

**LANCASTER POLICE DEPARTMENT
GENERAL ORDERS MANUAL**

<i>Effective Date</i> September 9, 2015		<i>Amended Date</i> January 22, 2019		<i>Directive</i> 2.04.1	
<i>Subject</i> Internal Investigations					
<i>Reference</i>			<i>Approved</i>  Chief of Police		
<i>Distribution</i> All Personnel City Manager City Attorney		<i>TPCA Best Practices Recognition Program Reference</i> 2.04; 2.05; 2.06; 2.07; 2.08; 2.09; 2.10		<i>Review Date</i> January 22, 2019	
				<i>Pages</i> 12	

This Operations Directive is for internal use only and does not enhance an officer's civil or criminal liability in any way. It should not be construed as a creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this Operations Directive, if proven, may only form the basis for a complaint by this Department, and only in a non-judicial administrative setting.

SECTION 1 PURPOSE

The purpose of this policy is to describe the procedure that a citizen must follow in making a complaint against department personnel, to outline the procedure for investigating complaints, and to list and define the dispositions of complaints.

SECTION 2 POLICY

The department's image and reputation depend on the personal integrity and discipline of all departmental employees. To a large degree, the public image of the department is determined by what kind of response the department gives to allegations of misconduct against its employees. The department must competently and impartially investigate all allegations of misconduct by employees and complaints bearing on the department's response to community needs. The department recognizes that its personnel are often subject to intense pressures in the discharge of their duties. The employee must remain neutral under circumstances that are likely to generate tension, excitement, and emotion. In these situations, actions and events frequently result in misunderstanding and confusion. It is to the advantage of all employees to have a procedure for the investigation of the more serious allegations and underlying circumstances so that complaints can be resolved in light of the complicated pressures of law-enforcement work.

SECTION 3 PROCEDURES

A. WHO MAY FILE COMPLAINTS

1. Any person, including a department member may file a complaint against a department member.
2. A parent or legal guardian of a minor child (under eighteen (18) years of age) must be the person filing the complaint when the minor child is the complainant.

B. HOW COMPLAINT MAY BE FILED (TPCA 2.04)

1. In accordance with Chapter 143, Texas Government Code, all complaints by a complainant who is not a peace officer must provide a complaint in writing before a public officer who is authorized by law to take statements under oath.

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2. A complainant who is not a peace officer may be made to any police department supervisor. The complaint can be made by writing a letter, calling the police department and requesting a police supervisor to their location (inside the city limits) or by coming to the police station.
3. Employees shall provide assistance to those who express the desire to lodge complaints against any employee of this department. This includes but is not limited to:
 - a. calling a supervisor to the scene to take the complaint;
 - b. explaining the agency's complaint procedures; or
 - c. providing referrals to individuals where such complaints can be made in person
4. A signed memo to the Chief of Police from a police officer of the department, who is aware of the facts of an incident, will fulfill the requirements for an internally originated complaint.

C. TYPES OF COMPLAINTS TO BE INVESTIGATED (TPCA 2.06)

1. The department will investigate allegations of misconduct or incidents involving:
 - a. criminal misconduct;
 - b. death of a person in the department's custody;
 - c. death or serious bodily injury of any person that may be associated with a member's conduct;
 - d. a member's use of excessive force against any person;
 - e. a member's discharge of a firearm (except for training or recreational purposes);
 - f. harassment by a department member;
 - g. racial profiling;
 - h. other incidents as directed by the Chief of Police;
 - i. complaints that are identified in the following section "Complaints Not Investigated" will be investigated when:
 - i. the complaint involves a criminal matter in which the statute of limitations will prevail;

D. COMPLAINTS NOT INVESTIGATED (TPCA 2.06)

1. The department will not investigate complaints:

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- a. relative to differences of opinion over the issuance of a traffic citation will not be investigated;
- b. relative to the difference of opinion over guilt or innocence of a citizen will not be investigated, but will be properly adjudicated within the judicial system;
- c. involving a citizens' misunderstanding of Department Policy, which can be explained and resolved by a supervisor;
- d. relative to differences of opinion regarding contributing factors listed on an accident report will not be investigated; or
- e. when the department does not have a signed statement by the complainant, unless the alleged misconduct is a criminal offense or civil rights violation

E. PUBLIC INFORMATION ON FILING COMPLAINTS TO BE MADE AVAILABLE

1. The department shall provide education to the public concerning the complaint process. Written information regarding how a citizen may file a complaint or issue a commendation for an officer shall be made available to the public at a variety of locations, including public meetings, in the lobby of the public safety building and City Hall. This information shall also be available on the department's website (www.lancaster-tx.com).

