

Tom Bean Police Agency

Administrative Directive

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Subject: Administrative Investigations	Revision Date:
Affected Personnel: All Personnel	Amends/Supersedes:
Reference:	

I. Policy

The agency's image and reputation depend on the personal integrity and discipline of all employees. The public's image of the agency is determined by a professional response to allegations of misconduct against its employees. The agency must competently and impartially investigate all complaints of employee misconduct and complaints involving the agency's response to community needs. This Directive establishes guidelines for making a complaint against a member of the agency and for the investigation of the complaint.

II. General Statement

Whenever the agency receives an allegation of misconduct or substandard service on the part of any member of this agency, agency procedure shall be followed to assure that the highest possible standard of professional law enforcement is maintained. The allegation may come from within or outside the organization. It may have a named complainant or may be and it may be pursued by the agency even if the complainant desires no further action. It may result in training recommendations, documentation for evaluation purposes, discipline, or other appropriate outcome based on the results of the investigation.

III. Procedures for Accepting Complaints

A. How to make a complaint

1. The agency shall encourage citizens to bring forward legitimate grievances regarding misconduct by employees. Agency members shall receive all complaints courteously and shall handle them efficiently. All officers are obligated to explain complaint procedures to inquiring citizens.

B. If possible, complaints should be documented on a Personnel Complaint Form.

C. All complaints, regardless of nature, can be made in person, by mail, or by phone at any time. As part of the follow-up investigation, persons making complaints by mail or phone should be interviewed and a written, signed Personnel Complaint prepared.

- D. Every effort shall be made to facilitate the convenient, courteous, prompt receipt and processing of citizens complaints. An employee of the agency who interferes with, discourages, or delays the making of complaints shall be subject to corrective action.
- E. During normal duty hours, a citizen with a complaint shall be referred to the Chief of Police or his designee. If the Chief of Police is unavailable, the Patrol Sergeant may take the complaint.
- F. In case of a complaint, the recipient of the complaint shall complete a Personnel Complaint Form to the extent possible and forward the form directly to the Chief of Police.
- G. An employee who receives a personnel complaint through U.S. mail shall place the correspondence in a sealed envelope and forward it to the Chief of Police.
- H. In the event an agency employee is arrested, charged with a crime, or found to be under the influence of alcohol or drugs while on-duty, the Chief of Police shall be notified immediately. If an agency employee is arrested or charged with a crime in another jurisdiction, the employee shall notify the Chief of Police immediately or as soon thereafter as possible.
- I. Internal Complaints
 - 1. A signed report, letter, memorandum, or the agency's personnel complaint form from a supervisor or other employee who is aware of the facts will fulfill the requirements of an internal originated complaint. The complaint should be submitted to the Chief of Police.
- J. Complaints not accepted
 - 1. Personnel Complaints will not be accepted more than thirty days after the alleged incident, with the following exceptions:
 - a) When the complaint involves a criminal violation, the criminal statute of limitations will prevail.
 - b) On directions of the Chief of Police based on findings of a preliminary investigation.
 - 2. Complaints relative to differences of opinion between a police officer and a citizen over the issuance of a traffic citation will not be accepted unless there is an allegation of a violation of law or agency directives on the part of the officer.
 - 3. Complaints relative to differences of opinion between a citizen and the arresting police officer regarding the guilt or innocence of that citizen will not be investigated, but will be properly disposed of within the judicial system.

IV. Investigation Responsibilities

- A. The Chief of Police shall authorize investigations of complaints against agency employees alleging misconduct other than those complaints which may be investigated by the Patrol Sergeant.
- B. Allegations that may result in suspension, demotion, dismissal, or criminal charges are complaints that require a review by the Chief of Police.
- C. Complaints involving allegations of police misconduct or criminal activity will be investigated at the discretion of the Chief of Police.
- D. The Patrol Sergeant may investigate minor violations, such as the following violations. Upon the conclusion of the investigation, a memorandum detailing the violation and corrective action taken will be forwarded to the Chief of Police.
 - 1. Inadequate police service;
 - 2. Violation of agency order or Procedure;
 - 3. Unprofessional conduct;
 - 4. Insubordination; and
 - 5. Other violations at the direction of the Chief of Police.
- E. If at any point during a Sergeant's investigation, the Sergeant discovers that a crime has been committed or the Sergeant or the employee feels that the Garrity warning is needed, the Sergeant shall cease the investigation and forward all of the information to the Chief of Police in the form of a memorandum. The Chief of Police shall determine if an administrative investigation is necessary.

V. Investigation Procedures

- A. Citizen Notification
 - 1. Citizens lodging complaints against the agency or its personnel shall be apprised of the status of their complaint from time of receipt until final disposition. They shall be provided with:
 - a) Acknowledgment of receipt of the complaint; and
 - b) Updates regarding the status of the investigation.
- B. Should the complainant request to withdraw their complaint, this request cannot be refused. However, the investigation shall be continued as far as possible without the assistance of the complainant.
- C. No person, other than the Chief of Police or an investigator assigned by the Chief of Police, will conduct an investigation that could result in a suspension, demotion, dismissal or criminal charges. This includes contacting witnesses,

complainants, or others involved. If information regarding a complaint comes to an employee's attention, they shall forward a memorandum to the Chief of Police or to the assigned investigator.

