



<b>Policy Manual</b> <b>Standard Operating Procedure</b>	
<b>SOP Number:</b> 4-03g	<b>Subject:</b> Administrative Investigations
<b>Authorized by:</b> Chief Robert Connolly	<b>Effective Date:</b> July 13, 2015
<b>Signed:</b> Robert Connolly	<b>Date signed:</b> 07/10/2015

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## 1. PURPOSE

This standard operating procedure establishes guidelines for the investigation and disposition of allegations of employee misconduct.

## 2. POLICY

The Georgia Tech Police Department (GTPD) will investigate all complaints against the Department and its employees, to include those made anonymously. The investigation will determine the validity of allegations in a timely manner.

CALEA 6<sup>th</sup> ed. Standard 26.2.1

## 3. RESPONSIBILITIES

- 3.1 Department employees will comply with the requirements of administrative investigations as provided in this directive. Employees will report misconduct by fellow employees whether observed or within the employee's immediate knowledge.
- 3.2 The Department's Office of Professional Standards (OPS) Commander will implement and manage the administrative investigations function, unless directed otherwise by the Chief. The OPS Commander will report directly to the Chief regarding all administrative investigation functions.
- 3.3 Supervisors have an essential role in receiving and documenting complaints. They must report and act on violations of laws and directives that they observe.
- 3.4 Administrative investigations may be conducted by lieutenants, division commanders, civilian managers, personnel assigned to OPS and the Deputy Chief. Administrative investigations will be conducted in a thorough, impartial, and accurate manner.
- 3.5 Division commanders will manage complaint investigations within their respective divisions unless referred to OPS as staff investigations.
- 3.6 The Administrative Division Commander will manage Open Record requests as provided in SOP 17-01 "Public Information."
- 3.7 The Deputy Chief will monitor compliance with this directive.

## 4. OBJECTIVES

- 4.1 The objectives of this SOP is the protection of the public, protection of employees and protection of the Department

- 4.1.1 The public expects efficient, fair, and impartial police services. Any misconduct by Department personnel will be thoroughly investigated and properly adjudicated.
- 4.1.2 The Department is often evaluated and judged by the conduct of individual members. It is imperative that its personnel not subject the organization to public censure because of misconduct.
- 4.1.3 Employees must be protected against false allegations of misconduct. This can only be accomplished through a consistently thorough investigative process.

#### 4.2 Removal of Unfit Personnel

- 4.2.1 Personnel who engage in serious acts of misconduct and / or have demonstrated they are unfit for duty must be removed for the protection of the public, the Department and its employees.

#### 4.3 Correction of Procedural Problems

- 4.3.1 The Department constantly seeks to improve the quality, efficiency and work performance of its personnel. Occasionally, personnel investigations disclose faulty policies or procedures that would otherwise have gone undetected. Such policy failures, when brought to the attention of the Department head, can then be addressed, improved and corrected as necessary.

### 5. ACTION

#### 5.1 Types of Complaints

- 5.1.1 Complaints of employee misconduct are defined as allegations of an act or omission by a GTPD employee, which if proven true, would be a violation of a Department directive. Complaints will be investigated either on the line level, as line investigations, or on the Command Staff level, as staff investigations.
- 5.1.2 Complaints of Departmental dissatisfaction are defined as complaints from an external source expressing dissatisfaction with a Departmental practice or policy, but not alleging employee misconduct.
  - 1. Sworn employees becoming aware of, or receiving, this type of complaint will document the complaint on a miscellaneous incident report, and forward the report up the chain of command to the Chief for review.

2. Civilian employees becoming aware of, or receiving, this type of complaint will document the complaint in an e-mail and forward the e-mail through their supervisor to the Chief for review.

## 5.2 Complaint Processing

### 5.2.1 Complaints may be made by members of the public:

1. In person - Supervisors will respond to and speak with in person complainants as quickly as possible.
2. By telephone - Supervisors will respond to and speak with complainants reporting by telephone as quickly as possible.
3. By letter - Investigators assigned to an administrative investigation received by letter will contact the complainant within three calendar days.
4. By e-mail - Investigators assigned to an administrative investigation received by e-mail will contact the complainant within three calendar days.
5. Online - Investigators assigned to an administrative investigation received online will contact the complainant within three calendar days.

