



**TEXAS SOUTHERN UNIVERSITY
DEPARTMENT OF PUBLIC SAFETY**



STANDARD OPERATING PROCEDURE

SUBJECT Internal Affairs		NO. OF PAGES: 6
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PURPOSE: The purpose of this directive is to establish a function within Texas Southern University Department of public Safety whereby alleged employee misconduct or complaints against the department can be investigated with fairness and objectivity; and to outline procedures for the reception of such complaints.

POLICY: Law enforcement personnel are in a special and higher than usual position of public trust and responsibility. The public holds the department and its individual officers and members accountable for actions, which may be questionable and directly related to the performance of their duties. It is the policy of the Texas Southern University Department of Public Safety to accept and investigate all complaints against the department, or its members, and to obtain a final disposition to those complaints so as to maintain the integrity of the department.

DEFINITIONS:

- A. Internal Affairs:
A component within the Texas Southern University Department of Public Safety responsible for investigating allegations of employee activity that is in violation of policies, procedures, and/or directives of the Department of Public Safety; policies and procedures and/or the laws of the State of Texas or the United States.
- B. Informal Complaint:
Complaints that are not reduced to written form but are brought to the attention of supervisory personnel of the Department of Public Safety. These are generally complaints of a minor nature or involve areas of inadequate conduct on the part of an employee.
- C. Informal Investigation:
Investigations that occur in response to an informal complaint.
- D. Formal Complaint:
A signed, written, complaint that alleges violations of Departmental rules, regulations, policies, and /or directives issued with proper authority, Texas Southern Department of Public Safety, laws of the State of Texas or of the United States.
- E. Formal Investigation:
Investigations that occur in response to a formal complaint. Investigations of this nature may be of two types:
 1. **Administrative Investigations** are concerned with administrative functions relating to the official business of Texas Southern University Department of Public Safety.
 2. **Criminal Investigations** are primarily concerned with seeking sanctions to a criminal action if an employee is alleged to have committed a violation of the laws of the State of Texas, or the United States.

INTERNAL AFFAIRS:

- A. The responsibility of all Internal Affairs operations resides within the Office of the Chief of Police. The Chief of Police will ensure that all records relating to Internal Affairs investigations are maintained in a locked file in a secure area.
- B. In the absence of, or at the discretion of the Chief of Police, the Administrative Captain assumes the responsibilities of Internal Affairs operations.
- C. Access to Internal Affairs files by departmental members is determined by the Chief of Police on a “need to know” basis.

COMPLAINTS:

- A. Complaints received may be generated from sources external to the department or from personnel within the Texas Southern University Department of Public Safety.
- B. Anonymous complaints or complaints from individuals who request anonymity will be processed and investigated as any other personnel complaint received by the department. Supervisors recording such complaints will respect requests for anonymity. The investigating supervisor, through the chain of command, will advise the Chief of Police of the identity of the complainant. The Chief of Police may release the identity of the complainant on a “need to know” basis to other personnel.
- C. A citizen who makes a request to see a specific person, Supervisor, Division Commander, or the Chief of Police, in reference to a complaint against an employee or the Department, will be referred to that person.
- D. If a determination is made that the request is in reference to a complaint, an attempt should be made to direct the complainant to the employee’s immediate supervisor. If the employee’s immediate supervisor is not available the complainant will be directed to the appropriate Division Commander. If unavailable, the complainant will be referred to an available supervisor.
- E. If none of the previous conditions can be met, the complainant will be referred to the Chief of Police if available, or asked to return when the appropriate personnel will be available.
- F. A formal, informal, or anonymous complaint against an employee that alleges the commission of a criminal offense, or a complaint that by its very nature would tend to impair the functioning of the Department or its members, will immediately be brought to the attention of the Chief of Police.
- G. Supervisors/Division Commanders, to whom complaints are referred, will inform the complainant of the process of filing informal or formal complaints.
- H. If the complaint is informal, an attempt should be made to resolve the situation by the employee’s immediate supervisor.

