


The Tarrant County College District Police Department

GENERAL ORDER

	SUBJECT	GENERAL ORDER NUMBER
	Personnel Complaint Procedures	902.00
	CALEA STANDARDS	EFFECTIVE DATE
	52.1.1, 52.1.2, 52.1.3, 52.1.4, 52.1.5, 52.2.1, 52.2.2, 52.2.3, 52.2.4, 52.2.5, 52.2.6, 52.2.7, 52.2.8, 26.1.4 a. and b., 26.1.5, 26.1.8	May 1, 2015
	APPROVAL	REVISION DATE
	Shaun Williams, Chief of Police	PAGES
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Policy Statement - It is the policy of the Tarrant County College Police Department to receive and investigate complaints concerning the personal behavior or official acts of its officers.

Purpose - To insure an impartial and unbiased investigation into complaints involving officers of the Tarrant County College Police Department

902.01 - SCOPE A 52.1.1

- A. This procedure is established to provide an orderly, effective, and efficient process for receiving and investigating complaints against all "officers," as defined in the *General Order 910.00 Code of Conduct*, and to properly report the results of such investigations. A complaint against an officer may be lodged by any person in or outside the police department.
- B. This procedure does not apply to:
 1. Routine corrective action by a supervisor that does not result in disciplinary action. Corrective action is a primary duty of the supervisor and is not considered a complaint subject to this policy.
 2. Review and evaluation of the performance of an officer and any resulting disciplinary action taken against an officer for unsatisfactory work performance. Performance review and evaluation is not considered a complaint and is not subject to this policy.
- C. The investigation of allegations of improper actions other than illegal acts by District officers shall be considered an administrative complaint investigation. Nothing in this policy shall preclude a separate and completely independent criminal investigation of an officer who is the subject of an administrative complaint investigation. When it is suspected that a crime has been committed, the Chief of Police shall decide as to whether the administrative complaint investigation should continue. The Chief of Police shall also initiate a separate and completely independent criminal investigation when the facts so warrant. When possible, the district attorney shall be consulted when a criminal investigation is begun.

902.02 - DEFINITIONS

- A. For the purposes of this policy, the following definitions apply:
1. **Complaint** -- a complaint is an allegation(s) against an officer of the Tarrant County College Police Department that could result in disciplinary action and that alleges one or more of the following:
 - a. An infraction of the Tarrant County College Police *General Order 910.00 Code of Conduct*, issued by the Chief of Police;
 - b. An illegal act;
 - c. An infraction of Policy, Rules and Regulations of the Board of Trustees of The Tarrant County College District.
 2. **Chief** - includes the terms Chief of Police as defined below and, as applicable, the Director of Police as defined in this section.
 3. **Chief of Police** - chief administrative officer or designee of an institution Police Department.
 4. **Civilian personnel** - every employee of an institution Police Department or the Office of the Director of Police not included in the definition of police officer.

902.03 - SUPERVISOR RESPONSIBILITIES **A 26.1.5**

- A. The primary responsibility for maintaining and reinforcing employee conformance with the standards of conduct of this department is with the employee and first line supervisors.
1. Supervisors will familiarize themselves with their subordinate employees and closely observe their general conduct and appearance. Supervisors should be alert for indications of behavioral problems or changes that may affect an employee's normal job performance. Such information should be documented by the supervisor. Where a supervisor perceives that an employee may be having or causing problems, the supervisor should assess the situation and determine the most appropriate action.
 2. A supervisor may recommend additional training to refresh and reinforce an employee's skills. Counseling may be used by a supervisor to determine the extent of any personal or job problems that may be affecting performance. Counseling may also be used to offer assistance and guidance or to discuss minor and infrequent rule violations and to discuss the substance and importance of the results with the employee. The supervisor will document all instances of counseling or additional training used to modify an employee's behavior.
A 26.1.4 a. and b.
 3. Minor employee errors or omissions, tactical errors in the field, procedural errors, or work deficiencies that are brought to or come to a supervisor's attention should be addressed through coaching and counseling, performance evaluations, performance improvement programs, and/or discipline as appropriate. **A 26.1.4 a. and b.**

- a. Discipline is to be reflected on the employee's annual performance evaluation and may form the basis for a performance improvement program.
- b. An employee's performance evaluation or initiation of a performance improvement program may be based on deficiencies that were not subject to disciplinary action.