### 5.2.2 Complaint Receipt

1. Individuals alleging employee misconduct will be referred to an on-duty supervisor who will document the complaint.
2. If a supervisor cannot be available in a timely manner or the party making the complaint refuses to wait for the supervisor, information regarding the complaint and contact numbers will be obtained and provided to the on-duty supervisor.
3. When a supervisor observes or becomes aware of an apparent violation of Department directives or State law, he or she will immediately address the issue to prevent any further misconduct and document the misconduct using the Record of Complaint (form 386). A “call for service” number (CFS#) from the Communications Center will be requested for assignment to the complaint. Supervisors will ensure the CAD entry is listed as “Complaint” (signal 101). An incident number (OCA/IBR) should not be created for complaints of misconduct. The complaint

documentation will be forwarded through the chain of command to the Division Commander for assignment.

4. Employees must report allegations of misconduct against fellow employees of the Georgia Tech Police Department. Failure to report complaints will subject employees to disciplinary action.

### 5.2.3 Complaint Documentation

1. Allegations of employee misconduct will be documented by an on-duty supervisor.
2. Whenever a supervisor becomes aware of a person requesting to make a complaint against an employee other than the Chief or Deputy Chief the supervisor will:
  - a. Conduct an interview with the complainant to ascertain the facts and circumstances of the complaint. The interview should be oriented towards obtaining the information needed for the proper filing of a Record of Complaint Receipt (form 386).
  - b. Ask the complainant to complete a written Citizen Complaint (form 380).
  - c. Document the complaint in writing using the Record of Complaint (form 386).
  - d. Request a “call for service” number (CFS#) from the Communications Center for assignment to the complaint. Ensure the CAD entry is listed as “Complaint” (signal 101). Do not create an incident number (OCA/IBR).
3. If the complaint is against the Chief or Deputy Chief, the supervisor will instruct the complainant to file the complaint with the Chief Human Resources Officer at OHR. The supervisor will assist the complainant in making this contact. The Chief Human Resources Officer will manage this investigation and will make appropriate notifications in the Department. The reporting supervisor will not take further action unless requested by the Chief Human Resources Officer.

### 5.2.4 Supervisors receiving a complaint of misconduct involving criminal action will notify the Chief immediately.

CALEA 6<sup>th</sup> ed. Standard 26.3.2

### 5.3 Investigatory Responsibilities

#### 5.3.1 Line Investigation Responsibilities

1. For complaints involving traffic violations, discourtesy to the public and other policy violations that are not serious or high profile (as listed in 5.3.2) the receiving supervisor will forward the initial complaint documentation directly to the employee's division commander.
2. The respective division commander will either conduct the investigation, assign a lieutenant to conduct the investigation as a line investigation, or ask the Chief to have it investigated as a staff investigation.

#### 5.3.2 Staff Investigation Responsibilities

1. If the complaint is of a serious or high profile nature (see below), the division commander will forward it to the Deputy Chief. The Deputy Chief will review the complaint and forward it, with his or her recommendations, to the Chief. The Chief will review the complaint and will assign it to the Office of Professional Standards or to a division commander as a staff investigation.
2. Complaints that require a staff investigation include but are not limited to:
  - a. Complaints involving allegations of civil rights violations under 42 USC 1983, 42 USC 1985, 18 USC 242, or USC 241, (including wrongful arrest and brutality), unwanted conduct such as harassment, or allegations that an employee has used racial or ethnic epithets.
  - b. Incidents involving off-duty misconduct.
  - c. Incidents involving allegations of criminal or unethical conduct such as unlawful or improper tampering with evidence or recovered property, allegations of unlawful or improper manipulation of the evaluation or disciplinary process, etc.
  - d. Incidents involving excessive use of force.
  - e. Discharge of a firearm (other than for legitimate training or recreational purposes), either on or off duty.

- f. Any action by an employee that results in a significant injury or death of any person.
- g. Complaints from institute or public officials.
- h. Employees suspected of being under the influence of drugs or alcohol while on duty.

