVESTIGATION
EMPLOYEE RIGHTS, EARLY IDENTIFICATION SYSTEM,
PSYCHOLOGICAL ASSESSMENT AND PROGRESSIVE DISCIPLINE**

- 1) A description of each rule, including the date of first promulgation and any subsequent modifications;

This rule explains the processes employed by the West Virginia State Police in dealing with allegations of employee misconduct, enhanced reporting for use of force incidents, progressive employee discipline, and internal systems aimed at evaluating and addressing employees suffering from either job-related or non-job related stress.

Current Effective Date: 4/01/2008

Previous Effective Dates: 5/16/2005, 5/01/2002

First Promulgation Date: 4/01/1996

- 2) A recommendation of whether the rule should be unchanged, modified or repealed

This rule should remain unchanged.

- 3) The reason for the recommendation.

This rule is in compliance with the WVSP Professional Standards Investigations, Employee Rights, Early Identification System, Psychological Assessment and Progressive Discipline process of the West Virginia State Police as governed by West Virginia State Code 15-2-25.

- 4) Stakeholders that may be impacted.

None.

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81 CSR 11 – WV UNIFORM CRIME REPORTING PROGRAM; GENERAL GUIDELINES AND REPORTING REQUIREMENTS

- 1) A description of each rule, including the date of first promulgation and any subsequent modifications;

This procedural rule explains the intent of the West Virginia Uniform Crime Reporting Program and the reporting requirements of the contributing law enforcement agencies.

Current Effective Date: 9/02/1997

First Promulgation Date: 9/02/1997

- 2) A recommendation of whether the rule should be unchanged, modified or repealed

This rule should remain unchanged.

- 3) The reason for the recommendation.

This rule is in compliance with the WV Uniform Crime Reporting Program; General Reporting Guidelines and Reporting Requirements process of the West Virginia State Police as governed by West Virginia State Code 15-2-24 (i), 15-2-24 (j) and 48-2A-9(d).

- 4) Stakeholders that may be impacted.

None.

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81 CSR 12 – WRITTEN DIRECTIVE SYSTEM

- 1) A description of each rule, including the date of first promulgation and any subsequent modifications;

This rule established procedures whereby any person may inspect and copy any public record prepared, owned and retained by the West Virginia State Police.

Current Effective Date: 3/29/1999

First Promulgation Date: 9/29/1999

- 2) A recommendation of whether the rule should be unchanged, modified or repealed

This rule should be modified.

- 3) The reason for the recommendation.

Each member is no longer required to maintain an individual copy of policy and procedure.

- 4) Stakeholders that may be impacted.

Members of the West Virginia State Police.

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81 CSR 13 – ORGANIZATIONAL STRUCTURE

- 1) A description of each rule, including the date of first promulgation and any subsequent modifications;

This rule governs the internal administrative structure of the West Virginia State Police.

Current Effective Date: 8/25/2011

First Promulgation Date: 9/29/1999

- 2) A recommendation of whether the rule should be unchanged, modified or repealed

This rule should remain unchanged.

- 3) The reason for the recommendation.

This rule is in compliance with the WV Uniform Crime Reporting Program; General Reporting Guidelines and Reporting Requirements process of the West Virginia State Police as governed by West Virginia State Code 15-2-24 (i), 15-2-24 (j) and 48-2A-9(d).

- 4) Stakeholders that may be impacted.

None.

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81 CSR 14 – REGULATION AND PROCEDURES PERTAINING TO THE WEST VIRGINIA SEX OFFENDER REGISTRATION ACT

- 1) A description of each rule, including the date of first promulgation and any subsequent modifications;

This procedural rule explains the responsibility and the administration of the West Virginia Sex Offender Registry, the community notification/education program, the West Virginia Sex Offender Registration Advisory Board and the responsibility of sex offenders required to register, incarceration facilities, probation or parole officers, sentencing courts, Circuit Court, Prosecuting Attorney, State Police, all law enforcement agencies, community or religious organizations and the public..