902.04 - INTERNAL AFFAIRS FUNCTION

- A. The Internal Affairs Function shall investigate and/or coordinate the investigation into all complaints submitted against department employees. **A 52.1.1**
- B. The Chief of Police shall administer the Internal Affairs Function. The Internal Operations shall supervise all Internal Affairs investigations and report directly to the Chief of Police for Internal Affairs issues. **A 52.1.3**
- C. The assigned investigator shall be of the same or higher rank than the person being investigated, if possible.

902.05 - COMPLAINT PROCEDURE **A 52.1.1**

- A. **Recording Complaints.** Personnel Complaint Form will be used to record all complaints received and/or initiated by Tarrant County College Police personnel. A Personnel Complaint Form will contain not only the alleged improper action, but will also include the General Order, rule, or regulation allegedly violated. All Personnel Complaint Form will be forwarded to the Chief of Police, as soon as practicable after initiation.
- B. **Processing Complaints.**
 - 1. **In Person.** A person desiring to make a complaint will be furnished the name and address of the person to whom the complaint should be directed (if other than original receiver). Individuals filing complaints against commissioned peace officers should be advised that Texas law requires complaints be submitted in written form with the complainant's signature affixed (*Texas Government Code Section 614.022*).
 - 2. **Written Complaint.** In the event a complaint is communicated by letter, affidavit or other written document, a supervisor will complete a Personnel Complaint Form specifying the General Order, rule, law or regulation at issue and attach the complainant's original written document.
 - 3. **By E-Mail.** Any department employee receiving a complaint by e-mail shall place a copy of the correspondence in a sealed envelope and forward it through their supervisor to the Chief of Police who will determine investigative responsibility.
 - 4. **By Telephone.** When a complaint is received by phone the caller will be advised of the above and requested to submit the complaint in writing. If the complainant declines to put the complaint in writing, the complaint should be processed as provided in 902.05 B. 5.
 - 5. **Complaint Not In Writing.** If the complainant refuses to put the complaint in writing, it should be explained that this will not necessarily prevent an investigation from being conducted, but that failure to submit the allegation(s) in writing will cause the matter to be more difficult to process to an effective

conclusion. In instances when a complaint is not received in written form, the officer's supervisor will record the complaint on a Personnel Complaint Form.

6. **Anonymous Complaints.** Anonymous complaints will be investigated regardless of the manner in which the complaint is received.
 7. **Complaints Initiated or Received by Supervisor.** Supervisory or command personnel will initiate a Personnel Complaint Form when they have firsthand knowledge or reliable information regarding an infraction or illegal act. Supervisory or command personnel receiving or initiating a complaint involving an officer not subject to their immediate supervision, will initiate and forward a Personnel Complaint Form to the affected officer's supervisor or commander as soon as practical.
- C. **Routing of Complaints.** Complaints will be investigated and forwarded through the chain of command to the Chief of Police who will review and take appropriate action.
- D. **Notifications.**
1. **To Complainant.** Written notification will be sent to the complainant advising them that their complaint has been received, will be investigated and that they will be contacted personally, if at all possible, in the near future to discuss the allegations. The complainant will be notified periodically on the status of the complaint investigation. This section does not apply to anonymous complaints. A 52.2.4 a. and b.
 2. **To Affected Officer.** If investigated, a copy of the completed Personnel Complaint Form and a **Garrity Warning** form should be provided to the affected officer by his or her supervisor or assigned investigator within ten (10) calendar days, or as soon as practicable, after the complaint is received. **This must be done before any disciplinary action may be taken against the officer.** The officer shall be advised to refrain from contacting the complainant in any way which might be interpreted as an attempt to discourage the complainant from following through with the complaint. The officer must be advised of and furnished copies of the complaint procedure and the supervisor or assigned investigator must obtain a timed and dated receipt of acknowledgement from the officer. A 52.2.5
- E. **Officer Right to Respond.** At the time the officer is furnished a copy of the complaint, the officer may be ordered to respond to the allegations. If, during the course of an investigation, additional infractions are discovered, the affected officer will be afforded the opportunity to respond to these allegations in the same manner as the original complaint. A 52.2.5
- F. **Immediate Administrative Leave.** In situations in which the best interests of the Tarrant County College Police Department require immediate administrative leave or instances involving aggravated or serious circumstances, the Chief of Police may immediately place on administrative leave; the officer subject to the investigation. Officers may be placed on administrative leave with pay for a period of time designated by the Chief of Police. A 52.2.7
- G. **Administrative Leave with or without pay.** Administrative leave will be with pay unless allegations involve serious misconduct, in which case the Chief of Police may immediately place on administrative leave without pay. Examples of serious misconduct include, but are not limited to, criminal offenses of the felony grade, Class A or B misdemeanors, direct insubordination, and conduct which indicate that the officer is no

