

	<b>CROWLEY POLICE DEPARTMENT</b>	
	<b>Policy 2.4 Internal Investigation Process</b>	
	<b>Effective Date: 02/22/2023</b>	<b>Replaces: 3/29/21, 9/17/19, 11/12/13</b>
	<b>Approved:</b> _____ <div style="text-align: center;">Chief of Police</div>	
	<b>Reference: TBP: 2.04, 2.05, 2.06, 2.07, 2.08, 2.09, and 2.10</b>	

## I. 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 a professional response 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.

## II. 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.

## III. PROCEDURES – GENERAL (TBP: 2.04)

### A. Receipt of complaints

The department encourages any person to bring forward grievances regarding misconduct by employees. Any member of the Department may accept a complaint from a citizen. Department members shall receive all complaints courteously and shall handle them efficiently. All officers are obligated to explain complaint procedures to anyone who inquires. Additional literature explaining the complaint process is located in both in the front and jail lobbies.

### B. Responsibilities of supervisors

1. First-line supervisors are primarily responsible for enforcing conformance with departmental standards and orders.
2. First-line supervisors shall know the officers in their charge by closely observing their conduct and appearance.
3. First-line supervisors shall be alert to behavioral changes or problems in their subordinates and, if necessary, document these changes and confer with higher authorities. The first-line supervisor shall assess the behavior, and take or recommend appropriate action.
4. The supervisor shall recommend and, if appropriate, help conduct extra training for officers not performing according to established standards.
5. The first-line supervisor shall employ counseling techniques sanctioned by the department. Counseling is used to adjust and correct minor, infrequent errors or instances of poor performance and to ascertain the nature of any professional or personal problems that bear on performance.
  - a. The supervisor shall document all instances of counseling.

#### C. How to make a complaint

A copy of the pamphlet “Compliments and Complaints Procedure” will be posted in the front and jail lobbies of the department, provided to media representatives, and may be given to any person requesting information on how to make a complaint.

Filing a compliment or complaint can also be made online through the department website.

Complaints made against Police Department members must be made within 30 days of the alleged misconduct, barring extenuating circumstances.

#### D. Responsibility for handling complaints

All complaints alleging a violation of the law or policy will be investigated. Complaints regarding law-enforcement operations will usually be handled through the chain of command, beginning with the first-line supervisor. Complaints involving how law-enforcement service is provided or a failure to provide service or improper attitudes or behavior will be investigated by a supervisor. Depending on the nature of the complaint, the Chief of Police may request another agency to undertake the investigation. (TBP: 2.06)

#### E. Complaint-handling procedures

1. All complaints, regardless of nature, can be filed in person, by mail, by email, or by phone at any time. As part of the follow-up investigation,

persons making complaints by mail or phone normally shall be interviewed and a written, signed complaint prepared. A signed letter of complaint will be accepted as a signed complaint without requiring any specific form. Anonymous complaints shall be followed up to the extent possible. In case of an anonymous complaint, the officer or other person who receives the anonymous complaint shall reduce the complaint to writing in a memorandum with as much information as possible and forward the report to the Bureau Lieutenant for classification.

2. Every effort shall be made to facilitate the convenient, courteous, and prompt receipt and processing of any person's complaint. An employee of the department, who interferes with, discourages, or delays the making of complaints shall be subject to disciplinary action.
3. Normally, a person with a complaint shall be referred to a supervisor or the Bureau Lieutenant who shall assist the individual in recording pertinent information. If initially reported to a supervisor, the first-line supervisor may, if appropriate, conduct a preliminary investigation. The Chief of Police may, if appropriate, designate a supervisor to conduct a preliminary investigation if the complaint is reported directly to him or her. The preliminary investigation consists of questioning the officer, complainants, or witnesses, and securing evidence.

Upon completion of the preliminary investigation, if a preliminary investigation is conducted, the following documents shall be prepared and forwarded through the chain of command:

- a. a report of the alleged violation;
  - b. any documents and evidence pertinent to the investigation;
  - c. recommendations for further investigation or other disposition.
4. If the first-line supervisor or other investigators determine that the complainant is apparently under the influence of an intoxicant or drug, or appears to have a mental disorder, or displays any other trait or condition bearing on his or her credibility, the supervisor or investigator shall note these conditions. Any visible marks or injuries relative to the allegation shall be noted and photographed.
5. Prisoners or arrestees may make complaints. Circumstances may require a department representative meet the complainant at a jail or prison for an interview. If appropriate, the representative will have photographs taken of prisoners' injuries, if the complaint alleges injuries occurred.
6. An employee who receives a complaint through U.S. mail shall place the correspondence and envelope in a sealed envelope and forward it to the employee's supervisor or Bureau Lieutenant, who may reassign the investigation to another supervisor if prudent.

