



# Germantown Police Department

## Policy and Procedure

Subject	Date of Issue	TACP SCD Reference	Amends	Rescind	Dist.	Number
<b>Internal Affairs</b>	August 17, 2012	7.2	NO	ALL	ALL	1-11
	<i>Effective Date</i>		<i>By order of...</i>			
	August 17, 2012		Richard L. Hall, Chief of Police			
	Previously Revised Date: January 1, 2003					

### **I. POLICY PURPOSE**

The purpose of this policy is to establish an Internal Affairs Unit and procedures to ensure the proper processing of complaints against the Germantown Police Department or its employees.

### **II. POLICY STATEMENT**

It is the policy of the Germantown Police Department that all allegations of employee misconduct be fairly and thoroughly investigated and promptly adjudicated. Additionally, all reports or accusations made against the department or department personnel, from all sources, shall be completely investigated in order to ensure the integrity of the Germantown Police Department and its personnel.

### **III. DISCUSSION**

Police officers are entrusted by the public to serve with great authority, to enforce the rules of society, and to maintain order within the community. In the fulfillment of this function, police employees are susceptible to complaints of abuse of position due to the nature of the work and the circumstances under which citizen contacts are made. The main goal of the Internal Affairs Unit is to maintain the integrity of the police department and to ensure there is a reciprocal protection of rights afforded both the employees and the citizens in pursuit of this goal.

### **IV. PROCEDURES**

#### **A. Command of the Internal Affairs Unit**

1. The Internal Affairs Unit shall be under direct command and control of the Chief of Police and his/her designee and shall have the authority to report directly to the Chief of Police.
2. Officers assigned to the Internal Affairs Unit shall extend normal due courtesies to all employees, including those of higher rank or position; however, at no time shall employees of higher rank or position attempt to exercise their rank or position to influence in any manner an internal investigation or functions of the unit.

#### **B. Employee Rights and Responsibilities**

1. Employees of the Germantown Police Department shall enjoy the same constitutional rights afforded any other citizen of the United States and shall not be intimidated during an internal investigation nor shall their constitutional rights be violated in any manner. The following rights shall be afforded an employee while under investigation for alleged misconduct.

- a. Employees will be promptly notified in writing of any citizen complaint of misconduct against them unless to do so would interfere with the investigation.
- b. Whenever an employee is a suspect in a criminal investigation, the employee has the right to be represented by legal counsel and must be advised of constitutional guarantees before questioning during a criminal investigation interview.
- c. During administrative interviews related to non-criminal conduct, which concern alleged violations of rules and regulations, policies and procedures, or any other departmental guidelines, the employee does not have the right to refuse to answer questions. During administrative interviews, employees are required to answer fully and truthfully all questions related to their official duties. Refusal to do so may result in subsequent disciplinary action up to, and including, termination of employment. The employee does not have the right to have legal counsel or other representative present during an administrative interview. The complete interview with the employee shall be recorded.
- d. During administrative interviews related to criminal conduct, which will be conducted by the Internal Affairs Unit and concern alleged violations of rules and regulations, policies and procedures, or any other departmental guidelines, the employee does not have the right to refuse to answer questions. The employee will be advised in writing of their rights pertaining to the United States Supreme Court decision in Garrity v. New Jersey, 385 U.S. 493 (1967). During administrative interviews, employees are required to answer fully and truthfully all questions related to their official duties. Refusal to do so may result in subsequent disciplinary action up to, and including, termination of employment. The employee does not have the right to have legal counsel or other representative present during an administrative interview. The complete interview with the employee shall be recorded.
- e. No employee shall be ordered to submit to any type of mechanical or electronic lie detector test such as a polygraph or psychological stress evaluator. However, he/she may be requested to undertake such examination.
- f. The employee shall have the right to have a copy or transcript of his/her statement, if requested.
- g. The interview with the employee shall be conducted while the employee is on duty, unless the allegation is of such serious nature to require immediate action. Should an employee be summoned while off-duty, he or she shall be paid or given compensatory time consistent with department orders governing overtime work.