5.3.3 Whether conducting a line or staff investigation, assigned investigators will, if the complaint was not made in person, contact the complainant within three calendar days and provide the complainant with status updates at least every two weeks. All contacts will be noted in the investigation report.

#### 5.3.4 Independent Dual Investigations

When a criminal investigation and administrative investigation are conducted regarding the same incident, the criminal investigation will take precedence. Normally, criminal investigators will complete their investigation prior to the onset of the administrative investigation. The Chief may request an outside agency to conduct the criminal investigation. If the administrative and criminal investigations are concurrent, the following guidelines apply.

1. To ensure protection of compelled administrative statements, administrative investigators will wait until the criminal investigators have concluded their interviews before interviewing employees.
2. Administrative investigators will consult with the Office of Legal Affairs and the District Attorney's Office prior to conducting interviews to ensure no other relevant factors exist to warrant delay in the administrative investigation.
3. While information developed by a criminal investigator may be provided to an administrative investigator, any compelled statements, and the fruits of these statements, developed during compelled interviews will not be disclosed to a criminal investigator.
4. No employee assigned to conduct an administrative investigation will become involved in any subsequent criminal investigation of the same incident.

5. The Chief, or in the Chief's absence, the Deputy Chief may order concurrent investigations when it is in the best interest of the Department.

#### 5.4 Conducting Line Investigations

##### 5.4.1 Line Investigation Guidelines

At a minimum, line investigations will include the following documentation.

1. A documented interview with the complainant(s), when possible.
2. Identification and interviews of all involved employees. Prior to the interview, the employee will be required to complete an Employee Statement Form (form 383).
3. The name, address, and date of birth of all witnesses whether interviewed or not. If any part of this information is unavailable, the investigative report will state why.
4. Identification and documentation of the preservation of any physical evidence including color photographs of claimed injuries.
5. Medical records for all parties whose medical condition or injuries are a factor in the investigation, if possible.
6. Copies of related incident and arrest reports, CAD printouts, in-car video, Department surveillance video and other available relevant documents.
7. The facts as discovered in the investigation and the investigator's recommendation for each policy violation alleged and/or discovered during the investigation will be recorded in the "Finding of Fact" section of the Employee Investigation Memorandum (form 390).

#### 5.5 Staff Investigation Guidelines

- 5.5.1 A division commander or an administrative investigator in the Office of Professional Standards will conduct the investigation.
- 5.5.2 The Office of Professional Standards commander reports directly to the Chief in all matters pertaining to administrative investigations.



5.5.3 Staff investigations follow the same guidelines as set out in in section 5.4.1 above.

5.5.4 Investigators will audio record all administrative interviews with employees. Unless specifically requested not to, investigators will record interviews with complainants and witnesses not employed with the Department.

## 5.6 Conclusion of Investigation

5.6.1 Administrative investigations (line or staff) should be completed within 30 calendar days of receipt of the complaint. If additional time is needed to complete the investigation, the investigator will submit a revised timetable and reason for the extension in writing to the Chief. CALEA 6th ed. Standard 26.3.3

### 5.6.2 Misconduct Not Based on Complaint

1. Investigations at times will disclose policy violations committed by employees that are not a part of the complaint. Policy violations found to have been committed by the employee under investigation but not alleged in the original complaint must be documented in the “Finding of Facts” section of the Employee Investigation Memorandum (form 390) and listed as “Sustained”. Even if the original allegation is not recommended as sustained, the fact that a policy violation was discovered makes the conclusion of fact for the investigation “Sustained” (see 5.6.2 below).
2. Policy violations discovered during an investigation to have been committed by an employee who is not the subject of the investigation will prompt the investigator to document the violation on a new Record of Complaint (form 390) to be forwarded up the chain of command as established in Section 5.2.2 paragraph 3 of this SOP.

### 5.6.3 Conclusions of Fact

1. All administrative investigations (line or staff), will result in one of the following conclusions of fact.
  - a. Sustained: Sufficient evidence was discovered to prove the allegation(s) of misconduct, and the action(s) of the employee were in violation of Department policy

- b. Not Sustained: Insufficient evidence was discovered to either prove or disprove the allegation(s) of misconduct
- c. Exonerated: the alleged employee actions occurred but were justified, lawful and proper
- d. Unfounded: The allegation is false, not factual or did not involve a Department employee
- e. Policy Failure: The investigation's findings reveal:
  - i. The act(s) alleged in the complaint did occur, but were consistent with a faulty provision in Department directives.
  - ii. The employee acted contrary to a faulty provision in Department directives, and the actions were proper.

