



South Carolina Criminal Justice Academy

August 4, 2020

South Carolina Law Enforcement Agency Heads

RE: Civil Penalties

Dear Agency Head:

Recently, there have been several situations where agencies have failed to comply with various statutes and regulations. Some examples are: 1) agencies failing to prosecute allegations of misconduct; 2) agencies using Class 3 and Reserve officers outside of their authority; 3) agencies failing to contact command staff of former employers, as part of a background investigation; 4) agencies failing to contact CJA as part of a background investigation; 5) agencies failing to submit a notification of a substantiated finding of excessive force; and 6) agencies failing to reimburse for training costs when they hire an officer from another agency. Although these are the most common examples, this is not an exhaustive list.

On July 22, 2020, the South Carolina Law Enforcement Training Council (LETC) met to discuss, among other things, issuing civil penalties to agency heads who fail to follow various statutes and regulations. The applicable statutes and regulations are found in SC Code of Laws Section 23-23-10, et seq. and SC Code of Regulations 37-001, et seq., respectively.

The authority to issue compliance orders and/or impose civil penalties is found in South Carolina Code Section 23-23-100 states that the director “may invoke the civil penalties as provided in subsection (B) for violation of the provisions of this chapter, including any order or regulation hereunder.” (emphasis added) Subsection B states “Any public law enforcement agency which fails to comply with this chapter and regulations promulgated pursuant to this chapter or fails to comply with any order issued by the director is liable for a civil penalty not to exceed one thousand five hundred dollars a violation. When the civil penalty authorized by this subsection is imposed upon a sheriff, the sheriff is responsible for payment of this civil penalty.”

LETC approved the following process for the imposition of civil penalties. Director Swindler will notify LETC and the agency head, in writing, of a proposed civil penalty. This notification would contain the director’s authority to impose the civil penalty, the reason for the civil penalty, the amount of the civil penalty, notification of the date/time/location of the LETC meeting to address this matter, the requirement that the agency head must attend the scheduled meeting to address any questions LETC may have, a reminder of the agency’s responsibility, and a notice that future violations may result in a higher penalty.

At the scheduled meeting and after the agency head has addressed any questions LETC may have, LETC would vote on the imposition of the civil penalty. If LETC agreed with the imposition of

the civil penalty, an Order containing the details of the civil penalty would be drafted, signed, and mailed to the agency head via certified US Mail.

This is a step that we can take together to re-build the public's trust in our profession. Please fill out the section below and return this letter to Missy Collins at mmcollins@sccja.sc.gov.

If you have any questions, please feel free to contact James M. Fennell, General Counsel, 803.896.7722.

Sincerely,



Lewis J. Swindler, Jr.
Director

Agency Head Acknowledgement

I have received notice that my failure, or my agency's failure, to comply with SC Code of Laws Section 23-23-10, et seq. and SC Code of Regulations 37-001, et seq. will subject me to a civil penalty, as outlined above.

Name: _____

Title: _____

Agency: _____

ACADIS ID No.: _____

Signature: _____

Date: _____