- h. The appropriate division commander shall be notified when one of their subordinates is to be interviewed concerning an internal investigation, unless to do so would interfere with the investigation. In some instances, the supervisor may be asked to be present during the administrative interview.
  - i. Prior to the commencement of an administrative interview, the investigator assigned the internal investigation shall furnish the accused employee with a written statement of the allegations and the employee's rights and responsibilities relative to the investigation.
  - j. The employee under investigation shall be informed, prior to the administrative interview, as to who is in charge of the investigation of the allegations.
  - k. Interview sessions shall be of reasonable periods, with time afforded for adequate rest and meal periods when requested by the person being interviewed.
  - l. During the course of a criminal investigation, an employee shall not be threatened with transfer, dismissal, or disciplinary action as the result of exercising his or her constitutional rights.
  - m. If an allegation against an employee is found to be false by the result of a departmental investigation, the employee shall have the right to pursue redress through appropriate civil and/or criminal action.
2. In the interest of preserving and enhancing self-discipline within the department, all information and changes to information relating to the Internal Affairs Unit function shall be distributed, in written form, to all personnel within the department.

C. Reporting Responsibility

- 1. It shall be the policy of the Germantown Police Department that all complaints, including those that are made anonymously, shall be promptly documented on the department's complaint form and then be immediately forwarded to the Internal Affairs Unit supervisor. With the authorization of the Chief of Police, the investigative responsibility will be determined by the Internal Affairs Unit supervisor, who will then assign a tracking number to the complaint.
- 2. Any officer with the rank of lieutenant or above shall courteously and promptly accept and document a citizen's complaint of misconduct. Non-sworn personnel and officers below the rank of lieutenant shall courteously and promptly refer citizens with complaints to the appropriate Patrol or Investigations lieutenants or above, and complaints against Communications employees shall be directed to the on-duty Communications lieutenant or the Police Services captain, if there is not a Communications lieutenant on duty.
  - a. All citizens' allegations of misconduct will be reported to and reviewed by the Internal Affairs Unit supervisor and the Chief of Police. Employees shall not conduct internal investigations unless so directed by the Chief of Police or the Internal Affairs Unit supervisor who is acting on behalf of the Chief of Police. An exception to this rule occurs when the complaint only arises from a difference in opinion between officers and citizens over arrest-related or traffic-

related violations that would normally be resolved in a court of law. or employee. These types of allegations of misconduct are generally initiated by supervisors and must be documented. It is not required that supervisors record interviews related to these matters, but the interview may be recorded at the supervisor's discretion. If suspension, demotion, or termination is recommended, the procedures for such line-level investigations are outlined in the Disciplinary Policy (Chapter 1, Section 10).

D. Investigative Responsibility

1. The supervisor of the Internal Affairs Unit is on full-time recall. Any time an allegation is received after the normal working hours of the unit **and** it is deemed serious enough to require immediate action, the supervisor receiving the complaint will contact the supervisor of the Internal Affairs Unit. The Internal Affairs Unit supervisor shall also make immediate notification to the Chief of Police.
2. The Internal Affairs Unit will assume responsibility for any internal investigation when directed to do so by the Chief of Police or his/her designee.

E. Time Considerations

The supervisor who is assigned an internal investigation shall make every effort to complete the investigation within 30 calendar days. If the investigation cannot be completed within 30 calendar days, then the investigating supervisor shall submit a status report to the Internal Affairs Unit supervisor explaining why the investigation has not been completed, requesting an extension, and providing an estimated completion date. The status report must be prepared on a department memorandum form and directed to the Internal Affairs Unit supervisor.

F. Criminal Investigations

1. Allegations of criminal violations shall be investigated as assigned by the Chief of Police. Criminal investigations require that an investigator be assigned from the department's Investigations Division to assist the Internal Affairs Unit. Outside agencies such as the Federal Bureau of Investigation and the Tennessee Bureau of Investigation may assist in criminal or civil rights investigations or may choose to, or be requested by the Chief of Police to conduct independent investigations into the same matter.
2. In cases of alleged criminal misconduct, it will be the responsibility of the Investigations Division commander to notify the City of Germantown Chief Prosecutor and the District Attorney General of the allegations and to seek legal advice from the both during the course of the investigation.

G. Communication with Complainants:

1. The supervisor who is assigned to conduct an internal investigation will be responsible for contacting the complainant and informing them who is investigating their complaint.
2. At the conclusion of the investigation, it will be the responsibility of investigating supervisor to notify the complainant in writing about the outcome of their complaint and including if any disciplinary action was taken as a result of the complaint.