1. Informal complaints will be recorded in Memorandum form including:

- a. date complaint received;
- b. name of the complainant;
- c. home address;
- d. phone number;
- e. statement of complaint; and
- f. disposition of the complaint

The memorandum will be signed by the affected employee, the employee’s immediate supervisor and Division Commander. Once signed the memorandum is sent to the Chief of Police for filing and statistical purposes.

2. An informal investigation may progress into a formal investigation if supervisor conducting the investigation determines the allegations have merit, or discovers activity on the part of the employee, other than what has been reported, in violation of Departmental rules, regulations, policies, and/or directives issued with proper authority, or laws of the State of Texas or of the United States. Should this occur, the investigating supervisor would sign a formal complaint. (Citizen's Complaint form).
- I. All complaints will be forwarded to the Chief of Police for review. The Chief of Police or his designee will determine if further investigation of complaint is required. Generally, all formal complaints should be received and recorded by a supervisor, Division Commander, or the Chief of Police on the departmental form (Citizen's Complaint form).
 1. Complaints against the department or its members are forwarded to the Chief's office. The Chief or his designee will ensure each formal Complaint is logged with an Internal Affairs number and initiate an investigation that will include:
 - a. date complaint received;
 - b. name of complainant, address and phone number;
 - c. name of person to whom the complaint is directed;
 - d. statement of complaint;
 - e. assigned investigator;
 - f. final disposition of investigation; and
 - g. disciplinary action taken, if any.
 2. Upon receiving a formal complaint the Chief or his designee will forward a letter to the complainant that their complaint has been received for processing.

INVESTIGATIONS:

- A. Internal Affairs investigations may be initiated when allegations involve:
 1. criminal conduct on the part of any employee;
 2. dereliction of duty or
 3. violation of departmental or University policies, rules or procedures.
- B. A copy of the complaint will be provided to the affected employee. Notification will be within a reasonable amount of time but may be delayed so as not to hinder an investigation. In all cases, employees will be notified of the complaint and investigation prior to any disciplinary action being assessed. Notification will also include an employee's rights and responsibilities in relation to the investigation.
- C. The primary responsibility for the proper completion of an Internal Affairs investigation lies with the Chief of Police. The Chief may personally conduct an investigation or delegate such authority to a subordinate. Subordinates conducting investigations will report their findings directly to the Chief of Police, unless otherwise instructed by the Chief of Police.
- D. Investigations will be completed within thirty (30) days with status reports provided to the Division Commander at seven (7) day intervals. An extension of time may be granted under extenuating circumstances.
- E. All investigations will contain a Finding of Facts. The Finding of Facts will be as follows:
 1. **Unfounded:** Either the allegation is demonstrably false, or there is no credible evidence to support it.
 2. **Unsustained/Insufficient Evidence:** insufficient evidence exists to either prove or refute the allegation.
 3. **Sustained/Improper Conduct:** The allegation is true and the action of the department or employee was inconsistent with departmental policy.

4. **Exonerated/Proper Conduct:** the allegation is true, but the action of the department or employee was consistent with departmental policy.
 5. **Misconduct Not Based on Complaint:** as a result of the investigation, misconduct other than reported by the complainant was found.
 6. **Policy Failure:** the allegation is true and, although the action of the department or employee was not inconsistent with departmental policy, the complainant suffered harm.
 7. **Pending Complainant Action:** the complainant has met with departmental personnel and been advised of the process of filing a formal complaint.
- F. Completed investigations are forwarded to the Chief of Police for review and final disposition.
- G. The Chief of Police or his designee is responsible for notifying the complainant as to the final disposition of the complaint at the conclusion of an investigation.

