

DALTON POLICE DEPARTMENT

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Subject Complaint Review Policy			
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I. Policy

It is the policy of the Dalton Police Department to investigate all complaints against the Department and / or its employees' alleged misconduct, to equitably determine whether the allegations are valid or invalid, and to take appropriate action.

II. Definitions

- A. *Administrative Investigation* – A formal, structured investigation of a complaint conducted by the Professional Standards Unit into allegations of serious employee misconduct.
- B. *Inquiry* – A less-formal investigation of a complaint conducted by a Supervisor, usually the direct Supervisor of the employee(s) that is the subject of the complaint, that involves an exploration of Department policies and procedures, where applicable and when involving less-serious allegations, such as rudeness, discourteous language, or minor policy violations.
- C. *Professional Standards Unit* – The component of the Department ultimately responsible for conducting administrative investigations into allegations of employee misconduct.

III. Procedures

A. ~~Citizen~~ External Complaints

All ~~citizen~~ external complaints pertaining to misconduct, violations of Department policies or procedures, or violations of federal, state, or local laws shall be documented and investigated by the Department.

1. Any Officer who is approached for such assistance shall provide the ~~citizen~~ complainant with information explaining the complaint process, a complaint form (Appendix A), and any other assistance, as needed.
2. External complaints, if possible, shall be made in person and in writing, and the complainant shall be advised that complaints are taken seriously and

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shall be requested to sign a complaint form. The ~~citizen~~ complainant may wish to take the complaint form and return it at a later time.

3. Anonymous ~~external~~ complaints and ~~external~~ complaints from ~~citizens~~ individuals who wish their names to be held in confidence shall be accepted.

B. Internal Complaints

All internal complaints pertaining to misconduct, violations of Department policies or procedures, or violations of federal, state, or local laws shall be documented and investigated by the Department.

1. ~~Internal~~ complaints, if possible, shall be reported to the employee's immediate Supervisor and documented on a complaint form. Where the employee does not feel comfortable reporting the complaint to the employee's own Supervisor, or where the Supervisor is involved in the alleged misconduct, the employee may instead file a complaint with the appropriate Division Commander or with the Chief of Police.
2. Anonymous ~~internal~~ complaints and complaints from employees who wish their names to be held in confidence shall be accepted.
3. All complaints involving matters of harassment or illegal discrimination shall be handled in accordance with policy GO96-3.7, Harassment and Discrimination in the Workplace.

C. Supervisor Responsibilities

1. ~~First-line~~ Supervisors shall attempt to resolve a complaint by an exploration of Department policies and procedures, where applicable and when the complaint involves less-serious allegations, such as rudeness, discourteous language, or minor policy violations.
 - a. A complaint ~~investigation~~ that does not result in an ~~formal complaint~~ administrative investigation shall be classified as an inquiry.
 - b. The responsible Supervisor shall notify the Professional Standards Unit upon the receipt of a complaint in which an inquiry will be conducted. The Professional Standards Unit shall monitor the progress of the inquiry to ensure its timely completion.
 - c. Documentation of the inquiry shall include the nature of the ~~complaint~~, actions taken during the inquiry, and the ultimate resolution. This documentation shall be forwarded to the Professional Standards Unit upon completion.
2. If the Supervisor receiving the complaint determines that the complaint warrants an ~~formal~~ administrative investigation, it shall be forwarded to the Professional Standards Unit. An ~~formal~~ administrative investigation is

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required when, but is not limited to, the following types of allegations are made:

- a. Criminal misconduct
- b. Unethical activity
- c. Negligence or neglect of duty resulting in bodily injury or death
- d. Abusive conduct by a Supervisor directed toward a subordinate
- e. Excessive or improper use of force
- f. Civil rights violations

~~3. If a case is deemed to be a formal complaint, a case number shall be obtained when the completed complaint form is received by the Professional Standards Unit.~~

3. If a Supervisor is uncertain as to whether a complaint requires an inquiry or an administrative investigation, the Professional Standards Unit shall be contacted prior to any investigative action being taken. The Professional Standards Unit shall have the authority to determine which type of action is to be taken to investigate the complaint.

D. Division Commander Responsibilities

Upon becoming aware of or receiving notification of a ~~formal~~ complaint against an employee under his / her command ~~that requires an administrative investigation~~, the Division Commander or his / her designee shall forward to the Professional Standards Unit:

1. The original complaint form
2. All documents, evidence, and information relating to the ~~investigation~~ incident

E. Professional Standards Unit Responsibilities

1. The Professional Standards Unit shall have primary Supervisory responsibilities for the review and / or investigation of all complaints against the Department and its employees, whether initiated ~~by a citizen~~ externally or from within the Department. While ~~investigating a complaint~~ conducting an administrative investigation, the Professional Standards Unit is delegated the authority of the Chief of Police for the purposes of directing the investigation and shall report directly to him / her.
2. The Professional Standards Unit shall have the following responsibilities:

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- a. Conducting ~~the investigation on all formal complaints~~ all administrative investigations.
 - b. Obtaining a case number upon receipt of a complaint that requires an administrative investigation.
 - ~~c.b.~~ Maintaining a complaint and inquiry log and making entries into the Department's tracking software.
 - ~~d.e.~~ Maintaining a central file for complaints against the Department and its employees ~~shall be maintained~~ in a secure area, and upon final disposition, transferring the file contents ~~shall be transferred~~ to the Department's imaging system. All video and audio ~~tapes~~ files and items other than documents shall also be transferred to the Department's imaging system as part of the file or entered into the Property and Evidence Section using the procedures outlined in policy GO88-4.10, Property and Evidence Policy and Procedure.
 - ~~e.d.~~ Monitoring complaints to ascertain the need for changes in training or policy.
 - ~~f.e.~~ Completing a documented annual review of all internal and external complaints received by the Department
 - ~~g.f.~~ Publishing an annual statistical summary that shall be made available to the public and all employees, which includes the complaints received and investigated by the Department and the final dispositions.
3. Upon receipt of a complaint against the Department or its employees that requires an administrative investigation, the Professional Standards Unit shall send a memorandum to the Chief of Police notifying him / her of the complaint.
 4. The Professional Standards Unit shall contact the complainant within five (5) business days of receipt of the complaint and advise him / her that the matter is under investigation. The complainant shall receive periodic status reports, as appropriate, and shall be notified within five (5) business days of the completion of the investigation. The complainant shall also receive written notice of the final disposition of the case after its approval by the Chief of Police. The Professional Standards Unit shall advise the complainant of Department procedures for the processing and investigating of complaints.
 5. The employee(s) that is the subject ~~to~~ of the complaint shall receive written notice that he / she is the subject of an administrative investigation, unless such notice would impede the investigation. The notice shall include the allegations and the employee's rights and responsibilities relative to the investigation.

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6. **Administrative** investigations of complaints shall be completed within twenty (20) calendar days, unless an extension is requested and granted by the Chief of Police. Requests shall be **made** in writing.
7. Upon completion, the investigative file shall be made available to the investigated employee(s)'s chain of command through the respective Division Commander. At each level of supervision, a recommendation of the case status may be sought. Case statuses shall be selected using the parameters outlined below in section III, K, 1, a-e. All recommendations and viewings of the file shall be tracked using the Investigative File Tracking Form (Appendix B), which shall be made part of the file.
8. The Professional Standards Unit shall submit recommendations to the Chief of Police.

F. Administrative Investigative Procedures

1. All witness, complainant, and employee statements shall be recorded with Department audio recording equipment. A transcript **or written summary** shall be made of all recordings.
2. Evidence gathering techniques shall be utilized by the employee conducting the investigation.
3. The final written report summary of the **administrative** investigation shall be organized as follows:
 - a. The first section shall be a complaint synopsis. This is simply a brief statement describing the alleged misconduct.
 - b. The second section shall be a narrative containing the facts uncovered during the investigation. This should be written in chronological order as the interviews occurred or as evidence was collected.
 - c. The third section or conclusion shall be concisely what occurred or did not occur.

G. Criminal Allegations

All cases involving allegations of criminal violations shall be investigated by the Criminal Investigations Division and / or other law enforcement agencies in order to determine if criminal charges should be pursued.

H. Relief from duty

The Chief of Police or his / her designee may place an employee on administrative leave, pending the final outcome of an **administrative or criminal** investigation.

I. Employee's Duties and Rights During an Investigation

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1. Scope of Questioning During Interview

- a. Prior to an **internal** interview concerning alleged criminal misconduct, the employee under **criminal** investigation shall be read his / her Miranda rights. The provisions of Miranda shall be adhered to throughout the interview.
- b. Prior to an **internal** interview concerning allegations of administrative violations, the employee under **administrative** investigation shall be advised of the ~~Department—Internal Investigation~~ **Garrity** Warning, which is derived from the ruling in *Garrity v. New Jersey* (1967) (Appendix C).
 - (1) The employee must answer all questions in a truthful manner.
 - (2) The employee can be required to answer all questions specifically, narrowly, and directly related to the performance of his / her official duties.
 - (3) Refusal to comply with an order to answer such questions is a violation of Departmental rules, which may subject the employee to further discipline, up to and including termination.
 - (4) Any required self-incriminatory admission made during the **administrative** interview may only be used in subsequent administrative proceedings and shall not be used against the employee in subsequent criminal proceedings.

2. Counsel at Interview

- a. An employee may be permitted to have an attorney, Supervisor, or other personal representative with him / her in the room during any **administrative or criminal** interview concerning allegations of misconduct by the employee, as long as this does not hinder the progress of the investigation.
- b. The employee's representative is limited to acting as an observer of the **administrative** interview, except where the interview focuses on, or leads to, evidence of potential criminal activity by the employee. In that case, an employee's legal representative may advise and confer with the employee during the interview.