longer fit for duty. Such an administrative leave may be imposed only by the Chief of Police or designee and such administrative leave without pay shall not exceed thirty (30) calendar days in length unless extended as hereinafter provided and such shall be communicated in writing to the officer. The administrative leave will expire when administrative action is taken against the officer.

1. If, at the conclusion of the administrative investigation, no disciplinary action is taken against an officer placed on leave without pay, back pay will be restored.
2. If, at the conclusion of the administrative investigation, the officer receives a disciplinary suspension, the previous period of suspension without pay shall have no effect on the duration of the disciplinary suspension imposed.

H. **Notification of Administrative Leave.** The officer will be notified in writing by the Chief of Police or designee of the administrative leave without undue delay. The written notice shall include the reason(s) for administrative leave in sufficient detail to reasonably enable the officer to respond to the reason(s). The notice will also contain an order informing the officer that he or she is prohibited from taking any law enforcement action during the period of administrative leave.

I. **Surrender of Equipment.** Administrative leave requires the officer on administrative leave to surrender all issued firearms, commission identification card, badge(s) and keys. The officer on administrative leave is prohibited from taking any law enforcement action during the administrative leave.

J. **Notification to Director of Police.** When an officer is placed on administrative leave, the Vice Chancellor of Administration and General Counsel will be notified immediately.

K. **Reinstatement of Officer.** An officer who had been placed on administrative leave shall be reinstated, if the Chief of Police has exonerated him/her or has determined that the complaint was unfounded.

L. **Investigation:**

1. **Objective.** The Chief of Police will be responsible for ensuring a complete, objective, and expeditious investigation of any complaint. If a resignation is received from an officer under investigation, the Chief shall determine whether the investigation should continue.
2. **Who Shall Investigate.** No person, other than the Chief of Police and/or the assigned investigator, will investigate personnel complaints. This includes contacting witnesses, complainants or others involved. If information regarding a complainant comes to an officer's attention, he or she shall provide the information to the assigned investigator or the Chief of Police. **A 52.2.1**
3. **Purpose of Investigation.** The purpose of an investigation is to seek out the facts associated with a complaint to ascertain the truth. The investigator shall make every attempt to conduct an investigation in a manner that will prove or disprove the allegations of misconduct rather than leave them unresolved.
4. **Procedure for Investigation.** If the alleged improper act could be a crime or an infraction that could result in disciplinary action, the investigation shall include:
 - a. Personal contact with the complainant by the investigator (when at all possible) to fully discuss the complaint.

- b. Personal contact with the accused officer by the investigator, in every instance, to fully discuss the allegations.
- c. Personal contact when at all possible with all known witnesses.
- d. The investigator has the option of recording interviews with the complainant, witness, and/or accused officer for review and preparation in typed form.
- e. The investigator should attempt to obtain statements (written and signed) from complainants, accused officers, and/or witnesses as deemed necessary to support or refute the allegations being investigated.
- f. Obtaining all known relevant legal evidence and/or other documents to support or refute the allegations being investigated. The investigator with specific authorization by the Chief of Police will be allowed access to all necessary departmental records.
- g. Investigative Aids. On occasion, during an Internal Affairs investigation, it may be necessary to use scientific investigative aids and specialized investigatory techniques to support the integrity and accuracy of the investigation. In such situations, the investigator will present the Chief of Police written justification for the employment of scientific investigative aids and specialized investigatory techniques. The Chief of Police must give written approval before an individual, subject to an Internal Affairs investigation is ordered or is subjected to: **A 52.2.6a-e**
 - (1) Laboratory or medical examinations that specifically relate to a matter under investigation are administered.
 - (2) Photographs are taken of employees during the conduct of the investigation.
 - (3) Physical line-ups involving the employee are conducted during the investigation.
 - (4) Submission of financial disclosure statements that directly relate to the investigation.
 - (5) Participation in a specific polygraph examination, confined to matters directly relevant to the investigation, and administered by an experienced and licensed Polygraph Examiner.
- h. Investigator submission of a detailed investigation report fully addressing all allegations made, setting forth the facts as determined, including all statements, pertinent matters or items of legal evidence, supporting documentation, and a summary or synopsis of the case including a clear indication of the seriousness of the case.