F. CLASSIFICATION OF COMPLAINTS

1. Formal Complaints

- a. Formal Complaints are those complaints which involve an allegation of criminal conduct, any serious departure from department policy, or complaints that could reasonably result in formal disciplinary action according to Chapter 143, Subsection D, "Disciplinary Actions," Texas Government Code. These complaints are likely to result in formal disciplinary action if sustained. All formal complaints will be investigated by the department and require a formal internal investigation. (TPCA 2.06)
- b. Examples of formal complaints include but are not limited to:
 - i. allegations of criminal misconduct;
 - ii. excessive use of force;
 - iii. allegations of unlawful search or unlawful arrest;
 - iv. allegations of violating a person's civil rights;
 - v. allegations of racially motivated police actions;

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- vi. officer involved shootings;
- vii. sexual harassment or creating a hostile work environment;
- viii. any conduct that seriously degrades the integrity or good order of the department

2. Informal Complaints

- a. Informal Complaints are those complaints which do not involve an allegation of criminal conduct, any serious departure from department policy, or complaints that could reasonably result in formal disciplinary action according to Chapter 143, Subsection D, "Disciplinary Actions," Texas Government Code. Informal complaint will be investigated by the internal affairs division. (TPCA 2.06)
- b. Examples of informal complaints include but are not limited to:
 - i. disrespectful treatment of prisoners or citizens not classified as excessive force;
 - ii. inadequate police service;
 - iii. traffic violations;
 - iv. employee performance matters;
 - v. violation of uniform or personal appearance standards;
 - vi. complaints that do not rise to the level of a policy or procedural violation but may indicate a need for training or guidance for the employee;
 - vii. instances when the complainant refuses to cooperate when contacted by the assigned investigator or refuse to provide a written signed statement

G. COMPLAINTS REPORTED (TPCA 2.07)

- 1. The Chief of Police will be notified of all complaints filed as soon as possible. All complaints involving biased based policing, racial profiling or criminal misconduct will be reported to the Chief of Police within twenty-four (24) hours of the complaint being filed.

H. SUPERVISOR RESPONSIBILITIES

- 1. An on-duty supervisor should be notified immediately of any complaint against an employee of the department.
- 2. The supervisor shall immediately obtain all information related to the person's complaint. If, after discussing the complaint with the person they wish to file a complaint the supervisor shall advise

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the person that in accordance with Chapter 143, Texas Local Government Code, all complaints against a peace officer must be in writing before a public officer who is authorized by law to take statements under oath.

3. The supervisor shall complete a Complainant Initial Contact (CIC) form; and tag the digital video from the officer's vehicle (if one exists) and any Body Worn Camera video (if any exist) in the L3 camera system.
4. The supervisor shall forward the written complaint, Complainant Initial Contact form through the chain of command to the Chief of Police or his designee by the end of the supervisor's tour of duty. (TPCA 2.07)

I. CHIEF OF POLICE RESPONSIBILITIES

1. The Chief of Police or his designee, upon receiving a complaint, will decide if the complaint will be investigated as dictated by this directive.
2. If the complaint will be investigated, the Chief of Police or his designee then will determine if the complaint will be investigated as a formal or informal complaint dictated by this directive.
3. If the complaint is identified as a formal complaint the Chief of Police or his designee will assign internal affairs to investigate the complaint. The Chief of Police will notify the Office of Professional Responsibility who is assigned to investigate the complaint.
4. If the complaint is identified as an informal complaint the Chief of Police or his designee will notify the Office of Professional Responsibility to investigate the informal complaint.
5. If the complaint will not be investigated, the Chief of Police or his designee will notify the complainant in writing why the complaint will not be investigated.

J. OFFICE OF PROFESSIONAL RESPONSIBILITY

1. The Officer of Professional Responsibility shall assign all formal complaints an internal affairs complaint number and provide the number to the assigned investigator.
2. The Office of Professional Responsibility shall assign all informal complaints a Complainant Initial Contact number to the informal complaint and investigate the complaint.