7. Complaints received by telephone by dispatchers or other employees shall be courteously and promptly referred to an on-duty supervisor. The dispatcher or employee shall record the name and telephone number of the complainant and state that the supervisor will call back as soon as practical.
8. The above procedure may also be used when department employees desire to enter a complaint against any other employee governed by this order.
9. In every case, the Chief of Police will be notified of any formal complaint as soon as possible by the supervisor receiving the complaint. Formal complaints received overnight, on weekends or holidays, will be brought to the Chief's attention the next workday. Complaints alleging a violation of the law or any serious violation should be reported immediately regardless of the time of day. (TBP: 2.07)
10. A complainant may not be the investigator in a case. An investigator shall not be the final decision maker in reference to the disposition of the case or discipline administered.

F. Disposition of complaints generally

The Chief of Police or his designee shall:

1. Notify the complainant, in writing or by phone, as soon as practical, that the department acknowledges receipt of the complaint, that it is under investigation and that the complainant will be advised of the outcome.
2. Enter the complaint into the complaint log, assign a complaint number, provide a copy of the complaint to the officer who is the subject of the complaint and have the complaint investigated. Minor complaints alleging rudeness, minor policy violations and performance issues may be assigned to a supervisor for investigation and resolution. Allegations of a violation of the law or serious policy violations will be investigated by an Internal Affairs Investigator assigned by the Chief of Police, or an outside agency as determined by the Chief.
3. Maintain complaint files separate from personnel files.
4. Take disciplinary action following the investigation, if appropriate.

G. Disposition of a serious complaint

1. Allegations of misconduct that might result in discharge, suspension, or demotion, or criminal charges being sought are serious complaints. The term "serious complaint," in this manual, means that there will be an "internal investigation." Internal investigations examine alleged brutality, gross excesses of legal authority, or allegations involving supervisory or multiple personnel.

2. If a criminal offense is alleged, two separate investigations shall be conducted, a criminal investigation as well as an administrative or Internal Investigation. The criminal investigation examines compliance with the criminal law while the Internal Investigation determines compliance with policy and procedure. The Chief of Police will assign these investigations as required. Criminal investigations will be conducted by an outside agency, normally by the Texas Rangers, for impartiality and transparency.
3. In cases of serious complaints, the Chief of Police shall:
  - a. Determine if the officer complained of should remain on-duty, be assigned to non-contact assignments, or put on administrative leave until completion of the investigations.
  - b. Determine and assign responsibility for the investigations.
  - c. Cause the complaint to be registered and assigned an investigation number in the complaint log.
  - d. Maintain close liaison with the Texas Rangers, district attorney, or other entity in investigating the alleged criminal conduct. Where liability is at issue, the Chief shall similarly maintain contact with the city attorney or legal counsel.
4. All investigations will normally be completed within 45 days to include the taking of disciplinary action when necessary. If additional time is necessary to conclude the investigation, a request for extension will be presented to the Chief in writing providing justification for the extension. If approved by the Chief, a specific number of days will be approved and a copy will be provided to the involved officer and the original placed in the case file. (TBP: 2.05)
5. Upon completion of any investigation, The Chief of Police, or designee, will notify the complainant in writing, of the results of the investigation and any action taken. (TBP: 2.10)
6. Except in cases of suspected criminal conduct, the Chief of Police or designee must normally administer discipline within 90 days of the filing of the complaint or the discovery of a suspected policy or rule violation. In cases of suspected criminal conduct, this rule is suspended and the Chief of Police may decide to administer discipline before or after the criminal case is resolved.

