

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N. LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001

512/424-2000

www.txdps.state.tx.us



STEVEN C. McCRAW
DIRECTOR
DAVID BAKER
CHERYL MacBRIDE
DEPUTY DIRECTORS



COMMISSION
A. CYNTHIA LEON, CHAIR
CARIN MARCY BARTH
RANDY WATSON

(DATE)

(NAME AND ADDRESS OF COMPLAINANT)

DEAR MR./MS.:

It is the policy of the Department of Public Safety to courteously receive and to investigate complaints registered concerning its employees.

Enclosed you will find a Personnel Complaint Affidavit. (The Texas Government Code, Section 614.022, states that all complaints on law enforcement officers to be considered by the head of a state agency "must be in writing and signed by the person making the complaint.")

Please provide specific information on the affidavit as to the identity of the Department of Public Safety employee and give specific and detailed information as to the nature of your complaint.

Upon completion of the affidavit, please sign it as required and send it to:

Texas Department of Public Safety
Office of Inspector General
13706 Research Blvd., Suite 100
Austin, TX 78750-1838

Sincerely,

Office of Inspector General

Enclosure

OIG-11 (Rev. 10/13)

TEXAS DEPARTMENT OF PUBLIC SAFETY

PENAL CODE

Sec. 37.02. Perjury. (a) A person commits an offense if, with intent to deceive and with knowledge of the statement's meaning: (1) he makes a false statement under oath or swears to the truth of a false statement previously made and the statement is required or authorized by law to be made under oath; or (2) he makes a false unsworn declaration under Chapter 132, Civil Practice and Remedies Code. (b) An offense under this section is a Class A misdemeanor.

Sec. 37.03. Aggravated Perjury. (a) A person commits an offense if he commits perjury as defined in Section 37.02, and the false statement: (1) is made during or in connection with an official proceeding; and (2) is material. (b) An offense under this section is a felony of the third degree.

TEXAS GOVERNMENT CODE

Complaint Against Law Enforcement Officer or Firefighter

Sec. 614.022. Complaint to be in Writing and Signed by Complainant. To be considered by the head of a state agency or by the head of a fire department or local law enforcement agency, the complaint must be: (1) in writing; and (2) signed by the person making the complaint.

Sec. 614.023. Copy of Complaint to be Given to Officer or Employee. (a) A copy of a signed complaint against a law enforcement officer of this state or a fire fighter, detention officer, county jailer, or peace officer appointed or employed by a political subdivision of this state shall be given to the officer or employee within a reasonable time after the complaint is filed. (b) Disciplinary action may not be taken against the officer or employee unless a copy of the signed complaint is given to the officer or employee.

PERSONNEL COMPLAINT AFFIDAVIT

STATE OF _____

COUNTY OF _____

Before me, the undersigned authority in and for the State of _____, on this day personally appeared _____, who, after being by me duly sworn, deposed and said:

My name is _____. I am of sound mind, 18 years of age or older, and competent to give this affidavit.

Affidavit of _____
Page _____ of _____

I have read the above statement consisting of _____ page(s), which is based on my personal knowledge, and it is true and correct.

Subscribed and sworn to before me, the undersigned authority, on this the _____ day of _____, A.D. _____.

Notary

DEPARTMENT OF PUBLIC SAFETY

5805 N. Lamar, P.O. Box 4087, Austin, Texas 78773 512-424-2000

COMPLAINT INVESTIGATION AND RESOLUTION

It is the policy of the Department to courteously receive and to investigate complaints concerning its employees.

A person desiring to make a complaint may contact any Department office or the Department's Headquarters in Austin and will be furnished the name and address of the person to whom the complaint should be directed.

Persons desiring to make a complaint must understand the importance of submitting their complaint in writing with their signature affixed. (The Texas Government Code, Section 614.022, provides that all complaints to be considered on law enforcement officers must be in writing and signed by the person making the complaint.)

Persons complaining orally, or by E-mail, will be requested to submit their complaint in writing with their signature affixed, and will be provided the appropriate Personnel Complaint Affidavit. The Affidavit forms are also available from the Internet through the Department's Web Page. (www.txdps.state.tx.us/)

A person refusing to make a written complaint or who makes an anonymous complaint does not necessarily prevent an investigation from being initiated on the facts provided, but does cause the matter to be more difficult to process to an effective conclusion.

Upon receipt of a complaint, a notification will be prepared and sent to the complainant informing him or her that the complaint is to be investigated and that they will be contacted personally, if at all possible, by the investigator to discuss in detail the allegation(s) made against the Department employee.

The Department's Administrative Investigations are defined as a formal written allegation against a member of the Department, which could result in disciplinary action up to and including termination, and which alleges one or more of the following:

- a. An infraction of Department rules, regulations, or policies.
- b. An illegal act.

Department policy and the Texas Government Code both require a copy of the formal complaint be presented to the employee within a reasonable time and before any disciplinary action may be imposed.

Department policy states the investigation of a formal complaint shall include:

- a. Personal contacting of the complainant by the investigator (when at all possible) to fully discuss the complaint.
- b. Personal contacting of the accused employee by the investigator in every instance to fully discuss the allegations.
- c. Personal contacting of all known witnesses as available or necessary.
- d. The optional recording of complainant, witness, and/or accused employee interviews.
- e. The taking of sworn statements from complainants, accused employees, 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.
- g. Implementation of scientific investigative aids (laboratory services, etc.) as deemed necessary to support the integrity of the investigation.
- h. Submission of a detailed investigative report.

The purpose of the investigation is to seek out the facts in a particular situation and to ascertain the truth. The investigation may be conducted by a Department supervisor or the Office of Inspector General.

Allegations contained in a formal complaint investigation may have one of four outcomes:

- a. Unfounded. The allegation is false, not factual.
- b. Exonerated. The incident occurred, but was lawful and proper or was justified under the existing conditions.
- c. Not Sustained. There is insufficient evidence to prove or disprove the allegations.
- d. Sustained. The allegation is supported by sufficient evidence.

A sustained complaint may result in disciplinary action of one or more of the following:

- a. formal written reprimand
- b. disciplinary probation
- c. time off without pay
- d. reduction of salary rate
- e. demotion
- f. discharge

At the conclusion of an investigation conducted by the Office of Inspector General, the report will be reviewed by the accused employee's supervisors, who will attach their recommendations to the report.

At the conclusion of the investigation and all appropriate reviews, the report will be forwarded to the Assistant Director of the employee, who will take appropriate action, if any, or recommend to the Director of the Agency the employee be discharged.

If a formal complaint is sustained against an employee, the employee has the right to appeal that decision and/or the discipline imposed.

At the final conclusion of the complaint investigation the complainant and the employee will be given written notification of the outcome. If the process is not complete within 90 days, a status notification will be sent to both the complainant and the employee.

If a complainant deliberately gives false information causing the Department to conduct an investigation, with the approval of the Director or Deputy Director, this information can be presented to the appropriate prosecutor under the appropriate Texas statutes.