5.6.4 When policy failures are identified, the Chief, or designee, will ensure that applicable directives are reviewed and revised as necessary to meet the needs of both the Department and employees.

5.6.5 The investigator will forward the completed investigation file to the employee's division commander (line investigation) or directly to the Chief (staff investigation).

#### 5.6.6 Review Process

1. Division commanders will review the investigation to insure that it is complete and accurate. After review, the division commander will either:
  - a. Approve, or change the investigatory outcome, sign the completed form 390 and forward the investigation file to the Chief of Police for final review, or
  - b. Disapprove the investigation and return the file to the investigator to complete and correct.
2. Once the corrections are made, the file will be returned to the Division Commander for completion of the review process.
3. The Chief will review all investigations to insure \it is completeness and accuracy. After review, the Chief will either:
  - a. Approve, or change the investigatory outcome and sign the completed form 390. If the complaint is sustained, the Chief

will consider discipline, as provided in SOP 6-03. Regardless of outcome, the Chief will forward the file to the Office of Professional Standards Commander, or

- b. Disapprove the investigation and return the file to the administrative investigator to correct and complete starting the review process over again.
- c. The Office of Professional Standards Commander will notify the complainant and the concerned employee of the case disposition in writing for all Staff investigations and place a copy of the notification documents in the case file. Employee notification for line investigation results may be made by the assigned investigator or by the division commander. Complainant disposition notifications for significant line investigations will be made in the same manner as staff investigations. The Chief or a designee will determine significance.

## 5.7 Employee Rights

- 5.7.1 The accused employee has certain rights that must be respected during an investigation. Interviews conducted with accused employees are protected under the Fifth Amendment to the Constitution from compelled self-incrimination regarding criminal acts. However, in *Garrity v. New Jersey* 385 U.S. 493 (1967) and *Gardner v. Broderick*, 392 U.S. 273 (1968) the Supreme Court stated that public employees may be compelled to cooperate in an administrative investigation, even to the point of self-incrimination, due to an overriding need to protect the public. The Court further stated that compelled incriminating statements made by public employees could not be used against in any criminal proceeding as that would violate their Fifth Amendment rights.
- 5.7.2 Refusal to cooperate in an administrative investigation and answer questions that are specifically related to the incident under investigation violates the Department's Code of Conduct rule on insubordination and could result in disciplinary action up to and including termination of employment.
- 5.7.3 When an employee is notified that he or she is the subject of a staff investigation, the investigator will provide the employee a written statement of the allegations and notification of the employee's rights and responsibilities (form 381) prior to any questioning. The

employee is required to sign form 381, which will be witnessed by the administrative investigator.

CALEA 6<sup>th</sup> ed. Standard 26.3.5

## 5.8 Employee Responsibilities

5.8.1 Truthfulness: All statements and answers to questions by employees during administrative investigations will be truthful, accurate, and factual. No facts will not be altered, hidden or be used to mislead the investigator.

5.8.2 Employees may not:

1. Interfere with the complaint investigation in any manner
2. Independently participate in the investigation
3. Be present during any investigative contact with a complainant or witness involved in the investigation
4. Contact the complainant or witness concerning the allegations
5. Discuss the existence or facts of a complaint with anyone except: the assigned investigator, the Office of professional Standards Commander, the Deputy Chief, the Chief of Police or Department authorities specifically designated by the Chief of Police.
6. These restriction will not be construed to prohibit an employee from discussing any aspects of a complaint with his or her attorney or other representative, or to prevent his or her attorney from developing information for his or her defense.
7. Employees are not entitled to have a representative present during an administrative interview.

5.8.3 During an administrative investigation, the Chief, Deputy Chief, or Office of Professional Standards Commander may require an employee to submit to one or more of the following:

1. Detection of deception examination. Examinations will be directly related to the allegations that are the subject of the administrative investigation.
2. Medical, laboratory, ballistics, chemical or other tests; photographs; or lineups. All procedures carried out under this subsection will be specifically directed and narrowly related to a

particular administrative investigation being conducted by the Department.