K. INVESTIGATOR RESPONSIBILITIES (TPCA 2.04)

1. The investigator shall not violate any laws in Chapter 143 "Municipal Civil Service for Firefighters and Police Officers," Texas Government Code, or the City of Lancaster Rules and Regulations of the Civil Service Commission while conducting the investigation.
2. The investigator shall make every attempt to interview the complainant, the employee under investigation, witnesses, and any other person whose statement could assist in the just resolution of the complaint.

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3. The investigator assigned a formal complaint shall complete an "Investigator's Final Report" which should be on an inter-office memorandum and should include the following information:
 - a. **COMPLAINT:** This is the narrative to identify the complainant, their personal information, and the nature of the allegation(s), which is to include date, time, location, employee and employee's duty status at the time of the alleged incident.
 - b. **WITNESSES:** A list containing the name, home address, work address and telephone numbers of all witnesses to the alleged incident.
 - c. **INJURIES:** A narrative describing the injuries or alleged injuries of all persons involved in the alleged incident.
 - d. **DAMAGES:** A narrative describing the loss/damage or alleged loss/damage that is being complained of.
 - e. **INVESTIGATION:** A thorough and comprehensive documentation in narrative form of the investigator's investigation including, but not limited to date, time and content of interviews, testing and examination results, surveillance results, search results, and etc.
 - f. **FINDINGS:** A closing summary of the facts and evidence found during the investigation and a finding regarding each allegation.
4. The investigator will document the investigation on the Complainant Initial Contact form, under the investigator's finding section. The investigator will complete the case disposition section on the Complainant Initial Contact form with the findings regarding the allegation.
5. The investigator shall notify the employee in writing of the final findings and disposition of the formal or informal complaint.
6. The investigator investigating a formal complaint shall forward the completed investigation to the Chief of Police or his designee for review. (TPCA 2.04)
7. The investigator investigating an informal complaint shall forward the completed investigation and if any documented counseling or written reprimand to the Division Chief. (TPCA 2.04)

L. CONCURRENT INVESTIGATIONS

1. The Chief of Police has the authority to order a criminal investigation into any allegation of wrongdoing instead of or in addition to an administrative investigation.
2. Certain incidents will require, in addition to the administrative investigation, an investigation by other units of the police department or other law enforcement agencies. These specialized investigative units include:
 - a. **Traffic Unit** – whenever possible the Dallas County Sheriff Office Traffic Unit will investigate motor vehicle collisions occurring in the City of Lancaster and involving agency vehicles. If a member of the Dallas County Sheriff Office Traffic Unit is not able to respond, then

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attempts should be made to get an adjoining agency to respond. If another agency cannot respond, then a supervisor or an officer designated by the supervisor shall investigate and make a written report of the accident. Accidents will be investigated when the accident meets any of the following criteria:

- i. if the accident is reportable according to the Texas Department of Public Safety CR-3 report instruction manual;
 - ii. if another person, another person's property, or another vehicle involved in the accident; or
 - iii. if there is a complaint of pain and/or injury by any person involved in the accident
 - b. Criminal Investigation Division – In general, the Dallas County Sheriff Office will conduct any criminal investigation into an incident involving an employee that occurs in the City of Lancaster and results in the death or serious bodily injury of any person and there is an allegation of misconduct.
3. The Chief of Police may also request that a state or federal law enforcement agency investigate a complaint if criminal conduct is alleged. Any criminal charges will be filed by the investigating agency.
 4. Due to the differing purposes of the administrative investigation and the criminal investigation, administrative investigators will have access to all evidence including statements obtained in the criminal investigation, but criminal investigators will not have access to any evidence obtained in the administrative investigation.
 5. The imposition of discipline by the agency, in whatever form, shall in no way preclude a further sanction imposed against an employee in subsequent criminal or civil proceedings. Any sanctions imposed in a criminal or civil proceeding against an employee of the agency will not preclude the imposition of administrative sanctions.

M. EMPLOYEE RIGHTS DURING INVESTIGATION

1. All police officers have the rights granted to them by Chapter 143, Texas Government Code, City of Lancaster Civil Service Commission Rules and Regulations and the City of Lancaster PRIDE Policies and Procedures.
2. In criminal allegations the Chief of Police will determine when the employee is to be notified of the complaint.
3. If the complainant alleges an issue of racial profiling as described in Article 2.132 (b)(3), Texas Code of Criminal Procedures, the employee is entitled to a copy of any video or audio recording of the occurrence on which the complaint is based. The Office of Professional Responsibility supervisor shall ensure the employee receives a copy of the video or audio recording.