- D. Any investigator appointed by the Chief of Police to conduct an administrative investigation shall report directly to the Chief of Police.
- E. The accused employee may be required to report to the Chief of Police or the assigned investigator at the outset of an investigation if it is deemed necessary.
- F. Written reports and/or recorded statements may be obtained from the employee under investigation depending upon the complexity of the allegation.
 - 1. Before a video recorded interview is conducted and/or a written report is made, the accused employee shall be presented with a signed, written copy of the allegation.
 - 2. The accused employee will obey all lawful orders and truthfully answer questions pertaining to the investigation.
 - 3. Sworn personnel will also be advised of the Garrity Warning before any written report and/or video recorded statements are made.
 - 4. When practical, interviews conducted with the accused employee will be conducted while the accused employee is on-duty.
 - 5. The accused employee may have any sworn member of the Tom Bean Police Agency or the counselor of their choice present during any interview process.
 - a) The sworn member selected or the employee's counselor will not interfere with the schedule time of the interview.
 - b) The member or the counselor is only an observer and will not participate in the interview process except to counsel the employee.
- G. During an investigation, the involved employee may be required to provide photographs of themselves. The photographs shall be reasonable and will not be degrading or compromising. Such photographs shall be relevant to the investigation and used for administrative purposes only. These photographs may be taken of, but not necessarily limited to, the following:
 - 1. Injuries sustained by the employee in the specific incident;
 - 2. Articles of clothing or equipment;
 - 3. Photographs for use in photo line-ups; or
 - 4. Any object or item as it relates to the investigation.

H. The employee may be required to submit to certain investigative examinations as part of the administrative investigation. These examinations may consist of medical examinations, laboratory testing, and live line-up with the employee participating or disclosure of the employee's financial records.

1. Orders for these types of examinations shall be by order of the Chief of Police.
2. The employee shall receive a copy of the written order.
3. The examinations and tests shall be relevant to the investigation and used for administrative purposes only.
4. Disclosure of financial statements shall directly relate to allegations of misconduct involving any unlawful financial gain.

I. Employees may be required to submit to a polygraph examination when the Chief of Police believes that the integrity of the employee or the Agency is in question.

1. The Chief of Police shall provide the employee with a written explanation of the nature of the extraordinary circumstances and how the integrity of the employee or the Agency is in question.
2. Polygraph examination results will be used solely for administrative purposes and are not subject to disclosure in criminal matters.

J. Investigation Period

1. Administrative investigations should be completed within 60 days from the date the original complaint was filed.
 - a) Any need to extend the investigation beyond 60 days will be documented and permitted only after approval by the Chief of Police.
 - b) Upon the determination that the complaint cannot be handled within 60 days, a written response shall be provided to the complainant and the employee estimating the completion date of the investigation.

K. Investigation Completion

1. Upon completion of the investigation, a final report shall be prepared. All pertinent items of information such as special reports, affidavits, or other documents will accompany this report as attachments.
2. The classification of the complaint shall be one of the following:
 - a) Unfounded- Allegation is false or not factual;
 - b) Exonerated – Incident complained of did occur but was lawful and proper;
 - c) Not Sustained – Insufficient evidence either to prove or disprove the allegation;
 - d) Sustained – Allegation is supported by sufficient evidence; or
 - e) Separate - Violation not related to initial complaint.

L. Response

1. When a final decision has been rendered and/or final action taken, the citizen and the employee will be advised in writing of such decision or action which will include the following information:
 - a) That the investigation is completed;
 - b) The general findings and conclusion of the investigation; and
 - c) That appropriate corrective or disciplinary action is being taken if the allegation is sustained.
2. The Chief of Police or his designee will make the notification.

VI. Criminal Investigation of Employees

- A. Investigation of violation of any federal, state or local Laws, on part of an employee, will be the responsibility of the Chief of Police.
1. The employee will be afforded all the rights of the criminally accused during the investigation.
 2. Normal criminal investigation procedures will be used to conduct the investigation.
 3. An administrative investigation, conducted by the Chief of Police or his designee, may run concurrently with the criminal investigation.
 4. Outside agencies such as the Grayson County Sheriff's Office, Texas Rangers, or Federal Bureau of Investigation may be involved in, and / or assist with the investigation.

VII. Corrective / Disciplinary Action

- A. If the complaint is found to be sustained and discipline is required as a necessity, the discipline chosen will be that which is intended to correct the problem and which is appropriate / proportionate to the violation(s) sustained. The Chief of Police shall be the sole authority on determining the appropriate corrective / disciplinary action.
- B. Should the determination be made that discharge is necessary / appropriate, the Chief of Police shall follow procedures as outlined in 103.013 "Discharge Documentation".

VIII. Grievance and Appeals Procedure

- A. Any employee who has or may be disciplined in the form of a written reprimand, suspension, demotion or separation is entitled to grievance and appeal.
 - 1. Employees who feel that they have been disciplined unjustly may file a grievance and appeal following the procedures as set out in the City of Tom Bean Policies and Procedures Manual.
 - 2. The Chief of Police or a designee shall conduct an annual analysis of grievances in an effort to identify trends and hopefully reduce the number of grievances. The analysis shall include the reason for the grievance and the final outcome.
 - 3. Any appeals concerning the F5 "Separation of Licensee" status shall be made directly to the Texas Commission on Law Enforcement.

IX. Files

- A. Confidentiality of all administrative investigation records is vital and proper security precautions shall be taken. Administrative investigation case files and records shall be maintained in a secured area designated by the Chief of Police.