3. Disclosure of financial information that is specifically related to the administrative investigation.
4. Other records, tests or examinations directly pertinent to the investigation.

## 5.9 Fitness for Duty

5.9.1 Supervisors are responsible for monitoring employee performance and behavior and will be alert to behavioral indicators that suggest psychological, emotional, or substance abuse problems. These include, but are not limited to:

1. Uncharacteristic or repeated citizen complaints, particularly those related to excessive force
2. Abrupt changes in prescribed officer response or behavior such as excessive tardiness, absenteeism, abnormal impatience, irritability or aggressiveness, or repeated instances of overreaction or failure to act in the line of duty
3. Irrational or bizarre thoughts or actions
4. Unexplained changes in work habits or patterns of leave usage;
5. Erratic mood swings
6. Indications of alcohol or drug abuse

5.9.2 Supervisors who observe or receive information regarding the above types of behavior will consult with the employee for an explanation and, where necessary, will confer with the employees division commander and mental health professionals for guidance.

1. Where circumstances indicate, the supervisor will suggest a voluntary self-referral to the subject employee. If the supervisor suspects emotional impairment or dysfunction, either prior to or following these consultations, he or she will contact the employee's division commander to determine whether an administrative referral to mental health professionals is warranted.
2. Under emergency conditions, when an officer's behavior constitutes a significant danger to himself or others, a supervisor may order a direct and immediate referral for mental health evaluation. The supervisor will contact a mental health professional for instructions prior to referral, notify the employees' division commander, and will provide transportation for the subject employee. The supervisor will take the officer's issued

and/or approved firearm(s) and turn them into the Administrative Division commander, who will return them when the employee is returned to duty.

3. In instances where the division commander believes that an employee is experiencing serious or debilitating emotional or psychological problems, he or she will direct that the employee be interviewed by an agency-authorized mental health service provider.
  - a. He or she will forward a written copy of the referral order to the subject employee, to the mental health service provider, and to the Chief.
  - b. The division commander will take all necessary steps to ensure the confidentiality of the referral order and its contents and will restrict access to those persons with a legitimate need to know.

#### 5.10 Temporary Administrative Assignment and Investigative Suspension

5.10.1 Any supervisor who observes an on-duty employee in flagrant disregard of Department directives or the law will relieve that employee from duty for the rest of that working day and immediately report the incident in writing up the chain of command to the Chief.

5.10.2 The Chief may place an employee who is under administrative or criminal investigation on investigative suspension. Normally, investigative suspension is leave with pay. Investigative suspension may last until the investigation is complete. The Chief or designee may take the employee's issued firearm and badge and turn them into the Administrative Division Commander, who will return them when the employee is returned to duty. Upon completion of the investigation, and review of the findings, the Chief will make a final decision on the employee's working status.

5.10.3 Officers on investigative suspension will not wear the police uniform, carry a duty weapon, or work outside employment involving police or security functions.

#### 5.11 Record Maintenance

CALEA 6<sup>th</sup> ed. Standard 26.2.2

5.11.1 The Department's Office of Professional Standards (OPS) will maintain all records and materials relevant to a completed administrative investigation, staff or line. These records and materials will be stored in a secure file in the Office of Professional

Standards. The files will only be accessible to the OPS Commander (or designee), the employee's Division Commander, the Deputy Chief, and the Chief. A copy of the file will be provided to the employee's Division Commander and the Administrative Division Commander for inclusion in the Early Warning System.