#### **IV. INVESTIGATIVE PROCEDURES**

- A. Two types of investigations may take place: administrative or criminal. Different rules govern interviews of employees in each case.
- B. Assistance of legal counsel
  - 1. Employees are permitted to have an attorney, supervisor, or other representative with them in the room during any interview regarding allegations of misconduct.
  - 2. The employee's representative is limited to acting as an observer at the interview, except that where the interview focuses on, or leads to, evidence of criminality, the attorney may advise and confer with the employee during the interview.
- C. All Interviews
  - 1. Prior to being interviewed, the subject employee shall be advised of the nature of the complaint and provided a copy of the signed written complaint.
  - 2. All interviews will be conducted while the employee is on duty, unless the seriousness of the investigation is such that an immediate interview is required. Employees who are on administrative leave will be required to appear at police department to be interviewed at a specific date and time.
  - 3. During interviews conducted by the department, there will be one employee designated as the primary interviewer.
  - 4. The complete interview shall be recorded. The recording will note the time at which breaks are taken in the interview process, who requested the break and the time at which the interview resumed and concluded.
  - 5. The employee shall be provided with the name, rank and command of all persons present during the questioning. This information shall be recorded as a part of the interview process.
- D. Interviews for criminal investigative purposes
  - 1. If the Chief of Police believes that criminal prosecutions are possible and wishes to use statements against the employee in a criminal proceeding, or at least wishes to maintain the option of their use, he or another interviewer shall:
    - a. Give the employee the rights as specified in Texas Code of Criminal Procedure Article 38.22.
    - b. In addition to the rights set forth in state law, the Chief, or his designee shall advise the employee that if he asserts his right not to

answer questions, no adverse administrative action will be taken based upon the refusal.

- c. If the employee decides to answer questions at this point, the responses may be used in both criminal and disciplinary proceeding.

E. Interview for administrative purposes

1. If the Chief of Police wishes to compel an employee to answer questions directly related to his or her official duties, the Chief of Police or Internal Affairs Investigator shall advise the employee that:

- a. In an administrative investigation, the employee is required to truthfully answer any and all questions directed to them, both orally and when requested in writing, which are specifically, directly, and narrowly related to the performance of duty or fitness for office. The employee does not have the right to remain silent. The employee is advised that their statements or responses constitute an official police report.

- b. In addition, the employee is directed to disclose to the assigned investigator any and all information and materials which may pertain to this investigation, including, but not limited to, the existence of any possible witnesses, recordings, photographs, notes, documents, records, statements, etc. Failure to comply constitutes a violation of the Code of Conduct and may serve as a basis for more serious disciplinary action up to, and including, discharge.

- c. The employee's failure, or refusal, to answer questions directed to them constitutes a violation of the Code of Conduct and may serve as a basis for more serious disciplinary action up to, and including, discharge.

- d. The employee is required to be truthful in all their responses. If, during the course of this investigation, it is discovered that the employee has been untruthful in their responses, they are advised that untruthfulness constitutes a violation of the Code of Conduct and may serve as a basis for more serious disciplinary action up to, and including, discharge.

- e. While this incident is under investigation, the employee is directed not to make known or discuss any information concerning this investigation with anyone other than their direct chain of command, an attorney, or members of the Professional Standards Division.

- f. The employee's statement, as well as any information or evidence which is gained through the employee's statement cannot be used against them in any criminal proceeding, except that the employee may be subject to criminal prosecution for any false statement which is included in any written internal statement.

- g. Accused officers are allowed to have an attorney of their choice present during any interview in a formal or firearms discharge investigation, however, the attorney may not participate in the interview process. If the employee is an accused officer and they choose to have an attorney present, it is the employee's responsibility to

have the attorney present at the appropriate time and place. Any financial liability incurred through use of an attorney is the responsibility of the accused officer. Failure of the attorney to follow established procedures may result in loss of this privilege.

h. If the employee has any questions concerning these warnings, they may direct them to the investigator conducting the investigation, the commander over the Professional Standards Division, or a designated representative

2. In an interview for administrative purpose, no Miranda rights are required. Garrity Warning will be provided in all administrative investigations. The employee will be provided with a copy of the warning.

## **V. INVESTIGATIVE TOOLS AND RESOURCES**

A. In addition to interviews of the employee and witnesses, the Chief of Police may require other activities in support of a complaint investigation or internal investigation, including:

1. Medical and laboratory examination. All medical and laboratory testing shall be conducted in compliance with the Personnel Manual of the City of Crowley (Section 706).
2. If an employee refuses to submit to a test, (alcohol or drugs) then the Chief of Police or other officer in authority shall immediately relieve the employee from duty (on paid leave) for failure to cooperate in an administrative investigation.
3. Property assigned to the employee but belonging to the department is subject to inspection where the department has a reasonable suspicion that evidence of work-related misconduct may be found therein. Department property includes files, storage lockers, desks, and vehicles.

