

August 1, 2017



RALPH M. TERRAZAS  
FIRE CHIEF

July 10, 2017

BOARD OF FIRE COMMISSIONERS  
FILE NO. 17-082

TO: Board of Fire Commissioners

FROM: *RMT* Ralph M. Terrazas, Fire Chief

SUBJECT: PROFESSIONAL STANDARDS DIVISION REPORT ON INVESTIGATIVE  
PROCESS OF COMPLAINTS AGAINST THE FIRE CHIEF

FINAL ACTION:	<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Corrections	<input type="checkbox"/> Withdrawn
	<input type="checkbox"/> Denied	<input type="checkbox"/> Received & Filed	<input type="checkbox"/> Other

### SUMMARY

The Department has developed a formal procedure for the investigative process for complaints against the Fire Chief, which is being presented in this report. This special investigative process is employed when complaints are received by the Department alleging misconduct by the Fire Chief.

### RECOMMENDATION

That the Board:  
Receive and approve this report.

### FISCAL IMPACT

The Department does not anticipate any fiscal impact at this time.

### DISCUSSION

The Department has developed a formal procedure for the investigative process for complaints against the Fire Chief, described below. This process provides the Department with an internal procedure to maintain unbiased, objective and transparent investigations of allegations of misconduct against the Fire Chief.

Normally, the Professional Standards Division (PSD) Commander will determine the need for the special investigative process for complaints against the Fire Chief as complaints are received by the Department.

The PSD Commander shall consider the following conditions to make the determination:

1. Whether the complaint implicates the conduct of the Fire Chief;

2. Whether the conduct alleged in the complaint, if true, would constitute misconduct; and
3. Whether investigation of the complaint by PSD would create a conflict of interest, or the appearance of a conflict of interest, which would potentially impact the Division's ability to be impartial.

If there is sufficient cause to refer a case to the special investigative process for complaints against the Fire Chief, the PSD Commander shall notify the Fire Chief in writing via a formal memorandum which explains the need to employ the special investigative process. This memorandum will be maintained in the investigation file.

In some cases, complaints against the Fire Chief can be appropriately resolved in PSD. For example, when a complaint merely repeats allegations of misconduct which have already previously been adjudicated against the Fire Chief, PSD can appropriately close the new complaint as a duplicate. Similarly, if a complaint names the Fire Chief along with a laundry list of other subjects, and does not assert any viable allegations of misconduct against the Fire Chief, the complaint can be properly investigated by PSD. The fact that the complainant named the Fire Chief alone is not a basis to refer such a case to the special investigative process for complaints against the Fire Chief.

All complaints alleging viable claims of misconduct against the Fire Chief will be sent to the City Attorney's Office for consideration. The City Attorney may either choose to: (1) investigate the matter in-house; (2) forward the complaint to the City Personnel Department for investigation or assignment to an outside qualified investigative firm; or (3) assign the investigation to an outside law firm or other entity which is qualified to conduct disciplinary investigations.

The Personnel Department will select an adjudicator who is or can quickly become familiar with the Department's rules, regulations, policies and procedures, and who has experience adjudicating disciplinary complaints.

The selected investigators will conduct the investigation and comply with all applicable laws and provisions set forth within the City Charter and appropriate policies, including the applicable memorandums of understanding and the Firefighters Procedural Bill of Rights.

The investigators will have access to all pertinent investigation materials, including the investigation notifications, the interview notifications and the admonitions. The purpose is to ensure that all investigations conducted by the Department, whether by PSD, in the field, in the Alternative Investigative Process or in the special investigative process for complaints against the Fire Chief, are handled in an even-handed and consistent manner.

The selected investigators will complete an investigation report, and the selected adjudicator will complete the adjudication of the investigation conducted in the special

investigative process for complaints against the Fire Chief. The adjudicator will review the investigative reports and evidence, make a recommendation as to whether to proceed with discipline, draft the charges against the Fire Chief and determine the recommended level of discipline.

The Mayor will determine the appropriate level of discipline to impose in cases where charges are sustained.

## **CONCLUSION**

The Department is committed to conducting investigations in a manner which reflects the highest standards of the Department. To that end, the Department should adopt a formal procedure for the investigation of cases involving complaints against the Fire Chief.

The mere appearance of impropriety in the disciplinary process may erode the trust of Department members and the public. The procedures outlined in this report delineate the procedure for handling special investigations involving allegations of misconduct against the Fire Chief.

Board report prepared by Stephen L. Gutierrez, Commander, Professional Standards Division and Erin Joyce, Chief Special Investigator, Professional Standards Division.