3. Special Examinations

- a. During an **internal** administrative or criminal investigation, an employee may, upon the direction of the Chief of Police, be required to:

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- (1) Submit to medical or laboratory examinations
 - (2) Be photographed
 - (3) Cooperate with audio and / or video recordings
 - (4) Participate in line-up identifications
 - (5) Produce financial disclosure statements
 - (6) Produce cell phone records
 - ~~(6)~~(7) Submit to detection of deception examinations
- b. Any special examinations required by the Department shall only be taken when necessary and when such actions are specifically related to the matter under investigation by the Professional Standards Unit.
- c. An employee under investigation may request an intoximeter, blood, urine, psychological, polygraph, or other medical or laboratory examination, at his / her own expense, if it is believed that such an examination would be beneficial to his / her defense.

~~J.K.~~ Conclusion of Fact

1. All ~~internal~~ administrative investigations and inquiries shall have a conclusion of fact. The Chief of Police shall give final approval of the disposition of all ~~internal~~ administrative investigations as follows:
 - a. Sustained: Evidence sufficient to prove allegations.
 - b. Not sustained: Insufficient evidence to either prove or disprove allegations.
 - c. Exonerated: Incident occurred but was lawful or proper.
 - d. Unfounded: Allegation is false or not factual.
 - e. Policy failure: Flaw in policy caused incident.
- ~~2.3.~~ At the conclusion of the administrative investigation, the employment status of the investigated employee shall not be a factor that prohibits the determination of a conclusion of fact.

~~K.J.~~ Chief's Action

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1. The Chief of Police or his / her designee may then hold a pre-disciplinary conference with the employee and the employee's Division Commander and / or Supervisor.
2. The employee may waive a predisciplinary hearing if he / she desires.
3. The employee may bring witnesses or other evidence to the conference.
4. The Chief of Police shall make a final determination as to the disposition of any disciplinary action, up to and including termination, in accordance with policy GO88-2.14, Rules of Conduct.

L. Investigative File Retention

Administrative investigation files shall remain in the Professional Standards Unit for the length of the employee's career plus seven (7) years.

This policy supersedes any previous policies issued.

BY ORDER OF

CHIEF OF POLICE

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Appendix A

CITIZEN/INTERNAL COMPLAINT AND INQUIRY FORM

Date of Occurrence: _____ Time of Occurrence: _____

Name: _____

Address: _____

Daytime Telephone: _____ Night/Evening Telephone: _____

Briefly state what occurred:

What do you think the officer/employee did wrong:

What do you think should happen to the officer/employee:

Signature Date

For Departmental Use Only

Complaint # _____ Disposition _____

Received By _____ Date _____

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Appendix B
Investigative File Tracking Form

Employee Name _____ Case # _____

Immediate Supervisor Assessment:

Sustained Not Sustained Exonerated Unfounded Policy Failure

Comments:

Immediate Supervisor

Division Commander Assessment:

Sustained Not Sustained Exonerated Unfounded Policy Failure

Comments:

Division Commander

Professional Standards Recommendation:

Sustained Not Sustained Exonerated Unfounded Policy Failure

Comments:

Professional Standards

ADM ITF 111101

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Appendix C
Internal Affairs
Employee Interview Form
Case Number: _____

This is an administrative interview that is being recorded and conducted in accordance with Policy # _____.

Today's date is _____ 20_____. The time is _____ hours.

This interview is with _____ (circle one) currently assigned to _____.
(complainant/witness/accused) (department/division)

Conducting this interview is _____. Also present, is /are _____.

We are currently located at _____. The following allegation(s) under investigation is/are

_____, _____, _____.

The complainant in this matter is _____.

GARRITY WARNING

You are being questioned as part of an official administrative investigation. You will be asked questions specifically, directly and narrowly related to the performance of your official duties or fitness for office. You are entitled to all the rights and privileges guaranteed by the laws and the Constitution of this state and the Constitution of the United States, including the right not to be compelled to incriminate yourself. I further wish to advise you that if you refuse to answer questions relating to the performance of your official duties or fitness for duty, you will be subject to departmental charges up to and including termination. If you answer, neither your statement nor any information or evidence which is gained by reason of such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in relation to subsequent administrative charges.

I understand my rights and obligations as set forth above. _____
(Signature-Interviewee)

Do you have any other questions before we proceed? Yes No

Do you swear or affirm that the statement you will make will be truthful and correct to the best of your knowledge? Yes No

Conduct Interview /Take Statement

Closing Interview

Do you swear or affirm that the statement you have given is truthful and correct to the best of your knowledge? Yes No

I am giving you a direct order at this time. You will not discuss the nature of this investigation or the context of this interview with anyone except the Chief of Police, a member of professional standards, and your legal counsel. Should you recall or become aware of any additional pertinent information regarding this investigation, you will contact a member of Internal Affairs.

I understand the obligations set forth above.

Signature (interviewee)

Date

Signature (interviewer)

Date

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