

## **Registering a Commendation or Complaint against a PHA Police Department Employee**

### **Commending an Employee:**

As we recognize that conflicts between citizens and agency employees can arise, we also realize that there are times when employees go above and beyond their call for duty. Law Enforcement employees, like everyone else, appreciate it when their good deeds are noticed. Too often they are remembered for a perceived negative interaction, and not for the thousands of helping hands they extend.

If an officer and/or employee of the Department provides service which you feel should be commended, please write the Chief a letter or note to that effect or you may fill out the PHA PD Recognition Form, giving your feelings on what the officer or employee has done which deserves commendation. The Chief will see it gets to the employee and a copy will be placed in the employee's personnel file. This will boost Officer morale and encourages other Officers and employees to be more positive about themselves and the service they provide. We are proud of the good relationship we share with the PHA community.

### **Registering a Complaint:**

The Port of Houston Authority Police Department recognizes that employees are responsible for their conduct where the public is concerned. The Department also acknowledges that, at certain times, conflict between citizens and agency employees can arise. It is essential to the safety of our community that the relationship between police and citizens is built on confidence and trust. Law Enforcement cannot be effective without this vital conviction to both entities.

Police Officers must be free to exercise their best judgment and initiate proper action in a reasonable, lawful, impartial manner, without fear of reprisal. At the same time, they must observe the rights of all people. The complaint process and appropriate disciplinary procedures not only subject agency members to corrective action when they conduct themselves improperly, the guidelines also protect them from unwarranted criticism when they discharge their duties properly.

The Police Department realizes that confusion, different perceptions, or the timeliness of information sometimes will result in descriptions that produce different versions of the same incident. Beyond legitimate error however, the deliberate making of a report that the complainant knows to be false or misleading could constitute a violation of State Law.

### **Complaint Procedures:**

The complaint process is designed to deal with each case factually and fairly. Citizens who file complaints are treated respectfully, and their accusations are taken seriously. All complaints are investigated thoroughly, and all findings are based on impartial evidence gathered during the investigation.

However, many complaints can be explained satisfactorily by a visit or telephone call to the employee's supervisor (usually a Sergeant or Deputy Chief of Police over Filed Operations). The supervisor will talk with you about your complaint and try to resolve it.

If after contacting the employees supervisor and still believe your grievance has not been resolved, the Chief of Police, Mark Smith, is usually available Monday through Friday, 8AM-5PM to discuss your complaint about any member of the department.

There are two classes of complaints that may be registered: Formal and Informal (Administrative) Complaint. The first and most serious, a **Formal Complaint**, alleges a violation of a law or such other serious allegations (e.g., excessive force). Texas Government Code Section 614.021.023 (Subchapter B. Complaint Against Law Enforcement Officer or Fire Fighter) requires Formal Complaints to be:

- 1) In writing,
- 2) Signed by the complainant, and
- 3) Notarized, and then returned to the Port of Houston Authority Police Department, Attention Chief of Police.

Formal external allegations that assert misconduct, not criminal in nature, must be received by the Department within forty-five (45) days of the act, or when the complainant can show good cause for not making the complaint within the specific time limit. The determination of good cause shall be the sole judgment of the Chief of Police. Allegations of misconduct that is criminal in nature will be received within their respective statute of limitations period, as specified in the Texas Code of Criminal Procedure.

Upon completion of an internal investigation, one of the following dispositions will be prescribed.

- Sustained:** The allegation is supported by sufficient evidence.
- Inconclusive:** The available evidence was insufficient to either prove or disprove the allegation.
- Exonerated:** The incident being complained did occur, but Officer's actions were lawful or proper.
- Unfounded:** The incident did not occur.
- Violation**
- Not Related:** The investigation reveals a violation not related to the allegation raised in the complaint.

Appropriate disciplinary action, when applicable, will be taken based upon the results of the investigation. The possible disciplinary action taken can be:

- Additional Training
- Oral Counseling
- Written Reprimand
- Suspension without Pay
- Dismissal

The investigator assigned a complaint will keep the complainant updated and notify the complainant upon completion of the investigation.

The second class, **Informal** (Administrative) **Complaint**, includes allegations of a less serious nature and may concern violations of department policy. These may be written or oral. All complaints will be dealt with in the same manner.

Although employees named in a complaint will, at some point, be requested to respond to the specific allegation, they are not permitted access to cases under investigation. Complainants need not be concerned that they will be subject to retribution for legitimately stating a complaint because procedures are in place to prevent this.

Complainants who have current criminal charges pending should be aware that the internal review process deals solely with department police matter and the conduct of agency employees. Regardless of the outcome of an internal investigation, existing criminal charges must be dealt with through the proper courts.

**FINAL DETERMINATION ABOUT THE DISPOSITION OF ANY COMPLAINT WILL BE MADE BY THE CHIEF OF POLICE.**

**False Complaints:**

Beyond legitimate error, the deliberate making of a report that the complainant knows to be false or misleading could constitute a violation of State Law.

People who intentionally make false complaints or allegations against police officers violate Chapter 37 of the Texas Penal Code. Texas law provides punishment for an individual adjudged guilty of committing an offense if, with intent to deceive and with knowledge of the statements' meaning, he / she 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.

A person who commits an offense under this section can be charged with offenses ranging from a Class B Misdemeanor to a Felony of the third degree. Punishments can range from confinement of 180 days in jail to 10 years of imprisonment and a fine not to exceed \$10,000.

This information is not intended to intimidate or deter the complainant or any witness, but is provided for informational purposes and to avoid retaliation against police officers or departmental staff.