Current Effective Date: 9/01/2014

Previous Effective Dates: 7/1/2001, 2/15/2005, 8/01/2005, 5/31/2007, 9/20/2010

First Promulgation Date:10/18/1999

- 2) A recommendation of whether the rule should be unchanged, modified or repealed

This rule should be modified.

- 3) The reason for the recommendation.

This rule should be modified. The rule requires minor changes such as technical language changes as well as address changes (section 12.2.d)

The rule requires substantial changes to include parameters governing the sex offender registration process (section 7.2b), the duties of the administrator, probation or parole officer regarding paperwork submission (section 8.5). Changes to the duties of the State Police (sections 13.5.a, 13.10, 13.11).

Additional changes regarding sending certified mail are necessary (section 17.5.b).

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The responsibilities of a person who has to register after the start of their employment is necessary also (section 17.7.a, 17.9, 17.9.a,).

4) Stakeholders that may be impacted.

WVSP, other law enforcement agencies, persons identified as sex offenders.

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81 CSR 15 – BAIL BOND ENFORCER REGULATION, AUTHORIZATION AND NOTIFICATION PROCEDURES AND REQUIREMENTS

- 1) A description of each rule, including the date of first promulgation and any subsequent modifications;

This rule explains the procedures for bail bond enforcer registration. The requirements for becoming a bail bond enforcer and the responsibilities of the parties involved.

Current Effective Date: 9/18/2000

First Promulgation Date: 9/18/2000

- 2) A recommendation of whether the rule should be unchanged, modified or repealed

This rule should be modified

- 3) The reason for the recommendation.

This rule needs technical language modifications and the address to headquarters needs updated.

- 4) Stakeholders that may be impacted.

None.

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81 CSR 16 – REGULATION AND PROCEDURES PERTAINING TO
THE WEST VIRGINIA CHILD ABUSE AND NEGLECT
REGISTRATION ACT

- 1) A description of each rule, including the date of first promulgation and any subsequent modifications;

This rule explains the responsibilities of the administration of the West Virginia Child Abuse and Neglect Registry, and the responsibility of offenders of child abuse and neglect required to register, incarceration facilities, probation or parole officers, sentencing court, Circuit Court, Prosecuting Attorney, State Police, all law enforcement agencies, and the Department of Health and Human Resources.

Current Effective Date: 9/20/2010

First Promulgation Date: 5/15/2008

- 2) A recommendation of whether the rule should be unchanged, modified or repealed

This rule should remain unchanged.

- 3) The reason for the recommendation.

This rule is in compliance with the WV State Code 15-13-1 and 15-2-25.

- 4) Stakeholders that may be impacted.

None.

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81 CSR 17 – REGULATION AND PROCEDURES PERTAINING TO
THE WEST VIRGINIA CHILD ABUSE AND NEGLECT
INVESTIGATIONS UNIT

- 1) A description of each rule, including the date of first promulgation and any subsequent modifications;

This rule explains the responsibilities of the administration of the West Virginia Child Abuse and Neglect Investigation Unit and the responsibility of the Department of Health and Human Resources, Child Protective Services, the West Virginia State Police, other law enforcement officers, prosecuting attorneys, circuit clerks and parole officers within the state as designated by the Child Protection Act of 2006

Current Effective Date: 5/15/2008

First Promulgation Date: 5/15/2008

- 2) A recommendation of whether the rule should be unchanged, modified or repealed

This rule should be modified to reflect the change in name of the unit to Crimes Against Children Unit.

Needs to be expanded to define and describe the duties of the entire Internet Crimes Against Children section of the unit.

Update the definitions to match current criminal code.

- 3) The reason for the recommendation.

This rule has not been updated since 2008 and many changes have occurred in the unit and laws since the rule was passed.

- 4) Stakeholders that may be impacted.

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