M. Cooperation.

- 1. Any officer who is the subject of an administrative complaint investigation shall cooperate fully and answer all questions posed by authorized representatives of the department during the investigation. All department employees questioned concerning their knowledge of a complaint will fully cooperate and answer truthfully such questions.

2. Any officer who refuses to cooperate or answer all questions concerning the administrative complaint investigation may be subject to disciplinary action completely apart from the original complaint. If an officer refuses to answer the questions of the investigator(s) in an administrative complaint investigation on the grounds that he might incriminate himself, the investigator shall discontinue any questioning and the Chief of Police shall be advised of the position taken by the officer. The Chief shall make a determination as to whether the officer shall be required to cooperate and answer the questions propounded to him. If the Chief determines that the officer shall be required to respond, the Chief shall so advise the officer in writing, utilizing a *Garrity Warning* setting out the reasons for the decision and the possible consequences of the officer continuing to refuse to respond to the questions. If after being advised of his or her rights, the officer thereafter refuses to answer questions pertinent to the investigation he or she may be subject to disciplinary action, including termination from employment.

- N. **Confidentiality.** It is prohibited for any officer or civilian departmental employee having knowledge in or engaged in an administrative complaint investigation involving a Tarrant County College Police Department officer to divulge to any person engaged in a criminal investigation of the same officer concerning the same subject matter of the administrative investigation, any statement or information derived from a statement made by the officer who is the subject of both investigations.

Texas Government Code Section 552.108 Exception: Certain Law Enforcement, Corrections, and Prosecutorial Information.

(a) *Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of section 552.021 if:*

(1) *release of the information would interfere with the detection, investigation, or prosecution of crime;*

(2) *it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;*

(3) *it is information relating to a threat against a peace officer or detention officer collected or disseminated under Section 411.048; or*

(4) *it is information that:*

(A) *is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or*

(B) *reflects the mental impressions or legal reasoning of an attorney representing the state.*

- O. **Length of Investigation.** Complaint investigations shall be completed, reviewed, and submitted to the Chief of Police not later than twenty-eight (28) calendar days following the receipt of such complaint, unless additional time is granted by the Chief.

A 52.2.3

- P. **Interview of Accused.** Personnel who are assigned to investigate complaints involving an officer's non-criminal misconduct shall be required to conduct a detailed, timely, and objective interview with the officer accused of the misconduct. The purpose of this interview is to secure from the officer a comprehensive and factual response to the complaint.

1. Prior to the interview in an administrative investigation, the accused officer shall be given a *Garrity Warning*. The results of the interview will be reduced to writing and any statement obtained during this interview will be obtained under oath. Any further response or rebuttal the officer desires to make will be provided to

the investigator within five (5) calendar days and included in the investigative report. The accused officer will be permitted to have counsel present during an interview regarding alleged non-criminal or criminal misconduct.

- Q. **Chief of Police Apprised.** The Chief of Police shall be notified of all complaints against the Department and/or its employees, in writing, within 24 hours. **Except:** the Chief or his designee shall be notified immediately in those instances involving complaints of a serious nature. Complaints of a serious nature include, but are not limited to: **A 52.2.2**

1. A citizen is injured by an employee's actions, while on or off duty.
2. An employee is involved in discharging a firearm, other than in training or while engaging in lawful hunting or other sporting activity, while on or off duty.
3. All accidental discharge of firearms, while on or off duty.
4. Employees who are intoxicated.
5. Employees who were caught while committing a criminal offense.
6. An officer is injured while performing their duties.
7. A prisoner is seriously injured.
8. An officer is involved in a traffic accident with injuries to any party.
9. The on-duty supervisor has the discretion of notifying the Chief of Police in any eventuality.

