

# DALTON POLICE DEPARTMENT

Subject	Effective Date July 1, 1998	Number GO88-2.10
<b>Complaint Review Policy</b>		
Reference <b>CALEA Standards – 22.1.2, 26.1.5, 26.2.1, 26.2.2, 26.2.3, 26.3.1-26.3.8</b>	Revised <b>September 25, 2018 22, 2020</b>	
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## I. Policy

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

## II. Definition

*Professional Standards Unit* – The component of the Department ultimately responsible for conducting administrative investigations into allegations of employee misconduct.

## III. Procedures

### A. Citizen Complaints

All citizen 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 with information explaining the complaint process, a complaint form (Appendix A), and **any other assistance, the citizen** as needed.
2. Complaints, if possible, **will shall** be made in person and in writing, and the complainant **will shall** be advised that complaints are taken seriously and **will shall** be requested to sign a complaint form. The citizen may wish to take the complaint form and return it at a later time.
3. Anonymous complaints **or and** complaints from citizens who wish their names to be held in confidence **will 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.

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1. Complaints, if possible, shall be reported to the employee's immediate Supervisor and **documented** on a complaint form **completed**. Where the employee does not feel comfortable reporting the complaint to the employee's own Supervisor, or where the Supervisor is involved in the **complaint alleged misconduct**, the employee may instead file a complaint with the appropriate Division Commander or with the Chief of Police.
2. Anonymous complaints **or and** complaints from employees who wish their names to be held in confidence **will 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 **minor less serious** allegations, such as rudeness, discourteous language, or minor policy violations. Complaints that do not result in a formal complaint shall be classified as inquiries. Documentation of an inquiry shall include the nature of 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 a formal investigation, it shall be forwarded to the Professional Standards Unit. A formal investigation is required **in when**, but is not limited to, the following types of **complaints** **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 **will shall** be obtained when the completed **complaint** form is received by the Professional Standards Unit.

#### D. Division Commander Responsibilities

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Upon becoming aware of or receiving notification of a formal complaint against an employee under his / her command, 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

**E. Professional Standards Unit Responsibilities**

1. The Professional Standards Unit shall have primary Supervisory responsibilities for the review and investigation of all complaints against the **agency** **Department** or its employees, whether initiated by a citizen or from within the Department. While investigating a complaint, 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:
  - a. Conducting the investigation on all formal administrative complaints.
  - b. Maintenance of a complaint and inquiry log and entry into the Department's tracking software.
  - c. A central file for complaints against the **agency** **Department** or its employees shall be maintained in a secure area, and upon final disposition, **transfer** the file contents **shall be transferred** to the Department's imaging system. All video and audio tapes and items other than documents **will shall** be entered into the Property and Evidence Section using the **same** procedures **as all evidence outlined in policy GO88-4.10, Property and Evidence Policy and Procedure.**
  - d. **Monitoring of** complaints to ascertain the need for changes in training or policy.
  - e. An annual review of all complaints received by the **agency** **Department**
  - f. Publication of an annual statistical summary that shall be made available to the public and **agency** employees, which includes the complaints received and investigated by the Department and the final dispositions.
3. Upon receipt of a complaint against the **agency** **Department** or its employees, the Professional Standards Unit shall send a memorandum to the Chief of Police notifying him / her of the complaint.

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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 investigation of complaints.
5. The employee subject to the complaint shall receive written notice that ~~they are~~ he / she is the subject of an administrative investigation ~~or inquiry~~, unless such notice would impede the investigation. The notice shall include the allegations and the employee's rights and responsibilities relative to the investigation.
6. Investigations of complaints shall be completed within twenty (20) calendar days, unless an extension is requested and granted by the Chief of Police. Requests ~~must~~ shall be in writing.
7. Upon completion, the investigative file ~~will~~ 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 ~~will~~ shall be selected using the parameters outlined below in section III, K, 1-5. All recommendations and viewings of the file ~~will~~ shall be tracked using the Investigative File Tracking Form (Appendix B), which ~~will~~ shall be made part of the file.
8. The Professional Standards Unit ~~will~~ shall submit recommendations to the Chief of Police.

#### F. Administrative Investigative Procedures

1. All witness, complainant, and employee statements ~~will~~ shall be recorded with Department audio recording equipment. A transcript shall be made of all recordings.
2. Evidence gathering techniques ~~will~~ shall be utilized by the ~~Department~~ employee conducting the investigation.
3. The final written report summary of the 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.

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- 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 ~~will 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 investigation.

I. Employee's Duties and Rights During an Investigation

- 1. Scope of Questioning During Interview
  - a. Prior to an internal interview concerning alleged criminal misconduct, the employee under investigation shall be read his / her Miranda rights. The provisions of Miranda ~~will shall~~ be adhered to throughout the interview.
  - b. Prior to an internal interview concerning allegations of administrative violations, the employee under investigation shall be advised of the Department Internal Investigation Warning, which is derived from the Garrity ruling (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 ~~their~~ ~~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 ~~dismissal~~ ~~termination~~.
    - (4) Any required self-incriminatory admission made during the 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 ~~them~~ ~~him / her~~ in the room during

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any 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 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:
  - (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) 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.  
~~The Department may require such examination upon the direction of the Chief of Police.~~

~~An internal administrative investigation may also entail the following procedures, of which an employee may be required to submit:~~

- a. ~~Participate in a line-up~~
- b. ~~Produce financial disclosure statements or other records~~
- c. ~~Be photographed~~

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~~Any special examinations required by the Department will only be taken when necessary and when such actions are specifically related to the matter under investigation by the Professional Standards Unit.~~

J. Chief's Action

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 predisiplinary hearing if ~~they~~ he / she desires.
3. The employee may bring witnesses or other evidence to the conference.

K. Conclusion of Fact

1. All internal investigations and inquiries shall have a conclusion of fact. The Chief of Police shall give final approval of the disposition of all internal 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. The Chief of Police shall make a final determination as to the disposition of any disciplinary action, up to and including ~~dismissal~~ termination, in accordance with policy GO88-2.14, Rules of Conduct.
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.

L. Investigative File Retention

Administrative investigation files ~~will~~ 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**

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***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:

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

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**Signature**

Date

For Departmental Use Only

Complaint # \_\_\_\_\_ Disposition \_\_\_\_\_

Received By \_\_\_\_\_ Date \_\_\_\_\_  
ADM CCI 940945 R0108

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**Appendix B**  
Investigative File Tracking Form

Employee Name \_\_\_\_\_ Case # \_\_\_\_\_

**Immediate Supervisor Assessment:**

Sustained      Not Sustained      Exonerated      Unfounded      Policy Failure

Comments:

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Immediate Supervisor

**Division Commander Assessment:**

Sustained      Not Sustained      Exonerated      Unfounded      Policy Failure

Comments:

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Division Commander

**Professional Standards Recommendation:**

Sustained      Not Sustained      Exonerated      Unfounded      Policy Failure

Comments:

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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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