## H. Internal Investigation Records:

1. The Internal Affairs Unit supervisor will be responsible for maintaining accurate records of all complaints against the department and its employees.
2. Records pertaining to all internal investigations shall be maintained by the Internal Affairs Unit supervisor. All internal investigation records will be secured separately from the department's centralized records and personnel records system to assure confidentiality. Information contained in internal investigation files may not be released to any person, including department personnel, without written approval from the Chief of Police.

## I. Search and Seizure Related to Internal Investigations:

1. Department supervisors who are conducting internal investigations may conduct warrantless searches of department offices, desks, lockers, file cabinets, motor vehicles, and other facilities and equipment owned, leased, or controlled by the City of Germantown and/or the Germantown Police Department. Personal items, whether secured or non-secured, discovered in any of the previously mentioned containers or enclosures may also be searched. Any items of contraband or any other types of evidence may be seized during the search and may be used as evidence in criminal or administrative proceedings.
2. A warrantless search of this type may only be conducted under the following circumstances:
  - a. The search must be approved by the Chief of Police in writing.
  - b. The search must be with reasonable cause. Such cause shall be stated in written form, with a copy to be provided to the employee.
  - c. The purpose of the search must be narrowly related to the internal investigation.
  - d. The search may only be conducted by an investigator of the Internal Affairs Unit, an investigator of the Investigations Division who is assigned to conduct or assist in conducting the internal investigation, or the Chief of Police or his/her designee. A second officer shall be present as a witness, and any item(s) seized shall be documented on an evidence/property form. A copy of the evidence/property form shall be provided to the employee.

## J. Special Examinations:

1. An employee may be required to submit to medical or laboratory examinations when the examinations are specifically directed and narrowly related to a particular internal investigation being conducted by the department. These tests will be conducted at the department's expense. Examples include blood alcohol content and drug screens. Medical and laboratory examinations must be performed by a licensed physician or the licensed physician's designee.
2. An internal investigation may require that an employee participate in a live lineup or to be photographed. Photographs of the employee may be shown to witnesses or complainants. If photographs are to be used for identification purposes, they must be shown in accordance with the rules of evidence.

3. Employees may also be required to submit financial disclosure statements when the actions are material to a particular internal investigation conducted by the department.
4. Any order to submit to tests, examinations, lineups, photographs, or financial disclosures shall be issued by the Chief of Police, in writing, and given to the employee. Any such tests, examinations, lineups, photographs, or financial disclosures shall only be required when they are specifically directed and narrowly related to a particular internal investigation being conducted by the department and are limited to administrative use.

K. Work Status of Employee Under Investigation:

1. Depending on the nature and seriousness of the allegations, an employee under investigation may:
  - a. Continue in his/her normal duties; or
  - b. Be placed in non-enforcement duties; or
  - c. Be temporarily relieved of all duties; or
  - d. Suspended from duty with or without pay.
2. Depending on the outcome of the internal investigation, an employee who is formally charged or indicted for a criminal offense may be:
  - a. Suspended from duty with or without pay; and/or
  - b. Reduced in rank; or
  - c. Terminated.
3. The Chief of Police is responsible for making all decisions regarding the work status of all employees.

V. **INTERNAL AFFAIRS UNIT INVESTIGATIONS**

- A. The following format will be used to document complaints investigated by the Internal Affairs Unit. Each section of the complaint investigation is listed below.
  1. Allegation
  2. Alleged Incident Violation
  3. Complainant
  4. Witness for the Complainant
  5. Supporting Evidence
  6. Additional Information
  7. Investigation of Complaint and Allegation
  8. Accused Employee's Account
  9. Witness for the Accused Employee
  10. Official Records
  11. Additional Information
  12. Findings of Fact

13. Additional Findings
14. Accused Employee Review
15. Disposition

B. ALLEGATION

The Allegation section should be a brief summary of the alleged incident from the complainant. This narrative may include the names of witnesses; however, the witness account of the incident should be addressed in the appropriate section.

C. ALLEGED INCIDENT VIOLATION

Based on the complainant's allegations, list the appropriate department directive allegedly violated. Each alleged incident violation should be listed in the order of the allegation or allegations. One alleged directive violation may be listed for several allegations.