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4. Any interview of an employee during an administrative investigation should be held at a reasonable time in relation to the employee's work schedule, unless the circumstances of the situation require expediency or delay.
5. An employee who is the subject of a formal complaint should be notified of any administrative interview within a reasonable period of time prior to the date and time the interview is to be held.
6. During an administrative interview, an employee who is the subject of a complaint may be accompanied by a personal representative. The personal representative may only observe during the interview process and shall not interfere with the investigation or any interview.
7. Prior to an administrative interview, the investigator shall orally and in writing advise the employee of their "Garrity Warning," which states that any admission by an employee during an administrative investigation interview shall not be used against the employee during a subsequent criminal investigation or criminal proceeding.
8. The assigned investigator shall not promise or offer reward to an employee as an inducement to answer any question.
9. An employee who is the subject of an administrative investigation may make an audio, video or written recording of any interview in which he or she is being interviewed.

N. RESPONSIBILITIES AND DUTIES

1. Not disclose or discuss details of an administrative investigation with anyone, except the Office of Professional Responsibility investigator(s) or supervisor assigned to conduct the investigation, the employee's personal representative, attorney, clergy, or other person(s) that the Chief of Police may specifically designate.
2. Make themselves available for interviews related to administrative investigations. Employees must cooperate by completely, thoroughly and truthfully answering all questions posed to him or her at every stage of the administrative investigation and review process. Failure or refusal to answer any question completely, thoroughly and truthfully, or failure to comply with lawful orders to submit to any tests, be photographed or participate in a line-up, or provide any documentation as directed by the Chief of Police or designee, will constitute grounds for disciplinary action, which may include dismissal from the agency in accordance with Section 143.051, Texas Government Code and/or City of Lancaster PRIDE Policies and Procedures.

O. SPECIAL EXAMINATIONS

1. An employee who is the subject of an administrative investigation may, at his/her expense, request a drug/alcohol screen either by blood analysis or urine analysis, a psychological examination, a polygraph examination or a medical examination if it is believed that such analysis or examination would be beneficial to his/her defense.
2. A supervisor shall require an employee to submit to a drug/alcohol screen, by either blood analysis or urine analysis, when a level of inebriation or drug usage is suspected as a factor directly related to the employee's duty performance or the operation of a city vehicle. Supervisors

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shall refer to Section A-2 "Alcohol and Controlled Substance Testing," City of Lancaster PRIDE Policies and Procedures when requiring a drug or alcohol screen.

3. The Chief of Police may order an employee to submit to a medical fitness or mental fitness for duty examination. Section 143.081 "Determination of Physical and Mental Fitness," Texas Government Code, will govern the exam for Civil Service employees.
4. An employee can be required to participate in physical identification line-up during an administrative investigation. An employee can also be required to be photographed.
5. The Chief of Police may order an employee to submit to a polygraph examination in accordance with Section 614.063 "Polygraph Examinations," Texas Government Code. The Chief of Police may order non-Civil Service employees to submit to a polygraph examination.
6. Searches and inspections may be conducted for drugs, alcohol and/or contraband on city property or the employee's person if there is reason to believe that work-related misconduct will be found as a result of the search or inspection. Supervisors shall refer to Chapter VIII "Alcohol and Drugs in the Work Place" and Section 8.07 "Searches and Inspections at the Work Place," City of Lancaster PRIDE Policies and Procedures.

P. RELIEVE OR SUSPEND FROM DUTY WITH PAY

1. As an emergency corrective measure, a supervisor may relieve a subordinate from duty with pay:
 - a. if the supervisor believes that the employee's continued presence poses a danger to himself or herself or others; or
 - b. if the supervisor believes that the employee's presence will interfere with the effective operation of the department
2. The supervisor who relieved the employee from duty shall immediately notify the appropriate Division Commander and prepare written documentation to the Chief of Police before the supervisor's tour of duty ends

Q. FINDINGS

1. The findings of an administrative investigation will be as followed:
 - a. **Sustained** – The evidence tends to support the allegation of misconduct. Complaints will not be classified as sustained unless the finding is based on facts determined during the investigation. (TPCA 2.04)
 - b. **Not Sustained** – There is insufficient evidence, either to prove or disprove the allegation of misconduct.
 - c. **Unfounded** – The evidence tends to disprove the allegation of misconduct.