- R. **Officials Apprised.** The Chief of Police and the Tarrant County College District Vice Chancellor for Administration and General Counsel will be kept apprised regarding complaint investigations of a very serious nature when:

1. Dismissal of the accused officer appears imminent;
2. Criminal prosecution of the accused officer appears justified;
3. The reputation of the Department is in jeopardy as a result of the action of the accused officer;
4. Publicity may result.

- S. **Withdrawal of Complaints.** If a complainant expresses the desire to withdraw a complaint and has no desire for the complaint to be pursued further, the complainant, in the presence of a supervisor, shall be requested to sign a statement expressing their request to withdraw the complaint.

1. All requests to withdraw a complaint shall be forwarded to the Chief of Police as soon as practicable.
2. The fact that a complainant has withdrawn a complaint does not necessarily terminate the investigation. The decision to terminate the investigation rests with the Chief of Police.

- T. **False Information.** Whenever a complainant deliberately gives false information causing the Tarrant County College Police Department to conduct an investigation, this

information should be presented to the appropriate prosecutor under the appropriate *Texas statutes*.

- U. **Public Notice.** The department will make available to the public information on the procedures to be followed in registering complaints against the agency or its employees. **A 52.1.4**

902.06 - DETERMINATION, NOTICE, and DISCIPLINARY ACTION

- A. **Investigation Review.** The Chief of Police shall be responsible for reviewing the investigation and providing written notification to the officer advising the officer of the findings and whether or not disciplinary action is forthcoming in the case. This notification must be prior to any disciplinary action.
 - 1. The notification should be delivered to the affected officer in person or by certified mail, return receipt requested, to the officer's last known address.
- B. **Determination Notice.** The notice to the officer shall contain a final conclusion for each allegation as determined by the Chief of Police. One of the following conclusions will apply: **A 52.2.8**
 - 1. Unfounded: The allegation is false, not factual.
 - 2. Exonerated: The incident occurred but was lawful and proper or was justified.
 - 3. Not sustained: There is insufficient evidence to prove or disprove the allegations.
 - 4. Sustained: The allegation is supported by sufficient evidence.
- C. **Disciplinary Action.** In instances when the Chief of Police, or designee, determine that the complaint is sustained and that disciplinary action resulting in the termination, demotion, or suspension without pay of an officer is appropriate, the procedures outlined in *General Order 908.00* shall be followed.
- D. **Closing the Complaint Process.** The case shall be considered closed upon a determination by the Chief of Police that the allegation is unfounded or not sustained or the officer is exonerated or if the complaint is sustained and disciplinary action is imposed on the officer.
- E. **Complainant Notification.** After the investigation is completed and final action taken, it will be the responsibility of the Chief or designee to notify the complainant in writing within ten (10) calendar days of the final results of the investigation and what action, if any, was taken. **A 52.2.4 c.**
- F. **Notification to Chief of Police.** A copy of the results of the investigation of the complaint, including any disciplinary action, will be forwarded to the Chief of Police and will become a part of the officer's personnel file.
- G. **Complaint Conference.** To ensure uniformity in the treatment of complaints, the Tarrant County College Chief of Police and Vice Chancellor of Administration and General Counsel will meet periodically to review disciplinary action(s) taken on complaints.

902.07 - INTERNAL AFFAIRS FILES **A 52.1.2**

- A. **IA Log.** The department shall maintain a log of all complaints.

- B. **Location of Files.** Files of completed investigations shall be maintained in a secured Internal Affairs file located in an area designated by the Chief of Police. **A 26.1.8**
- C. **File Security.** The complaints and internal investigative files shall be kept in a secure area and shall be retained in accordance with the required records retention period applicable to those records. Thereafter, no such records shall be destroyed unless the Chief of Police, following consultation with the Office of General Counsel, determines that there is no further agency need, legal or administrative, to maintain the records. **A 26.1.8**
- D. **Periodic Audit.** The Chief of Police shall direct a periodic audit of complaints to ascertain a need for training or a revision of policy.
- E. **Annual Summary.** The Internal Operations Unit shall publish an annual statistical summary of Internal Affairs investigations that shall be made available to the public and agency employees. **A 52.1.5**