ADMINISTRATIVE/CRIMINAL INVESTIGATIONS:

- A. An administrative investigation that exposes possible criminal conduct may initiate a criminal investigation.
- B. Administrative and criminal investigations may be conducted simultaneously. Both investigations remain separate; however, information gathered from the criminal investigation may be used in the administrative investigation.
- C. Employee Miranda Warnings will be issued, if required, by personnel responsible for conducting employee investigations.
- D. All information and/or evidence collected in an employee investigation will be marked and identified prior to the issuance of a Garrity Warning.
- E. The Chief of Police is responsible for the decision as to when and if an employee will receive a Garrity Warning.
- F. Employee investigations, administrative or criminal in nature, initiated at the completion of or in addition to an administrative or criminal investigation will be conducted by personnel who have not been involved in the proceedings of the initial investigation. This is inclusive of clerks, secretaries, investigators, and/or other personnel as may be needed.
- G. The Chief of Police or his designee will consult the Harris County District Attorneys office in instances involving possible criminal conduct on the part of any employee. The consult will be for the purpose of legal advice and assistance in preparation of the criminal case.

EMPLOYEE RESPONSIBILITY – ADMINISTRATIVE INVESTIGATION:

- A. An employee under an investigation will arrange to be available for the investigating officer and will respond to the allegations in writing when asked to do so.
- B. During the course of an administrative investigation, the Chief of Police may issue a written order directing the employee to submit to various investigative examinations or tests necessary for the proper conclusion of an administrative investigation. Such examinations or tests may include, but not be limited to:
 1. medical examinations conducted under the supervision of a licensed physician. These examinations may include the taking of blood samples, body fluids, removal of body hairs, fingernail clippings or scrapings;
 2. photographs taken of the employee;
 3. line-ups;
 4. financial disclosure statements that could support or disprove allegations against the employee.
- C. The Chief of Police may issue a written order, during an administrative investigation directing an employee to submit to a polygraph examination under the following guidelines:

1. Polygraph examinations will be utilized in conjunction with other investigative techniques.
 2. No disciplinary action will be based solely upon the results the results of a polygraph examination.
 3. An employee ordered to submit to a polygraph examination will be informed prior to the examination as to the nature of the questions to be presented.
- D. The Chief of Police may issue a written order to an employee under administrative investigation to submit to any other examination or test necessary to arrive at a true finding of a complaint
- E. An employee, under an administrative investigation and advised of their rights through a Garrity warning, who refuses to answer any questions, or to submit to any legally ordered examination or test may be subjected to disciplinary action.

EMPLOYEE RIGHTS:

- A. An employee under investigation has the right to know and understand his or her rights in conjunction with the investigation being conducted.
1. If the investigation is criminal in nature, the employee will be made aware of their rights under the constitution through the issuance of an employee **Miranda warning** prior to interrogation. An employee under criminal investigation cannot be compelled to answer, or be penalized for refusing to answer, questions pertaining to any aspect of the investigation.
 2. If the investigation is administrative in nature, the employee will be made aware, through the issuance of a **Garrity warning**, that in the course of the investigation statements made by the employee, either written or oral, cannot be used against them in a criminal prosecution. Employees can be compelled to answer questions concerning the administrative investigation or be subjected to disciplinary action.
- B. An employee under investigation has the right to respond to the allegations.
- C. An employee has the right to appeal the decision of the Chief of Police pursuant to the policies of Texas Southern University.

DISCIPLINARY ACTIONS AND RECORDS PROCEDURES:

- A. After reviewing an Internal Affairs investigation, the Chief of Police will assess disciplinary measures if the employee was found at fault. The discipline will be recorded as part of the documentation.
- B. At the conclusion of a criminal investigation, charges may be filed with the appropriate judicial agency in cases where criminal culpability has been found on the part of an employee.
- C. Records of disciplinary action will be retained in the employee's personnel file for the duration of their employment with the Texas Southern University Department of Public Safety.
- D. All original documents will be forwarded to the Chief of Police. All information will be maintained in a locked file.

CALEA: 26.1.4, 26.1.5, 26.1.7, 26.1.8, 52.1.1, 52.1.3,
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 52.2.3, 52.2.5, 52.2.6, 52.2.7, 52.3.1, 52.3.2,
 52.3.3, 52.3.4, 52.3.5, 52.3.6

APPROVED:

Roger Byars
Chief of Police

Date