D. COMPLAINANT

The complainant section should use the following format:

Name  
Date of Birth  
Home Address  
Home Phone  
Business Address  
Business Phone

E. WITNESS FOR THE COMPLAINANT

1. The Witness for the Complainant section should use the following format:

Name  
Date of Birth  
Home Address  
Home Phone  
Business Address  
Business Phone

2. Paraphrase any statements made by the witness.

F. SUPPORTING EVIDENCE

Description of any evidence that would support the complainant's allegation and a brief summary as to the relevancy of the evidence.

G. ADDITIONAL INFORMATION

Any information that would not be appropriate for any of the above sections, but is pertinent to the complainant's segment of the investigation.

H. INVESTIGATION OF COMPLAINT AND ALLEGATION

The Investigation of Complaint and Allegation section should use the following format:

Employee Involved:

\_\_\_\_\_, (Rank and Name), (IBM #)

Officer Investigating Complaint:

\_\_\_\_\_, (Rank and Name), (IBM #)

I. ACCUSED EMPLOYEE'S ACCOUNT

A brief account of the accused employee's recorded statement should be documented in this section. Only the pertinent aspects of the statement should be summarized, making sure each allegation is addressed. Include witness name, if any, mentioned by the employee, in the next section. A denial or admission by the employee of the allegations will be included in this section.

J. WITNESS FOR THE ACCUSED EMPLOYEE

Paraphrase any statements made by a witness.

K. OFFICIAL RECORDS

A list of any written documents, recordings, etc., that are pertinent to the incident in question. When appropriate, items from the Supporting Evidence section may be included also.

L. ADDITIONAL INFORMATION

Any information that would be inappropriate for any of the previous categories but is pertinent to the employee's segment of the investigation.

M. FINDINGS OF FACT

Findings of fact are any undisputed aspects of the incident and should be listed in the order of occurrence. An example would be that the complainant received a citation from the officer for disregarding a stop sign.

N. ADDITIONAL FINDINGS

If during the investigation administrative problems are uncovered that need to be addressed or employees not listed as accused employees or who are not part of the complainant's allegations are found to have some degree of culpability in the incident, they should be listed in this section. This section is optional and should only be used when necessary. If this section is used, the previous sections should be changed appropriately.



O. ACCUSED EMPLOYEE REVIEW

1. Before a disposition is made, the accused employee will meet with the Internal Affairs Unit investigator.
2. All meetings between the accused employee and the Internal Affairs Unit investigator shall be recorded. No attorneys or other representatives for the accused employee will be allowed to attend.
3. The accused employee shall be given a copy of the complete internal investigation case file and shall have five calendar days to review the file. The employee will be required to sign a receipt for copies of the case file. At or before the five calendar days limit, the employee shall meet with the Internal Affairs Unit investigator by appointment and shall provide in writing on department memorandum any suggestions or requests for any additional investigation of the matter, which may include, but is not limited to, interviewing additional witnesses and collecting additional evidence.
4. Any additional statements or collection of evidence will be documented, and copies of the documentation will be given to the accused employee.

P. DISPOSITION

1. The Internal Affairs Unit investigator shall forward the entire investigative case file to the Chief of Police who will review the file for completion and proper form.
2. One of the following disposition terms will be used for each allegation of misconduct:
  - a. Improper Conduct. The action of the department or employee was inconsistent with department policy/procedure.
  - b. Insufficient Evidence. Insufficient proof to confirm or refute the allegation.
  - c. Department Policy/Procedure Failure: The allegation is true. Department policy/procedure does not address the specifics of the alleged improper conduct.
  - d. Proper Conduct: The allegation is true. The action of the department or employee was consistent with department policy/procedure.
  - e. Unfounded: The allegation is proven false.
3. Each allegation of misconduct must be addressed with an individual disposition. The concluding paragraph should read, "Based on the above, the disposition concerning the allegation is: \_\_\_\_\_."
4. If the Disposition of the complaint is found to be "Improper Conduct," then disciplinary action will be taken in accordance with the Disciplinary Policy (Chapter 1, Section 10).

**VI. REVIEW PROCESS**

An annual review of this policy will be conducted to determine if it should be revised, cancelled or continued in its present form.

This order shall remain in effect until revoked or superseded by competent authority.