

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PD-32 (rev. 5), “WHISTLEBLOWER ACT”
MAY 1, 2015
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TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE

NUMBER: PD-32 (rev. 5)

DATE: May 1, 2015

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SUPERSEDES: PD-32 (rev. 4)
November 1, 2010

EXECUTIVE DIRECTIVE

SUBJECT: WHISTLEBLOWER ACT

AUTHORITY: Tex. Gov't Code §§ 493.001, 493.006(b), 554.001-.010

APPLICABILITY: Texas Department of Criminal Justice (TDCJ)

EMPLOYMENT AT WILL CLAUSE:

These guidelines **do not** constitute an employment contract or a guarantee of continued employment. The TDCJ reserves the right to change the provisions of these guidelines at any time.

Nothing in these guidelines and procedures limits the executive director's authority to establish or revise human resources policy. These guidelines and procedures are adopted to guide the internal operations of the TDCJ and **do not** create any legally enforceable interest or limit the executive director's, deputy executive director's, or division directors' authority to terminate an employee at will.

POLICY:

The TDCJ prohibits retaliation against employees who report a violation of the law by the TDCJ to the appropriate law enforcement authority.

DEFINITION:

"Law Enforcement Authority" is a part of a state, local, or federal government entity that the employee, in good faith, believes is authorized to: (1) regulate under or enforce the law alleged to be violated in the report; or (2) investigate or prosecute a violation of criminal law.

DISCUSSION:

Chapter 554 of the Texas Government Code, known as the *Texas Whistleblower Act*, protects a public employee from retaliation by a public employer when the employee, in good faith, reports a violation of law by the employer or another public employee to an appropriate law enforcement authority.

The information contained within this directive does not constitute legal advice or an admission of liability for any alleged violation of the *Texas Whistleblower Act*. An employee who has questions regarding the employee's rights under the *Texas Whistleblower Act* should consult a private attorney. The TDCJ's Employee Assistance Program can provide legal referral resources, in accordance with PD-20, "Employee Assistance Program."

PROCEDURES:

I. General Provisions

- A. An employee who in good faith reports any violation of law by the TDCJ or by another public employee to an appropriate law enforcement authority shall not be suspended, separated from employment, have any adverse personnel action taken against the employee, or be retaliated against in any form based on the employee's reporting of the violation. In addition, an employee shall not be impeded in any manner from filing a suit under Texas Government Code § 554.007, or be subjected to retaliation for filing such a suit.
- B. All managers and supervisors within the TDCJ are responsible for observing and supporting this directive. All employment-related decisions made within the TDCJ, including decisions relating to compensation, promotion, demotion, transfer, work assignment, and performance evaluation, shall be made without regard to whether an employee has in good faith reported a violation of law by the TDCJ or another public employee to an appropriate law enforcement authority.
- C. An employee found to be in violation of this directive shall be subject to disciplinary action up to and including separation from employment in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees." In addition to any disciplinary action administered by the TDCJ for violation of this directive, a supervisor who suspends, dismisses, or takes an adverse personnel action against an employee in violation of the *Texas Whistleblower Act* may be personally liable for a civil penalty not to exceed \$15,000.
- D. Nothing in this directive prevents the TDCJ from taking adverse personnel or disciplinary action against an employee based on information, observation, or evidence not related to the fact the employee reported a violation of law by the TDCJ or another public employee to an appropriate law enforcement authority.

II. Requirement to Post Sign

Human resources representatives shall be responsible for posting a sign in a prominent common use area within the unit or department informing employees of their rights under the *Texas Whistleblower Act*. These signs may be obtained from the Administrative Support Section, Human Resources Division.

Brad Livingston
Executive Director