B. Photograph and lineup identification procedures

1. Officers may be required to stand in a lineup for viewing for the purpose of identifying an employee accused of misconduct. Refusal to stand in a properly conducted lineup is grounds for disciplinary action and may result in dismissal if the criminal prosecution is not anticipated.

C. Financial disclosure statements

An employee may be compelled to make financial disclosure statements when directly and narrowly related to allegations of misconduct involving any unlawful financial misconduct.



#### D. Polygraph

1. All personnel shall be required to submit to a polygraph if ordered to do so by the Chief of Police.
2. The Police Chief may order employees to take a polygraph when:
  - a. At least two complainants/witnesses have taken and passed a polygraph concerning the incident. (Unless the complainants are willing to submit to testing but the polygraph operator determines a complainant is not a fit subject due to mental condition, age, or medication);
  - b. The Chief of Police determines that:
    - i. the subject matter of the complaint is confined to the internal operations of police department;
    - ii. the complainant is an employee or appointee of police department; and
    - iii. the complaint does not appear to be invalid based on the information available when the polygraph is ordered;
  - c. The Chief of Police considers the circumstances to be extraordinary and believes that the integrity of a peace officer or the Police Department is in question. The Chief of Police shall provide the employee a written explanation of the nature of the extraordinary circumstances and how the integrity of a peace officer or the law enforcement organization is in question.
3. The results of the polygraph examination shall not be used as the sole basis for disciplinary action against any employee.
4. Any polygraph examination given under the provisions of this order shall be administered by a private contractor licensed to administer polygraph examinations in the State of Texas or must be a licensed examiner from another law-enforcement agency. No employee shall administer an examination to another employee.
5. Refusal to submit to a polygraph examination or to answer all questions pertaining to the charges in the polygraph examination, or deliberately impede the administration of the polygraph shall be grounds for disciplinary action and will result in dismissal from the department.

## **VI. ADJUDICATION OF COMPLAINTS**

A. The Chief of Police will classify completed internal affairs investigations as:

1. Unfounded - The alleged misconduct, if committed, did not constitute a violation of policy or law.
2. Exonerated - The evidence indicates the member's conduct was justified by policy, by law, or by the circumstances that were present at the time of the alleged conduct.
3. Not Sustained - The evidence is insufficient to prove or disprove the allegation.
4. Sustained - The evidence is sufficient to support the allegation. Complaints will not be classified as sustained unless the finding is based on facts determined during the investigation. (TBP: 2.04)
5. Policy Failure – The member committed the alleged misconduct, but a policy did not adequately address the conduct.
6. False or Untrue – The alleged misconduct never occurred.

B. Completed investigations classified as unfounded, exonerated, not sustained, or policy failure will be maintained in internal affairs files in the Administrative Bureau Lieutenant's office. Sustained complaints shall be filed in the individual employee's personnel file.

C. Disciplinary action taken shall be determined by the seriousness of the violation or the extent of injury to the victim, if any, and the officer's prior disciplinary history. It shall be commensurate with the circumstances surrounding the incident and in consideration of the employee's service record and prior sustained complaints.

D. Disciplinary records (TBP: 2.09)

1. The department shall maintain a log of all formal complaints.
2. The complaints and internal investigative files shall be forwarded to Human Resources and kept in a secure area and shall be maintained in accordance with state law and city policy.
3. The Chief shall direct a periodic audit of complaints to ascertain a need for training or a revision of policy.
4. The Chief shall publish an annual or other periodic summary of complaints that shall be made available to the public.

## **VII. APPEALS**

- A. Appeals may be filed for discipline imposed or for appealing decisions rendered concerning formal grievances.
- B. The notice to appeal a disciplinary action must be submitted in writing by the appealing member. An indication on the disciplinary form does not serve as a formal intent or notice to appeal.
- C. The employee will have ten (10) calendar days to appeal any discipline imposed or formal grievance in accordance with the Crowley City Personnel Manual (Section 713). (TBP 2.08)