- 5.11.2 A complete file will consist of all documents generated in compliance with this directive and any related forms and supporting material generated in compliance with SOP 6-03 "Discipline." The file should contain these items if they were created for or relevant to the investigation:
1. Record of Complaint Receipt (form 386)
  2. Written statement of the allegations and the employee's rights and responsibilities (form 381)
  3. Employee Investigation Memorandum (form 390)
  4. Audio recordings, employee (form 383) and citizen statements (form 380)
  5. Employee and citizen notifications;
  6. Copies of related incident and arrest reports, CAD printouts, or other relevant documents
  7. Medical and laboratory reports, report on voice stress analysis and/or polygraph examination, and other relevant documentation
- 5.11.3 At least quarterly, the OPS Commander will reconcile the complaints received and documented in the Department's CAD system with the investigations assigned.
- 5.11.4 Division commanders will maintain a log of all complaints (form 387) for which they have investigatory responsibility. The information will be provided to the OPS Commander each time a log entry is made to facilitate reconciliation required in 5.11.3.
- 5.11.5 Division commanders will maintain a record (copies) of all complaints received (form 386), including those referred to staff investigations, and copies of completed "Employee Investigation Memorandum" (form 390) for line investigations against employees under their respective commands. These records will be stored in a secure file, within the division commanders' control, and will only be accessible

by the respective division commander, OPS Commander, Deputy Chief, and the Chief.

5.11.6 Administrative Investigation files will be retained by the Department Standards Unit as follows:

1. Founded (sustained): Retained for 20 years after settlement of case
2. Unfounded (unfounded, exonerated, not sustained, policy failure): Retained from one to four years after investigation completion (based on the Department's accreditation cycle)

## 5.12 Confidentiality of Investigations

5.12.1 The progress of administrative investigations and all supporting materials are considered confidential information. This confidentiality serves to protect both the accused employee and the complainant. At no time will any employee discuss and/or propagate any information involving an administrative investigation, except as provided for in this directive.

5.12.2 The Office of Professional Standards will manage employee background request from outside agencies with endorsed waivers.

5.12.2 The Administrative Division commander will manage Open Record requests, as provided in SOP 17-01 "Release of Public Information."

## 5.13 Annual Report and Public Outreach

5.13.1 The Office of Professional Standards Commander will compile an annual statistical summary showing the number and type of complaints received and the level and disposition of investigations. Submit this report to the Chief, Deputy Chief, and accreditation manager.

5.13.2 After review by the Chief, the Office of Professional Standards Commander will post an appropriate statistical summary on the Institute web site.

5.13.3 The Office of Professional Standards Commander or designee will make the procedures for filing complaints available (1) through



keeping the commendation and complaint brochure (form 360) at the Department lobby, and (2) on the Georgia Tech website,

## 6. DEFINITIONS

Citizen: A member of the public, to include Georgia Institute of Technology students and employees.

Complaint: An allegation from any source of misconduct by a GTPD employee or expressing dissatisfaction with a Departmental practice or policy.

Directive: Any verbal or written order, standard operating procedure, special order, command memorandum, or memorandum issued by a supervisor of the GTPD.

Garrity Immunity: The U.S. Supreme Court ruled that when an officer makes a statement under threat of dismissal for refusing to answer, the statement is compelled and cannot be used against the officer in a criminal prosecution, except in cases of perjury and/or false swearing.

Initial Investigation: Consists of the steps taken by a supervisor to determine whether there is a basis for a complaint and if any violations of policy are alleged. Normally, the initial investigation is not complete until an interview with the complainant has been conducted.

Administrative Investigation: Steps taken by the supervisor assigned to investigate the complaint of misconduct and prepare the final investigative report. The administrative investigation usually takes place after the initial investigation is complete.

Line Investigation: Administrative investigation of alleged misconduct, conducted by a supervisor within the involved employee's division (usually within the employee's chain of command), managed through the employee's division commander.

Misconduct: an act or omission by a GTPD employee in violation of a Departmental directive or State law.

Staff Investigation: Administrative investigation of alleged misconduct, conducted by a supervisor outside the employee's division, usually managed through the Investigation Division commander.

Supervisor: A sworn employee with the rank of sergeant or above, or a civilian employee who is a supervisor by virtue of his or her job title.

## 7. CANCELLATION

This directive cancels:

SOP 4-03f, “Internal Administrative Investigations” and

## 8. REFERENCE

SOP 6-03 “Discipline”

CALEA 6<sup>th</sup> edition standards 26.2.1, 26.2.2, 26.3.2, 26.3.3, 26.3.5

*Gardner v. Broderick*, 392 U.S. 273 (1968)

*Garrity v. New Jersey*, 385 U.S. 493 (1967)