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- d. **Exonerated** – The evidence tends to support factual occurrence, but conduct does not appear improper.
- e. **Other** – This can be used if misconduct not based on complaint is sustained, a training failure is identified, or any other type of findings not covered by the above listed findings.

2. The Chief of Police reserves the right to make the final disposition of all complaints.

R. NOTIFICATION TO COMPLAINANT (TPCA 2.10)

- 1. The investigator assigned to investigate a complaint, either formal or informal, shall notify the complainant of the findings of the complaint upon conclusion of the investigation. Notification can be made verbally or in writing.

S. TIME LIMITS ON INTERNAL INVESTIGATIONS (TPCA 2.05)

- 1. Formal complaint investigations are to be completed within thirty (30) calendar days of receipt of assignment.
- 2. This timeframe will include:
 - a. the employees review and response to the completed investigation;
 - b. the recommendations from the chain of command; and
 - c. the imposition of any disciplinary action, if necessary
- 3. If for any reason the investigator feels more time is needed, they will prepare a memorandum to the Chief of Police requesting an extension and will require a specific number of days, not to exceed thirty (30) calendar days.

4. Upon arrival of the request, the investigator will advise the employee of the new time frame.

- 5. Informal complaint investigations are to be completed within ten (10) calendar days of receipt of assignment.

T. RECORDS AND SECURITY OF COMPLAINTS AND INVESTIGATION (TPCA 2.06, 2.09)

- 1. The Office of Professional Responsibility shall maintain a secure database of all complaints. The database shall include the following information:
 - a. Internal Affairs or Complainant Initial Contact (CIC) number;
 - b. incident or allegation;
 - c. name of employee, if applicable;
 - d. date of incident;

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- e. date of complaint;
 - f. date of report;
 - g. name of complainant;
 - h. disposition;
 - i. disciplinary action taken, if any
2. The Office of Professional Responsibility supervisor shall also ensure the integrity and security of all employee and confidential files maintained in the Office of Professional Responsibility.
 3. After review and final disposition, all administrative investigation reports and documents will be filed in a secure area in the offices of the Office of Professional Responsibility.
 4. The department will follow all rules and regulations of the Michael Morton and Brady Acts as required by law. All submissions required under these acts will be submitted to the Dallas County District Attorney's Office.
 5. The City of Lancaster has adopted the General Records Retention Schedule and the Public Safety Records Retention Schedule of the Texas State Library and Archives Commission. All files associated with the administrative investigation function will be retained in accordance with these schedules.
 6. The destruction of any file or document shall be carried out in compliance with the Texas State Library and Archives Commission and the Records Retention Policy of the City of Lancaster.

U. APPEAL OF DISCIPLINARY SUSPENSION (TPCA 2.08)

1. Officers who have been suspended from duty and are a permanent employee of the department, having completed over one year of service, have the right to appeal as set forth in Section 143.052 "Appeal of Disciplinary Suspension," Texas Government Code.
2. To appeal a disciplinary suspension, officers must file a written notice of appeal with the Director of the Civil Service Commission, located at 211 N. Henry Street Lancaster, Texas, no later than the tenth (10th) day after receipt of the disciplinary action letter. The appeal letter must include the basis for that appeal as well as a request for a commission hearing. In addition, the appeal must include:
 - a. a statement denying the truth of the charge as made; or
 - b. a statement taking exception to the legal sufficiency of such charge; or
 - c. a statement alleging that the recommended action does not fit the offense or alleged offense; or

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- d. any combination of the statements

- 3. If the officer chooses, they may, within the same time period, elect to appeal to an independent third-party hearing examiner instead of to the Civil Service Commission. If the officer elects to appeal to a hearing examiner, the officer waives all rights to appeal to a District Court except under certain limited circumstances as detailed in Section 143.057, Texas Government Code. That section provides that an appeal may be brought in the District Court having jurisdiction in the particular city only on the grounds that the "Arbitration Panel" provided for by the section was without jurisdiction, that the panel exceeded its jurisdiction, or that the examiner's order was procured by fraud, collusion, or other unlawful means.

- 4. Civilian personnel will follow the appeals process outlined in the City of Lancaster PRIDE Policies and Procedures.

V. SCOPE OF RESPONSIBILITY

- 1. All members of the department shall know and comply with all aspects of this directive.

- 2. All Division Commanders and supervisory personnel are responsible for ensuring compliance with the provision and intent of this directive.